



US Army Corps  
of Engineers  
Memphis District

# Public Notice

FILE NUMBER: MVM-2020-220 (BSP)

NOTICE DATE:  
December 17, 2020

Attn: Postmaster,  
Please Post Until

EXPIRATION DATE:  
⇒ January 16, 2021

## 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:**

Mr. James Larry Gunnell  
1202 Oliver Street  
Stuttgart, Arkansas 72160  
(870) 672-1493

**LOCATION:** The project site is located in Section 13, Township 4S, Range 4W, in Arkansas County, Arkansas, at approximate Latitude 34.348982° and Longitude -91.398032°, as shown on the attached map (Attachment 1).

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

**DESCRIPTION OF WORK:** The project (as shown on Attachment 2) includes the construction of 1,000 linear feet of earthen levee and the installation of one water control structure. The earthen levee's dimensions are proposed to be 45 feet wide at the base, 5 feet tall, and with a 10-foot wide crown. As proposed, this earthen structure will impact 1.03 acres of forested wetlands. Fill material will be acquired on-site during construction from the excavation of an adjacent borrow ditch.

**AVOIDANCE/MINIMIZATION:** According to the applicant, by constructing the structure to the minimum needed dimensions to achieve the project purpose in addition to implementing the proposed mitigation the project's impacts will be minimized to the most practicable extent.

**MITIGATION:** The applicant has proposed to mitigate these impacts by rehabilitating a beaver damaged wetland on a nearby property that he owns as shown on the attached map (Attachment 3). The proposed mitigation area is approximately 3.3 acres.

**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: Ben Pitcock  
167 North Main Street, Room B-202  
Memphis, Tennessee 38103-1894  
E-mail: [benjamin.s.pitcock@usace.army.mil](mailto:benjamin.s.pitcock@usace.army.mil)  
phone: (901) 544-3468  
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: <http://geo.usace.army.mil/egis/f?p=340:2:0::NO:RP>. 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

Project Location

Project Location 34.348982°/ -91.398032°



Google Earth

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2000 ft

# Attachment 2

Proposed Greentree Location

## Legend

-  34.348982/-91.398032
-  Approximate Property Boundary
-  Levee Alignment
-  Water Control Pipe

34.348982/-91.398032 

Burks Switch Rd

Google Earth

© 2020 Google



1000 ft

# Attachment 3

Proposed Mitigation Location

Gunnell Rd

34.471249/-91.294474

Google Earth

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1000 ft