

US Army Corps  
of Engineers  
Memphis District

# Public Notice

**FILE NUMBER: MVM 2024-105**

**NOTICE DATE:**  
**May 16, 2024**

Attn: Postmaster,  
Please Post Until



**EXPIRATION DATE:**  
**June 14, 2024**

## Public Notice U.S. Army Corps of Engineers

**AUTHORITY:** Pursuant to 33 CFR 325, as published in the Federal Register dated November 13, 1986, this notice announces an application submitted for a Department of the Army permit under Section 404 of the Clean Water Act. The authority to grant permission for temporary or permanent alterations of any Corps of Engineers federally authorized civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408.

**APPLICANT:**

Memphis & Shelby County Port Commission  
Attn: Randy Richardson  
1115 Riverside Boulevard  
Memphis, Tennessee 38106  
(901) 948-4422  
randy@portofmemphis.com

**AGENT:**

Brophy-Heineke & Associates, Inc.  
Attn: Jennifer Lewis  
7850 Stage Hills Blvd, Suite 107  
Bartlett, Tennessee 38133  
(901) 373-3289  
jlewis@brophy-heineke

**PURPOSE:** The purpose of the project is to construct a rail spur that would provide rail service to 582-acres of undeveloped land within the southwestern portion of the Pidgeon Industrial Park.

**LOCATION:** The proposed project is located south of the terminus of Paul Lowry Road and west of Horn Lake Cutoff in Memphis, Shelby County, Tennessee, at approximate latitude 35.02276° /longitude W -90.14264° (Figure 1).

**DESCRIPTION OF WORK:** The proposed project involves the construction of a two-track rail spur to serve the Pidgeon Industrial Park. The project area consists of 4.13 acres of land. Within the 4.13-acre project area, a total of 3.68-acres lies within a Corps of Engineers Civil Works Department mitigation site. The mitigation site was established to offset impacts associated with the 1990 work performed on the Ensley Levee. (Figures 2-4)

**AVOIDANCE/MINIMIZATION:** The applicant has proposed to avoid two other alternative alignments that would bisect the mitigation site, of which one would require a new bridge over Horn Lake Cutoff.

**MITIGATION:** The applicant proposes to mitigate by purchasing credits from an approved mitigation bank. The applicant proposes to purchase credits to offset the original impacts that the mitigation bank was established to offset within the proposed impact site as well as credits for the current impact site.

**WATER QUALITY CERTIFICATION:** The Clean Water Act (CWA) Section 401 Water Certification Improvement Rule (Certification Rule, 40 CFR 121), effective November 27, 2023, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope for CWA Section 401 certification by the certifying authority shall evaluate whether the activity will comply with applicable water quality requirements. The certifying authority's evaluation is limited to the water quality-related impacts from the activity subject to the federal license or permit, including the activity's construction and operation. The applicant is solely responsible for requesting certification and providing required information to the certifying agency. In accordance with Certification Rule part 121.12, the Corps of Engineers will notify the U.S. Environmental Protection Agency Administrator when it has received a Department of the Army (DA) permit application and the related certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

**ENDANGERED SPECIES:** There are two federally listed mammal species that are known to have ranges that include the project area. They are the federally endangered northern long-eared bat (*Myotis septentrionalis*) and the federally proposed endangered tricolored bat (*Perimyotis subflavus*). There is one insect candidate species, the Monarch Butterfly (*Danaus plexippus*), and one reptile proposed for listing, the Alligator Snapping Turtle (*Macrochelys temminckii*). This project is being coordinated with the United States Fish and Wildlife Service. Any comments they may have regarding endangered or threatened wildlife or plants, or their critical habitat, will be considered in our evaluation of the described work.

**CULTURAL RESOURCES:** In compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, the Memphis District is soliciting comments from federal, state, and local agencies, federally recognized Indian Tribes, the public, and other interested parties in order to identify and evaluate potential impacts of the proposed action on historic properties.

