

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM 2024-032

NOTICE DATE:
February 13, 2024

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
March 13, 2024

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Missouri Department of Natural Resources, Water Protection Program. The Department of Natural Resources will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Missouri Department of Natural Resources by email at wpsc401cert@dnr.mo.gov or by mail at P.O. Box 176, Jefferson City, Missouri 65102.

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 (DA) Permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The authority to grant permission for temporary or permanent alterations of any U.S. Army of 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: Trudy R. Poret
Tarpan Construction, LLC
6756 Highway 29
Cottonport, Louisiana 71327

LOCATION: The project site is located at approximate Mississippi River mile 889.5 on the right descending bank of the Mississippi River at the mouth of Morrison Chute and St. Johns Bayou Outlet Ditch. Approximate project coordinates are Latitude 36.5822°N and Longitude -89.5181°W in New Madrid County, Missouri, and the area is shown on the New Madrid, MO, 7.5-minute quadrangle map (Attachment 1).

PURPOSE: The purpose of the proposed project is to dispose of the material excavated from the banks of St. Johns Bayou Outlet Ditch during repairs to the banks and grade control structure upstream of Mud Ditch.

DESCRIPTION OF WORK: As part of a contract with the Corps of Engineers, the applicant is furnishing all plant, labor, and materials for repairing and armoring the right and left descending banks along St. Johns Bayou Outlet Channel upstream of Mud Ditch. That work has already been addressed in an Environmental Assessment (EA) prepared by the Memphis District pursuant to the National Environmental Policy Act (NEPA) in August of 2023 and authorized via Section 401 Water Quality Certification (WQC) dated 11 August 2023. The original NEPA documentation and Section 401 WQC for this project addressed excavation of rock and sediment from the banks of the St. Johns Bayou Outlet Ditch and placement of this material into an upland site immediately east of the project site. Approximately 4,903 cubic yards of stone (riprap) and 17,603 cubic yards of soil will be removed.

The applicant has stated that due to marine construction techniques, the river stages must be high enough to allow access to the site with tow boats and barges. At this elevation, the upland disposal site is under water and unusable. Therefore, the current proposal is to discharge the excavated material (a total of 22,506 cubic yards) into a scour hole in the Mississippi River at the mouth of St. Johns Bayou Outlet Ditch and Morrison Chute. Material will be placed at an elevation 40 feet below the elevation of the side channel (Morrison Chute). The approximate location is shown on attachment 2.

AVOIDANCE/MINIMIZATION: According to the applicant, disposal of the excavated material into the deep scour hole in the Mississippi River at an elevation that is no higher than any of the surrounding areas will prevent impacting or restricting flows out of the outlet ditch or the existing chute and will also avoid impacts to navigation.

MITIGATION: The applicant did not propose compensatory mitigation for the activity.

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 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: This application is being coordinated with the U.S. Fish and Wildlife Service (USFWS). Any comments USFWS 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 will identify and evaluate potential effects of the proposed action on historic properties through consultation with federal, state, and local agencies, federally-recognized Indian Tribes, the public, and other interested parties.

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 floodplain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any floodplain 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 OR REQUEST FOR ADDITIONAL INFORMATION: Send comments to the Corps of Engineers, Memphis District. Comments must be received by the expiration date listed on page one of this notice and may be sent via mail or e-mail to the following:

U.S. Army Corps of Engineers – Memphis District
ATTN: Roger Allan
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
e-mail: roger.s.allan@usace.army.mil
phone: (901) 544-3682

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

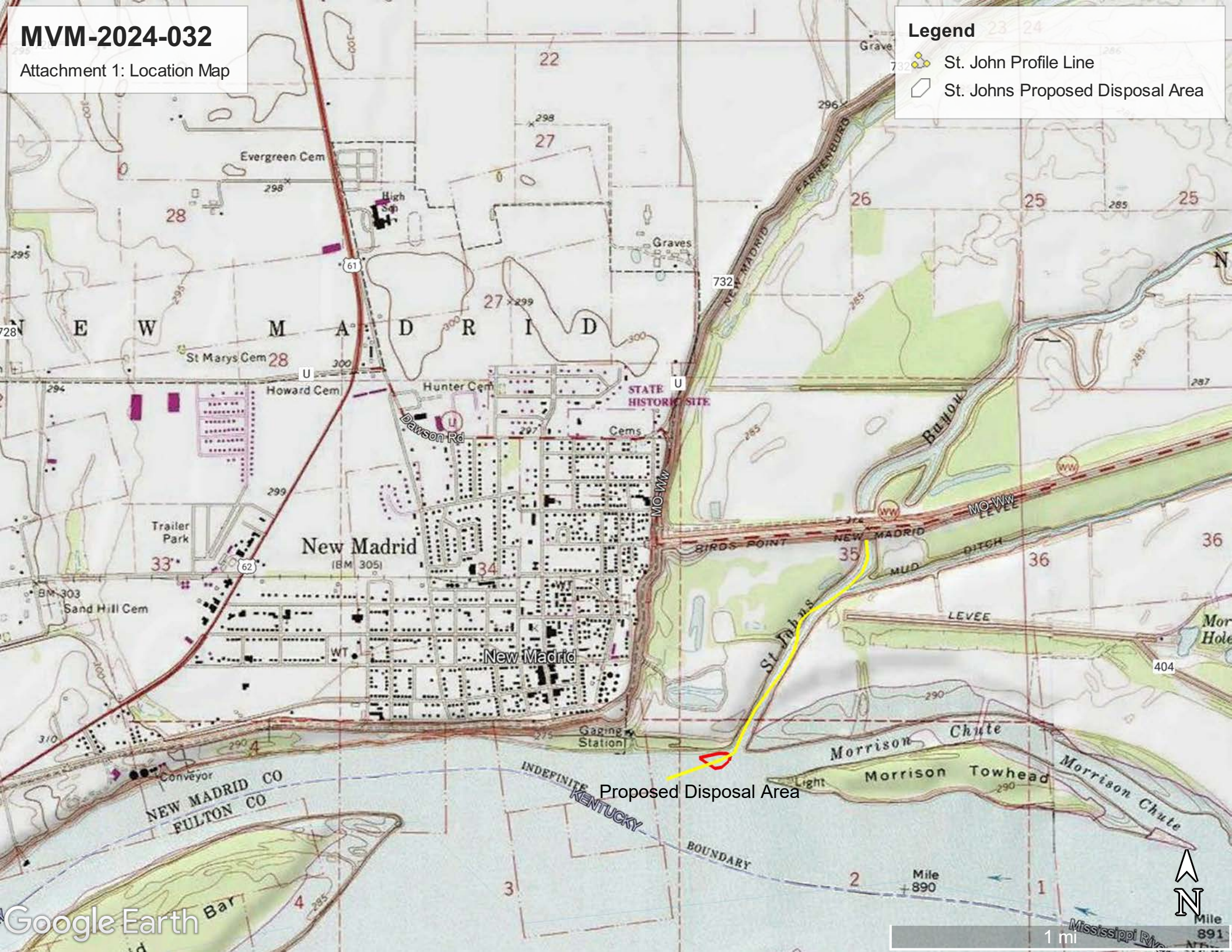
Attachments

MVM-2024-032

Attachment 1: Location Map

Legend




- St. John Profile Line
- St. Johns Proposed Disposal Area



Disposal Area Map

Proposed disposal area for excavated material

Legend

-  St. John Profile Line
-  St. Johns Bayou
-  St. Johns Proposed Disposal Area

