

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2024-153 (JKN)

NOTICE DATE:
October 9, 2024

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
November 8, 2024

JOINT PUBLIC NOTICE: This public notice is issued jointly with the Arkansas Department of Energy and Environment, Division of Environmental Quality. The Division of Environmental Quality 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 Division of Environmental Quality by email at jim.wise@adeq.state.ar.us or by mail at 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, ATTN: Office of Water Quality.

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.

APPLICANT:

Billy Joe Kyle
2397 Justin Street
Augusta, AR 72006
870-919-6521

AGENT:

Jason Jackson
203 E. Jackson
Hazen, AR 72064

PURPOSE: As stated by the applicant the project purpose is to maintain a controlled water level within forested wetlands during waterfowl hunting season.

LOCATION: The project site is located at Lat. 35.299397°N Long. -91.144474°W in Pumpkin Bend, Woodruff County, Arkansas, as shown on the attached map (Attachment 1).

DESCRIPTION OF WORK: The project includes the construction of an earthen levee totaling 2,629 linear feet. The earthen levee will be 3.5 feet high, 10 feet wide at the top, have a base width of 24 feet, with a water control structure (Attachment 2). Borrow to construct the levees will be taken from an adjacent ditch shown on the attached map (Attachment 3). As proposed, the project will impact a total 2.3-acres of forested wetlands.

AVOIDANCE/MINIMIZATION: The applicant has proposed minimal levee height of 3.5 feet and 2:1 side slope to minimize impacts to wetlands. The applicant will off-set the impacts to 2.3 acres of bottomland hardwood wetlands with onsite permittee responsible mitigation.

MITIGATION: The applicant proposes mitigation to offset impacts. The proposed mitigation areas can be seen on the attached map (Attachment 2).

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: This project is located within the known range of the Tricolored Bat (*Perimyotis subflavus*), Eastern Black Rail (*Laterallus jamaicensis jamaicensis*), Ivory-billed Woodpecker (*Campephilus principalis*) Red Knot (*Calidris canutus rufa*), Piping Plover (*Charadrius melodus*), Alligator Snapping Turtle (*Macrochelys temminckii*), Monarch Butterfly (*Danaus plexippus*), and Pondberry (*Lindera melissifolia*). This notice 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.

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 may be sent via mail or email to the following:

U.S. Army Corps of Engineers – Memphis District
ATTN: Joanna Neu
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: joanna.k.neu@usace.army.mil
phone: (901) 544-0731