**FLOODPLAIN:** In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any flood plain development permit requirements.

**PUBLIC INTEREST REVIEW:** The purpose of this public notice is to advise all interested parties of the activities for which a permit is sought and to solicit comments and information necessary to evaluate the probable impact on the public interest.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**ENVIRONMENTAL JUSTICE:** In accordance with E.O. 12898, E.O. 14008, and E.O. 14096, the Corps of Engineers will specifically consider the effects of the proposed action on communities with environmental justice concerns, including economically disadvantaged communities, communities of color, and other socioeconomic groups that could be disproportionately affected by environmental and other effects. As part of our environmental justice review, the Corps of Engineers seeks additional information from the public, community leaders, local officials and others regarding issues of environmental justice as related to the proposed action.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the

reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process; not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps of Engineers project. We are not a proponent nor are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

**COMMENTS:** To request additional information or provide comments on this notice, please contact Damon McDermott using the information below:

U.S. Army Engineer District - Memphis  
ATTN: Damon McDermott  
167 N. Main Street, Room B-202  
Memphis, Tennessee 38103-1894  
E-mail: [robert.d.mcdermott@usace.army.mil](mailto:robert.d.mcdermott@usace.army.mil)  
Phone: (901) 544-0732

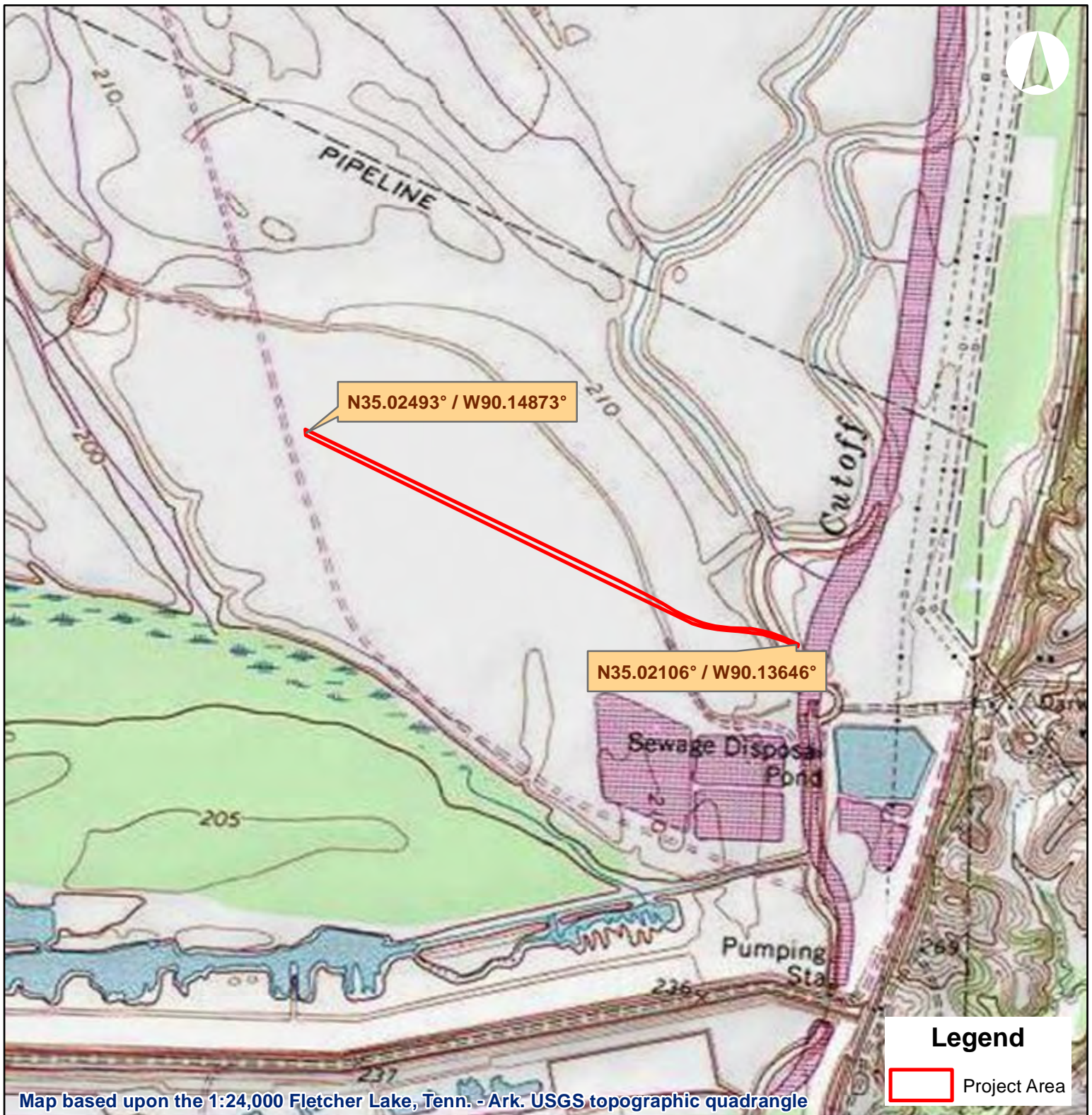
Comments may be sent via mail or email. The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

For Final Individual Permits actions in the Memphis District, go to the following link: <http://permits.ops.usace.army.mil/orm-public>. Using the Filter by District drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the "Pending IP" tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Division office for examination.

