

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM 2023-247

NOTICE DATE:
January 10, 2024

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
February 9, 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 and Section 10 of the Rivers and Harbors Act of 1899. 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:

Fullen Dock & Warehouse, LLC
Attn: Lanny Chalk
382 Klinke Road
Memphis, Tennessee 38127
(901)-358-9544

PURPOSE: The purpose of the project is to expand the capabilities at their commercial facility in preparation for potential future growth of the marine industry by creating space to safely secure barges away from the navigation channel though near their existing infrastructure.

LOCATION: The proposed project is located at River Mile 740.5 on the left descending bank of the Mississippi River approximately 4.15 miles north of the I-40 bridge over the Mississippi River in the city of Memphis in Shelby County, Tennessee, at approximate latitude 35.213655° /longitude W -90.061152° (see vicinity map).

HISTORY: In the late 1990's, Department of Army (DA) Permit Loosahatchie River – 28 authorized diversion of the lower segment of the Loosahatchie River into its current alignment. This work left a remnant channel that is approximately 0.68 miles long (see attachment 1). Subsequently, the applicant was authorized to dredge the remnant channel and use it for storage and unloading of barges (under DA Permit Loosahatchie-00-37) but only up to the original size of the channel. This work was never completed.

DESCRIPTION OF WORK: Currently the applicant proposes to construct and maintain a slack water harbor by enlarging the remnant channel to dimensions that match dimensions and depths of the federally authorized navigation channel on the Mississippi River, which is 300 feet wide by 9 feet deep coinciding with an elevation of zero on the gage which is 183.81 feet for the Weather Bureau Gage in Memphis, Tennessee. The work would be accomplished by use of their company owned cutterhead dredge with the dredged material being deposited into an existing upland disposal site nearby (see exhibits 2, 3 and 4). According to the applicant, clearing will only be accomplished as required to attain the 300' bottom width throughout the length of the project. At the narrowest sections, clearing may be required on both banks, but at the wider sections, it is possible that only one bank will require clearing. The area where clearing may be required has been sporadically removed of vegetation over the years since the original permit authorizations described above. For this reason, quantities of clearing required are undetermined at this time.

AVOIDANCE/MINIMIZATION: The applicant believes this project will have minimum negative (i.e. *de minimus*) impacts on the environment and therefore contends that avoidance, minimization, and compensation do not appear to be applicable.

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 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 Joe Brougher using the information below:

U.S. Army Engineer District - Memphis
ATTN: Joe Brougher
167 N. Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: joseph.f.brougher@usace.army.mil
Phone: (901) 544-3472

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.

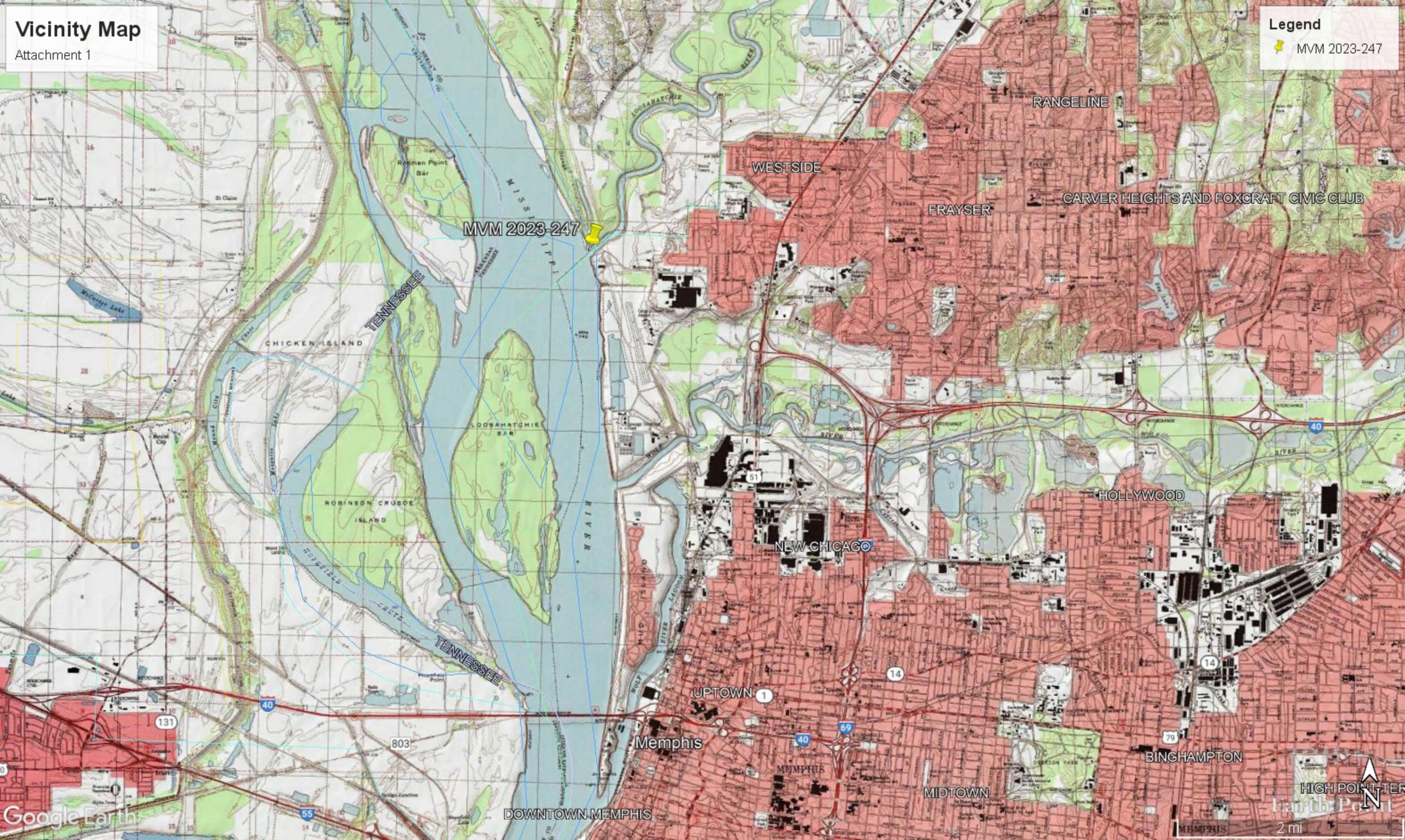
Gregg W. Williams
Chief
Regulatory Division