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

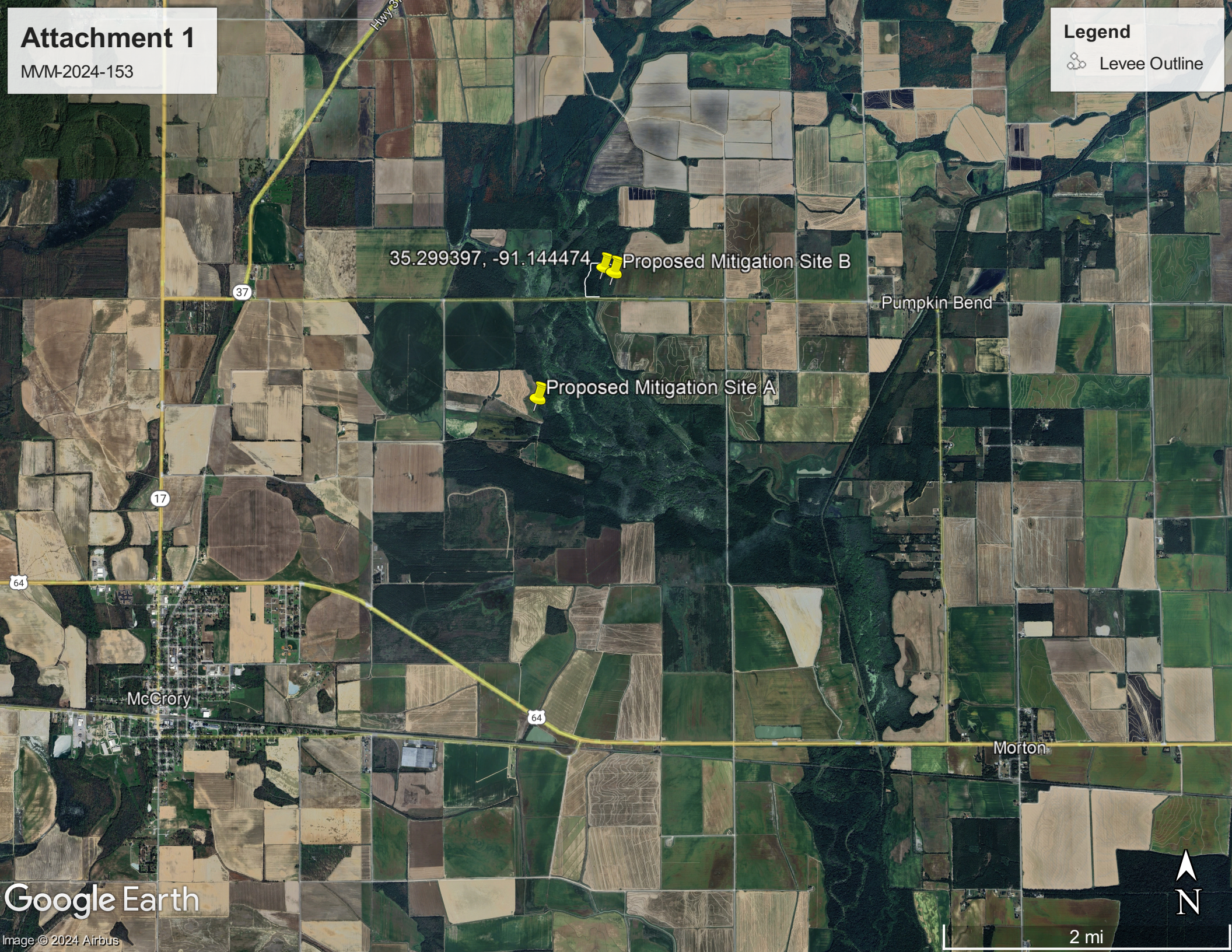
Attachments

Attachment 1

MVM-2024-153

Legend

 Levee Outline



35.299397, -91.144474



Proposed Mitigation Site B



Proposed Mitigation Site A

Pumpkin Bend

McCrory

Morton



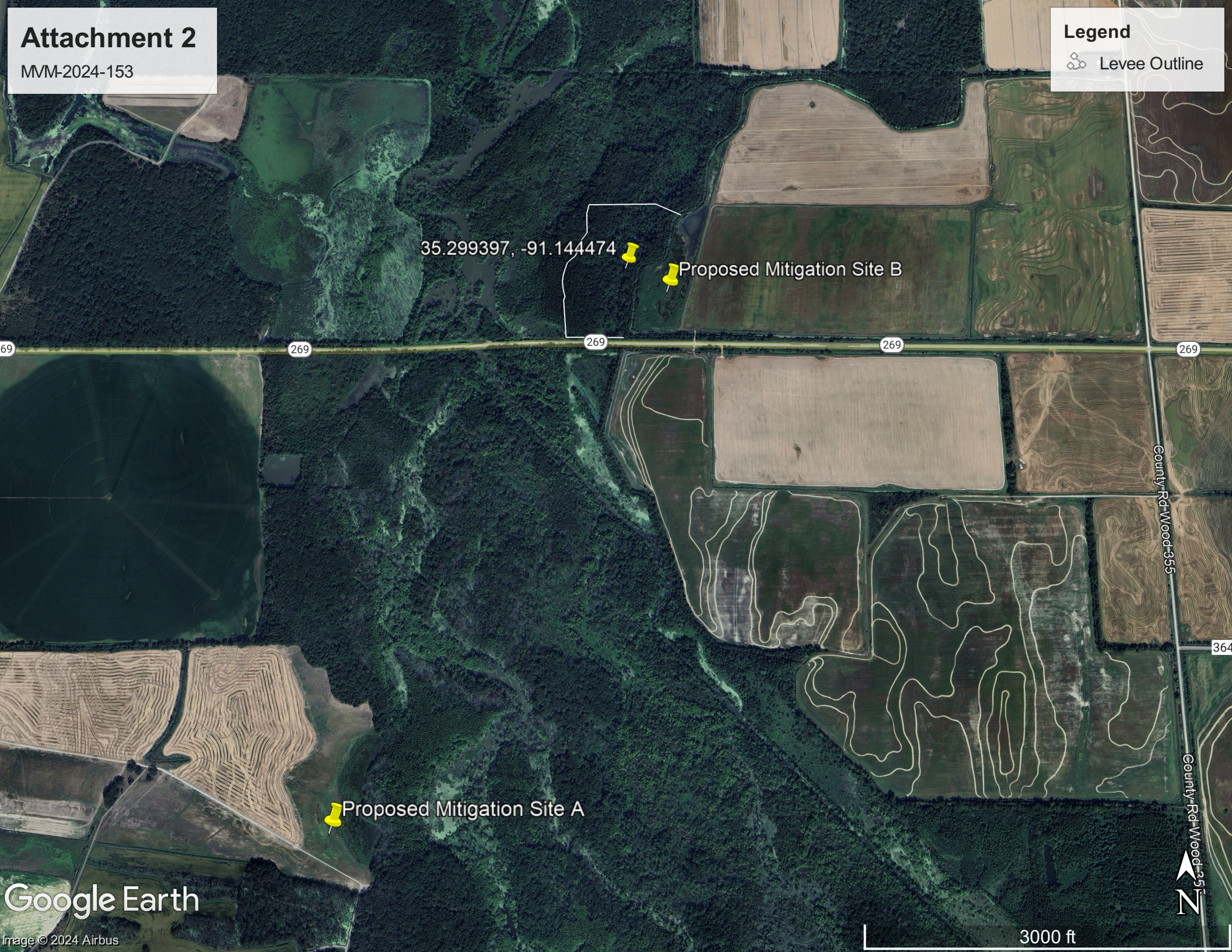
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Attachment 2

MVM-2024-153

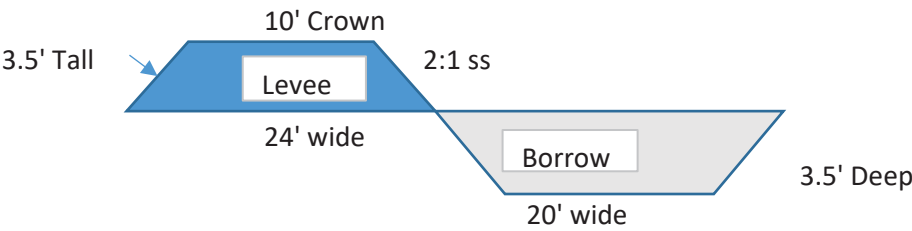
Legend

 Levee Outline



Attachment 3

Not to Scale



| WCS # | Pipe Size | | L1 Pipe length | Box Width | Box Height | Box Depth | | | |
|-------|-----------|--|----------------|-----------|------------|-----------|-----------------------------|--|--|
| 1 | 36" | | 27' | 48" | 6' | 36" | Beaver Guard for outlet 36" | | |