Gregg W. Williams  
Chief  
Regulatory Division

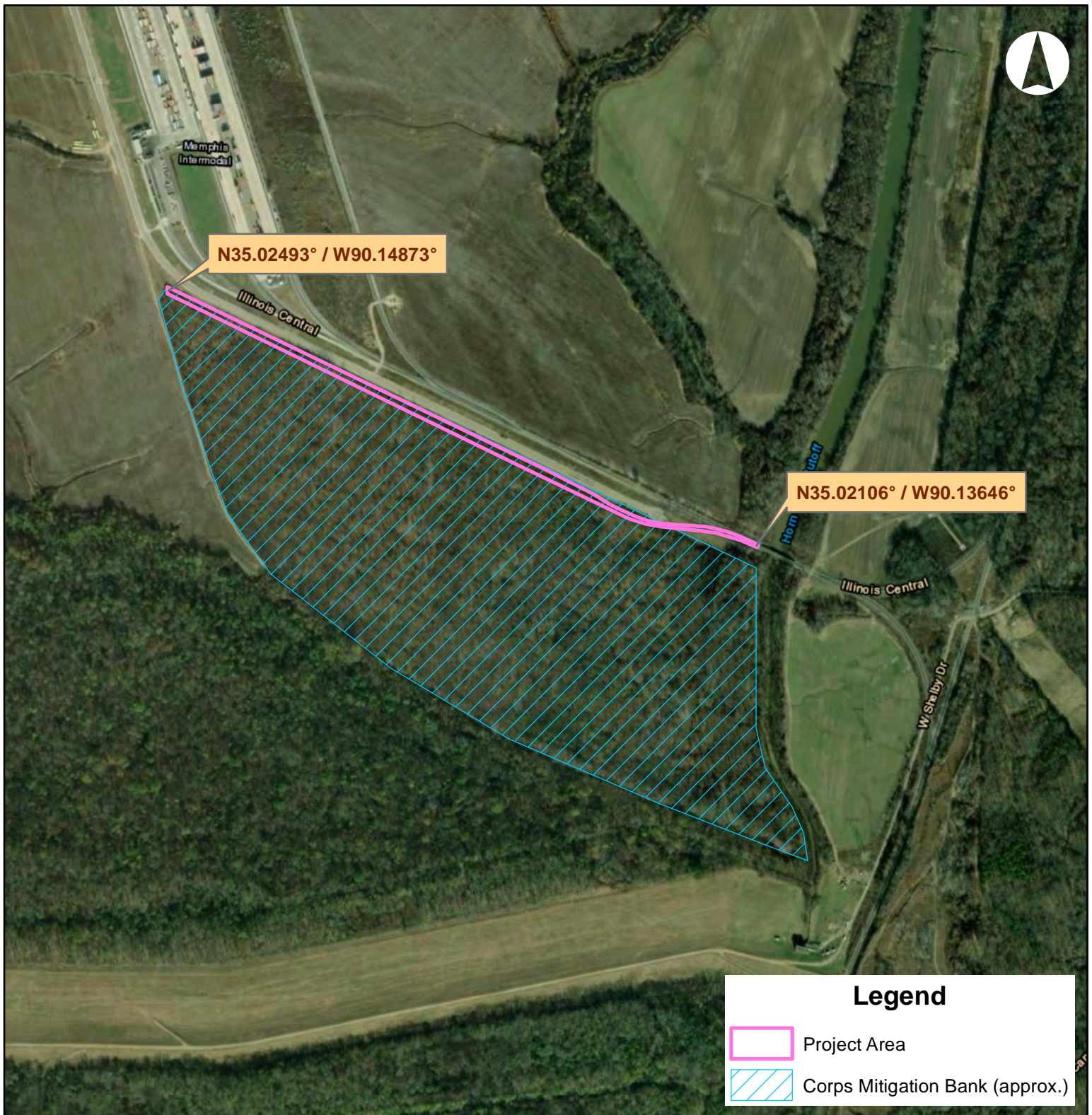
Attachments

# Pidgeon Rail Spur