

US Army Corps  
of Engineers  
Memphis District

# Public Notice

FILE NUMBER: MVM-2020-160 (JFB)

NOTICE DATE:  
October 27, 2020

Attn: Postmaster,  
Please Post Until  EXPIRATION DATE:  
November 26, 2020

## 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.

**APPLICANT:**

John P. Landreaux  
Satterfield Motor Company  
25307 Interstate 30 South  
Bryant, Arkansas 72022  
(512) 626-1900

**AGENT:**

Joel Whicker  
5155 Country Club Blvd  
Little Rock, Arkansas 72207  
(501) 658-0658

**LOCATION:** The project site is located south of Fair Oaks in Cross County, Arkansas more specifically at approximate Latitude 35.15887° and Longitude -91.01477° on the Fair Oaks 7.5 minute quadrangle map (See Vicinity Map).

**PURPOSE:** The purpose of this project is to seasonally impound water for recreational waterfowl hunting.

**HISTORY:** Second Creek is a major tributary of the L'Anguille River, flowing more than twenty miles across three counties in eastern Arkansas. Decades ago, previous landowner(s) created a levee across Second Creek at the site location and filled the old meandering channel to convert the area for agriculture production (see Historical Aerial Photo and Current Aerial Photo). Second Creek flows were diverted into a man-made ditch around the north and east side of the property and flowed through the levee via culverts created from 8-foot diameter tanker rail cars. Over time, silt and sediment accumulated in the culverts and diminished drainage capabilities. At some unknown date, other work was done and one of the culverts was removed. In 2019, the applicant acquired this property and subsequently replaced the remaining 8-foot diameter culvert with three culverts that were 5-foot in diameter, and which contained water control structures (which have not yet been operated). Also, the existing road crossing was lowered in elevation to create a spillway armored with riprap to allow passage of expected high flows and a small pad was placed to facilitate the work (shown on the attached Site Map). All work was conducted within the existing alignment with only the turnaround pad resulting in additional impacts to waters of the United States which total approximately 0.03 acre.

**DESCRIPTION OF WORK:** The applicant now proposes to begin utilizing the water control structures in the future, which could result in secondary adverse impacts to waters of the United States if not managed properly. The applicant proposes to close the structures and impound water seasonally from November 15th through January 31st. Lands that would be flooded along Second Creek largely consists of bottomland hardwood wetlands typically found along riparian areas of meandering delta streams with some segments of the stream abutting cropland. This more heavily forested riparian zone extends upstream for approximately 2.4 miles before giving way to a narrow band of trees along the channel with cropland to either side (see vicinity map for more reference).

**AVOIDANCE/MINIMIZATION:** According to the applicant, by conducting their replacement of defective culverts within the existing alignment additional impacts were avoided and minimized to the extent possible.

**MITIGATION:** No mitigation has been proposed for this project. The applicant contends that direct impacts associated with the project are very small (less than 1/10th of an acre) and does not believe additional mitigation would be necessary.

**WATER QUALITY CERTIFICATION:** The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. As of the date of this public notice, the applicant has not submitted a certification request to the ADEQ (certifying authority). In accordance with Certification Rule part 121.6, once the applicant submits a certification request the Corps of Engineers will determine the reasonable period of time for the certifying agency to act upon the certification and provide written notification.

**ENDANGERED SPECIES:** Our preliminary determination is that there would be no endangered species or critical habitat affected by this proposal. This application is being coordinated with the U.S. 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 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. Comments may be sent via mail or email to the following:

U.S. Army Corps of Engineers – Memphis District  
ATTN: Joe Brougher  
167 North Main Street, Room B-202  
Memphis, Tennessee 38103-1894  
E-mail: [joseph.f.brougher@usace.army.mil](mailto:joseph.f.brougher@usace.army.mil)  
phone: (901) 544-3472  
fax: (901) 544-0211

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.

