



US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2020-048 (JKB)

NOTICE DATE:
June 2, 2020

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
July 2, 2020

Joint Public Notice

U.S. Army Corps of Engineers and State of Arkansas

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:

Bill Tilley
Tilley Farms
108 S. Darter Boulevard
Fisher, Arkansas 72429
(870) 897-1082

AGENT:

David Fowlkes
Cypress Tree Environmental Consulting, LLC
608 Scotch Pine Drive
Jonesboro, Arkansas 72404
(870) 219-4450

PURPOSE: According to the applicant, the purpose of the proposed project is to restore an existing bottomland hardwood forested area to grow better quality timber by having better control of the depth, duration, and timing of flooding. A proposed borrow ditch would be used to store excess surface water for crop irrigation.

LOCATION: The project site is located in Section 31, Township 10N, Range 1E, in Poinsett County, Arkansas, at approximate Latitude 35.45366° and Longitude -91.02213° on the Beedeville 7.5 minute quadrangle map (Attachment 1).

DESCRIPTION OF WORK: The applicant is proposing to construct an approximately 2,631 linear foot road with an associated borrow ditch. The combined width of the proposed road and associated borrow ditch is thirty (30) feet (Attachment 3). The applicant is proposing to place two (2) pipes with stop logs in the location shown (Attachment 2). These pipes would allow the applicant to control the depth, duration, and timing of flooding in order to rehabilitate the forested wetlands. The total acreage of wetlands impacted by the road construction and associated borrow ditch would be 2.0 acres.

AVOIDANCE/MINIMIZATION: According to the applicant, the road is being built on top of a small levee along the property line on the south and west side. Clearing is being kept as minimal as possible for the road construction.

MITIGATION: The applicant proposes to mitigate wetland impacts at a 2:1 ratio with the restoration of 4.0 acres of bottomland hardwoods (Attachment 4). The mitigation site is located on-site in Section 32, Township 10N, Range 1E, in Poinsett County, Arkansas.

WATER QUALITY CERTIFICATION: By copy of this public notice, the applicant is requesting water quality certification from the Arkansas Department of Environmental Quality that the activity will comply with applicable requirements set forth in 33 U.S.C. and 1341 (a)(1) of the Clean Water Act and all state laws and

regulations promulgated pursuant thereto. This certification or evidence of the water quality certification or waiver of the right to certify must be submitted prior to the issuance of a Corps of Engineers permit. The Corps of Engineers evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act.

ENDANGERED SPECIES: Our preliminary determination is that the proposal would have no effect on the Eastern Black Rail (*Laterallus jamaicensis jamaicensis*), Red Knot (*Calidris canutus rufa*), or Piping Clover (*Charadrius melodus*) and may affect 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: Based on the information provided, the Memphis District's Regulatory Archaeologist has reviewed the project for potential impacts to cultural resources in accordance with Section 106 of the National Historic Preservation Act (NHPA), as amended. Due to the proposed mitigation area being located within a high probability area for cultural resources, we recommend that a cultural resources survey be performed prior to beginning work associated with the proposed activities. Additional information that is received from federal, state, and local agencies, federally-recognized Indian Tribes, the public, and other interested parties will be considered prior to making a final determination.

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 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, and the Arkansas Department of Environmental Quality. Comments may be sent via mail or email to the following:

U.S. Army Corps of Engineers – Memphis District
ATTN: Josh Bright
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: joshua.k.bright@usace.army.mil
phone: (901) 544-0926
fax: (901) 544-0211

State Permits Branch, Water Division
Arkansas Department of Environmental Quality
ATTN: Millie Remer
5301 North Shore Drive
Little Rock, Arkansas 72118-5317
E-mail: remer@adeq.state.ar.us
phone: (501) 682-6263

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:

<https://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