Topographic Site Location Map





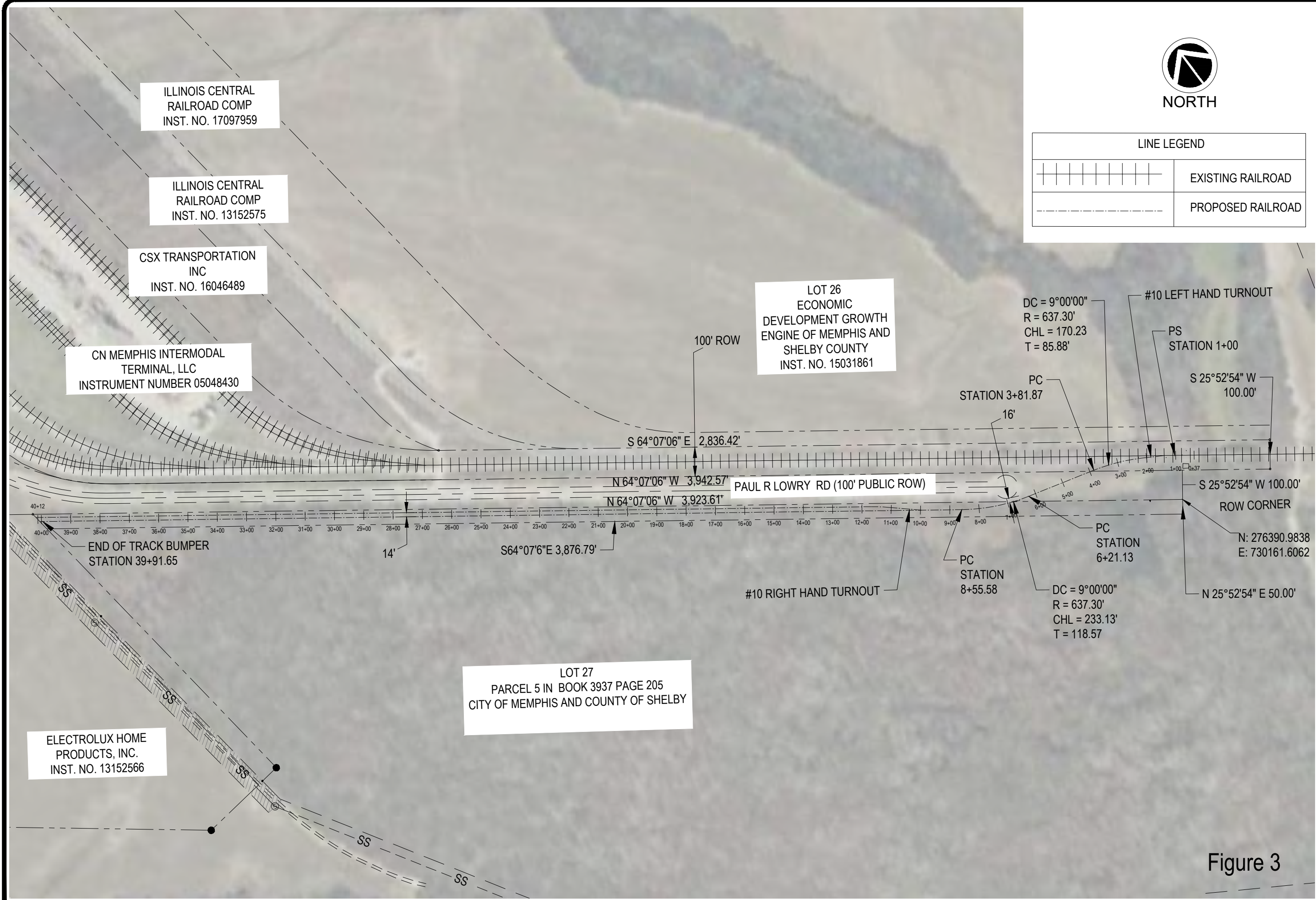
# Pidgeon Rail Spur Aerial Site Location Map