Attachments

Vicinity Map

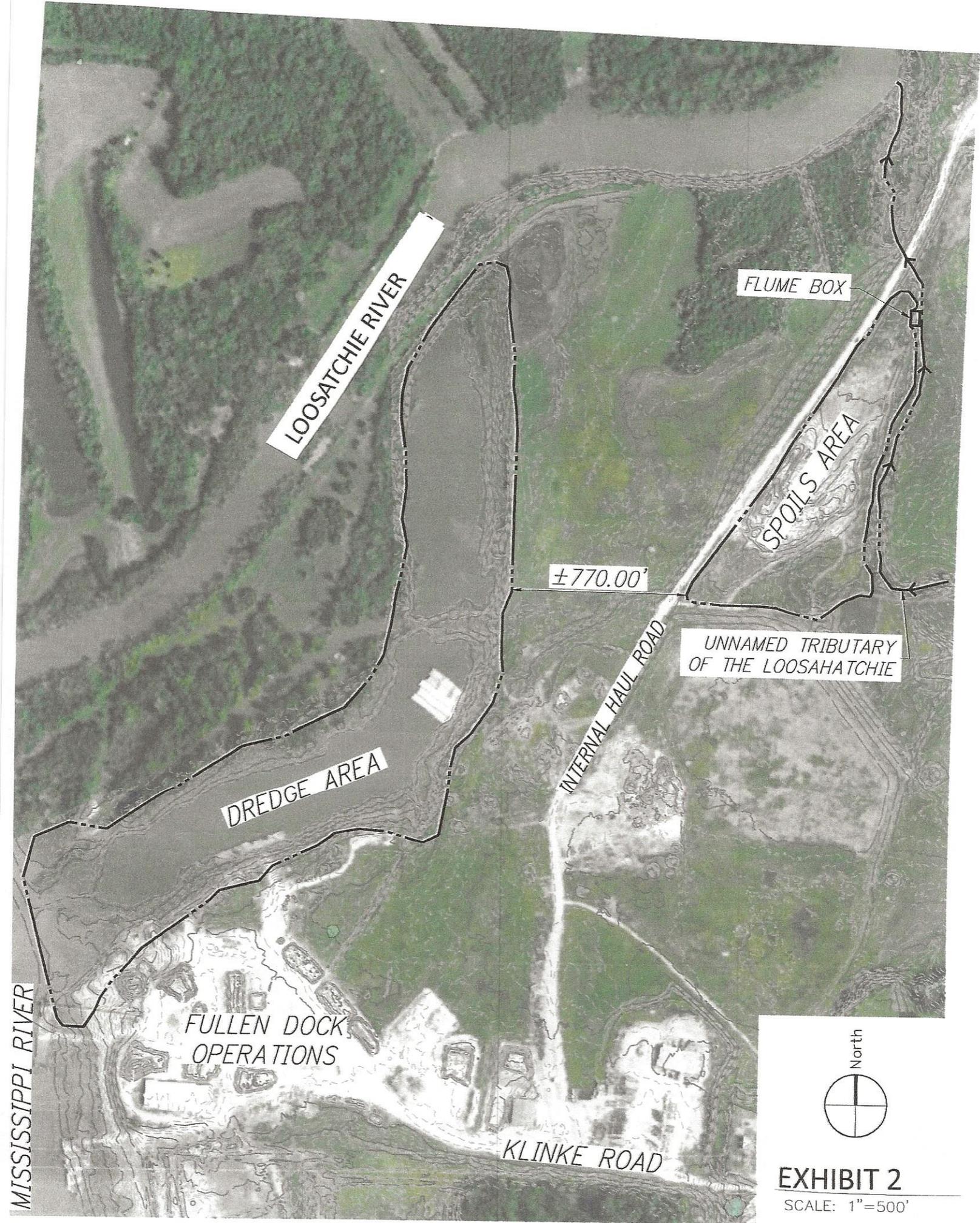
Attachment 1

Legend
MVM 2023-247





ATTACHMENT 1 (before and after historical aerial photos)



MISSISSIPPI RIVER

LOOSATCHIE RIVER

FLUME BOX

SPOILS AREA

±770.00'

UNNAMED TRIBUTARY OF THE LOOSAATCHIE

INTERNAL HAUL ROAD

DREDGE AREA

FULLEN DOCK OPERATIONS

KLINKE ROAD

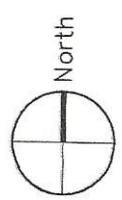


EXHIBIT 2

SCALE: 1"=500'



Mississippi River

Loosahatchie River

CLOSURE

NEW OUTLET

DREDGE AREA

DISPOSAL AREA

UNNAMED TRIB

General DeWitt Spain
Airport

Fresh Wind Christian
Center Church

EXHIBIT 3

Google Earth
Google

500 m

Camera: 3,447 m 35°12'48"N 90°02'36"W

83 m

TYPICAL CROSS SECTION OF PROPOSED
LOOSAHATCHIE HARBOR CHANNEL