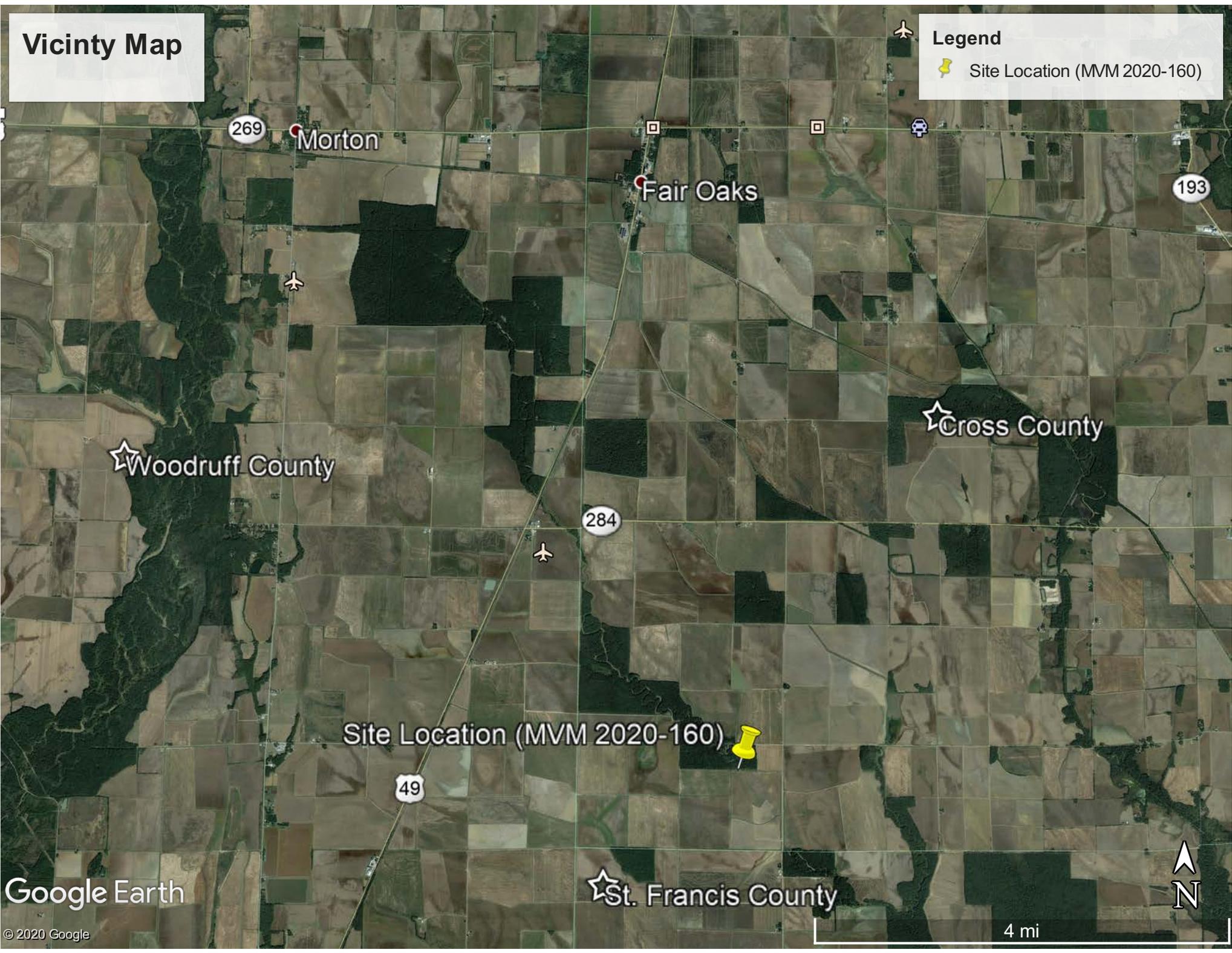
Gregg W. Williams  
Chief  
Regulatory Division

Attachments

# Vicinity Map

## Legend

 Site Location (MVM 2020-160)



Google Earth

© 2020 Google

St. Francis County

4 mi

# Historical Aerial Photo

3/17/1989

**Legend** Last Chance Rd  
📌 Site Location (MVM 2020-160)

Site Location (MVM 2020-160)



259

Google Earth

Image U.S. Geological Survey



1000 ft

# Current Aerial Photo

10/21/2019

**Legend** Last Chance Rd  
📌 Site Location (MVM 2020-160)

Site Location (MVM 2020-160)



259

Google Earth

© 2020 Google



1000 ft

# Site Map

MMV 2020-160

## Legend

 New Work Locations

New Water Control Structures

 New Spillway

Turn Around Area

Google Earth



100 ft