0 300 600 1,200 1,800  
Feet  
1:10,000

Figure 2





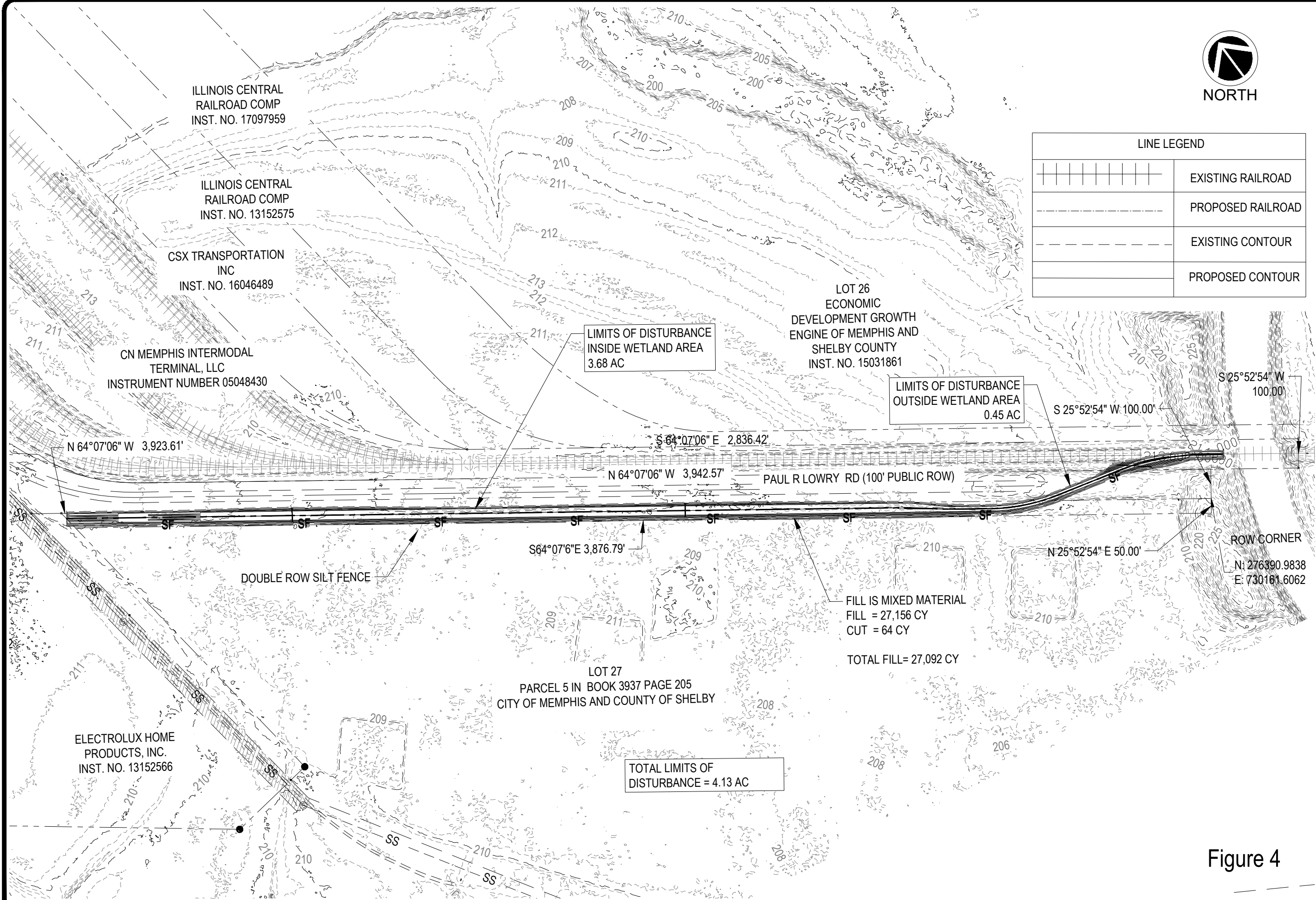
LINE LEGEND	
	EXISTING RAILROAD
	PROPOSED RAILROAD

SEAL

Pickering Firm, Inc.  
Architecture • Engineering  
Planning • Surveying  
6963 Poplar Avenue, Suite 300  
Memphis, TN 38119  
901.726.0810

PIDGEON RAIL SPUR PAUL R LOWRY ROAD MEMPHIS, TN		PROJECT #	26828.00
DESCRIPTION		SITE PLAN WITH AERIAL	DATE
SCALE		1" = 300'	FEBRUARY, 2024
TITLE		SITE PLAN	
SHEET #		C.1	

Figure 3



LINE LEGEND	
	EXISTING RAILROAD
	PROPOSED RAILROAD
	EXISTING CONTOUR
	PROPOSED CONTOUR



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Memphis, TN 38119  
901.726.0810

PIDGEON RAIL SPUR PAUL R LOWRY ROAD MEMPHIS, TN		PROJECT #	26828.00	DATE	FEBRUARY, 2024
DESCRIPTION	EROSION CONTROL				
SCALE	1" = 300'				
TITLE					
EROSION CONTROL PLAN					
SHEET #					
C.3					

Figure 4