

US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM 2016-078 (JME)

NOTICE DATE:
September 10, 2020

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
October 10, 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. The authority to grant permission for temporary or permanent alterations of any U.S. Army 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:

Mr. Lee Harris, County Mayor
Shelby County
160 N. Main Street
Memphis, Tennessee 38103
Ph: (901) 222-2000

AGENT:

Mr. Trevor Cropp
Barge Design Solutions
60 Germantown Court, Suite 100
Memphis, Tennessee 38018
Ph: (901) 244-5520

PURPOSE: The primary purpose of the proposed project is to alleviate current flooding conditions of communities located adjacent to and the Naval Support Activity Mid-South Naval Base located immediately to the north of Big Creek. The project intends to restore/enhance existing floodplain and natural aquatic systems by hydrologically re-connecting these resources with Big Creek's 5-year and bank full stages. Flood storage would be accomplished and controlled through strategic placement of a gated diversion channel and lowered banks, excavation of land (primarily uplands) to provide additional storage, and construction of berms and gateways to control the flow and duration of storage.

LOCATION: The project area encompasses approximately 1,584 acres on the south side of Big Creek between the Creek and TN-385 (Paul Barret Parkway). The project area begins at Highway 51 continuing east to Sledge Road in Millington, Shelby County, Tennessee. The project area is divided into 3 areas which are outlined as Areas 1-3 on Figures 1 and 2 based on the USGS 7.5' Millington, TN Topographic Quadrangle. Approximate center coordinates for the project area are N35.321971° / W-89.870997°.

DESCRIPTION OF WORK: The overall project consists of floodplain and recreational improvements to the area south of Big Creek as well as levee improvements north of Big Creek. The work items being proposed would result in direct and indirect effects to streams and wetlands located within the project's footprint. Detailed project plans and a detailed list of the impacts to streams and wetlands that would occur and their locations are provided in Attachment A "Revised 404 Permit Application Supplemental Information". Attachment A can be found on the Memphis District's public webpage at the following link: https://www.mvm.usace.army.mil/Portals/51/docs/regulatory/publicnotices/Tennessee/Attachment%20A_2020-08-21_USACE%20404%20Request_Combined.pdf?ver=2020-09-08-163516-173. A summary of wetland and stream impacts that would occur are attached to this notice as Figure 3.

The deposition of fill material into waters of the United States, including streams and wetlands, requires authorization from the Corps of Engineers. At this time, it is our preliminary jurisdictional determination (PJD) that the above-mentioned streams and wetland may be considered waters of the United States. The applicant's wetland delineation is provided in Attachment B and maps are provided indicating the approximate size and location of all aquatic resources which our office determined may be considered waters of the United States. Attachment B can be found on the Memphis District's public webpage at the following link:

https://www.mvm.usace.army.mil/Portals/51/docs/regulatory/publicnotices/Tennessee/Attachment%20B_2020-07_Updated%20Delineation%20Information.pdf?ver=2020-09-08-163816-240.

WATER QUALITY CERTIFICATION: The applicant is required to request water quality certification from the Tennessee Department of Environment and Conservation, Division of Water Pollution Control 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 this 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.

AVOIDANCE/MINIMIZATION: The applicant states that all work has been designed to avoid and minimize impacts to waters of the United States to the maximum extent practicable. A list of the proposed impacts which the applicant has determined to be unavoidable in meeting project objectives is provided in Attachment A and Figure 3. The applicant provided an analysis of reasonable alternatives. Our office will review this information to determine if the applicant's analysis is compliant with the Section 404(b) (1) guidelines.

MITIGATION: The applicant is offering compensatory mitigation for unavoidable impacts to streams and wetlands. The applicant has not developed a final mitigation plan at this time. The applicant states their intent to prepare a detailed mitigation plan once the mitigation design is finalized. The applicant's preliminary mitigation plan is provided in Block 23 of Attachment A. Our office will review the applicant's final mitigation plan to determine if the plan meets requirements of the Compensatory Mitigation for Losses of Aquatic Resources, Final rule, 33 CFR Parts 325 and 332 / 40 CFR Part 230.

ENDANGERED SPECIES: As the responsible entity for a Department of Housing and Urban Development project, the applicant previously coordinated the project with U.S. Fish and Wildlife (USFWS) and Tennessee Wildlife Resources Agency (TWRA). It was determined that the Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*), which are listed as endangered or threatened by USFWS in Shelby County, are the only two federally listed species that could potentially be affected by the proposed project. The applicant conducted an evaluation of potential impacts to these federally listed species and determined there would be "No Effect" and "May affect, not likely to adversely affect" to the Indiana bat and the northern long-eared bat, respectively. The Corps of Engineers has reviewed the applicant's determination and the basis for the determination and does not object. This application is being coordinated with USFWS and TWRA. Any additional comments they have regarding endangered or threatened wildlife or plants or their critical habitat in response to this public notice 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, in consultation with the Tennessee State Historic Preservation Office (SHPO) and federally-recognized Indian Tribes, the Memphis District has received information from the applicant that no historic properties will be adversely affected by the proposed action. The applicant, as lead federal agency, coordinated their determination with SHPO. SHPO concurred with the applicant's determination that no archaeological or architectural resources eligible for listing in the National Register would be affected by the proposed project. Additional information that is received within the comment period from federal, state, and local agencies, federally-recognized Tribes, the public, and other interested parties will be considered prior to making a final determination.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969: As the responsible entity for a Department of Housing and Urban Development project, the applicant prepared its own NEPA document to assess the environmental effects of the proposed federal action. The applicant's NEPA document is provided as Attachment C. Attachment C can be found on the Memphis District's public webpage at the following link:

https://www.mvm.usace.army.mil/Portals/51/docs/regulatory/publicnotices/Tennessee/Attachment%20C_Big%20Creek%20Final%20EA%2010-16-19.pdf?ver=2020-09-08-164106-130. The appendices to Attachment C can be found at: https://www.mvm.usace.army.mil/Portals/51/docs/regulatory/publicnotices/Tennessee/Attachment%20C_Big%20Creek%20Final%20EA%20Appendices.pdf?ver=2020-09-08-165330-857. The attachments to Attachment C can be found at: https://www.mvm.usace.army.mil/Portals/51/docs/regulatory/publicnotices/Tennessee/Attachment%20C_Big%20Creek%20Final%20EA%20Attachments.pdf?ver=2020-09-08-170745-177.

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: To request additional information or provide comments on this notice, please contact Mr. James M. Elcan using the information below:

U.S. Army Engineer District – Memphis
ATTN: James Elcan
167 N. Main Street, Room B-202
Memphis, Tennessee 38103-1894

E-mail: james.m.elcan@usace.army.mil

Phone: (901) 544-0737

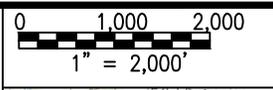
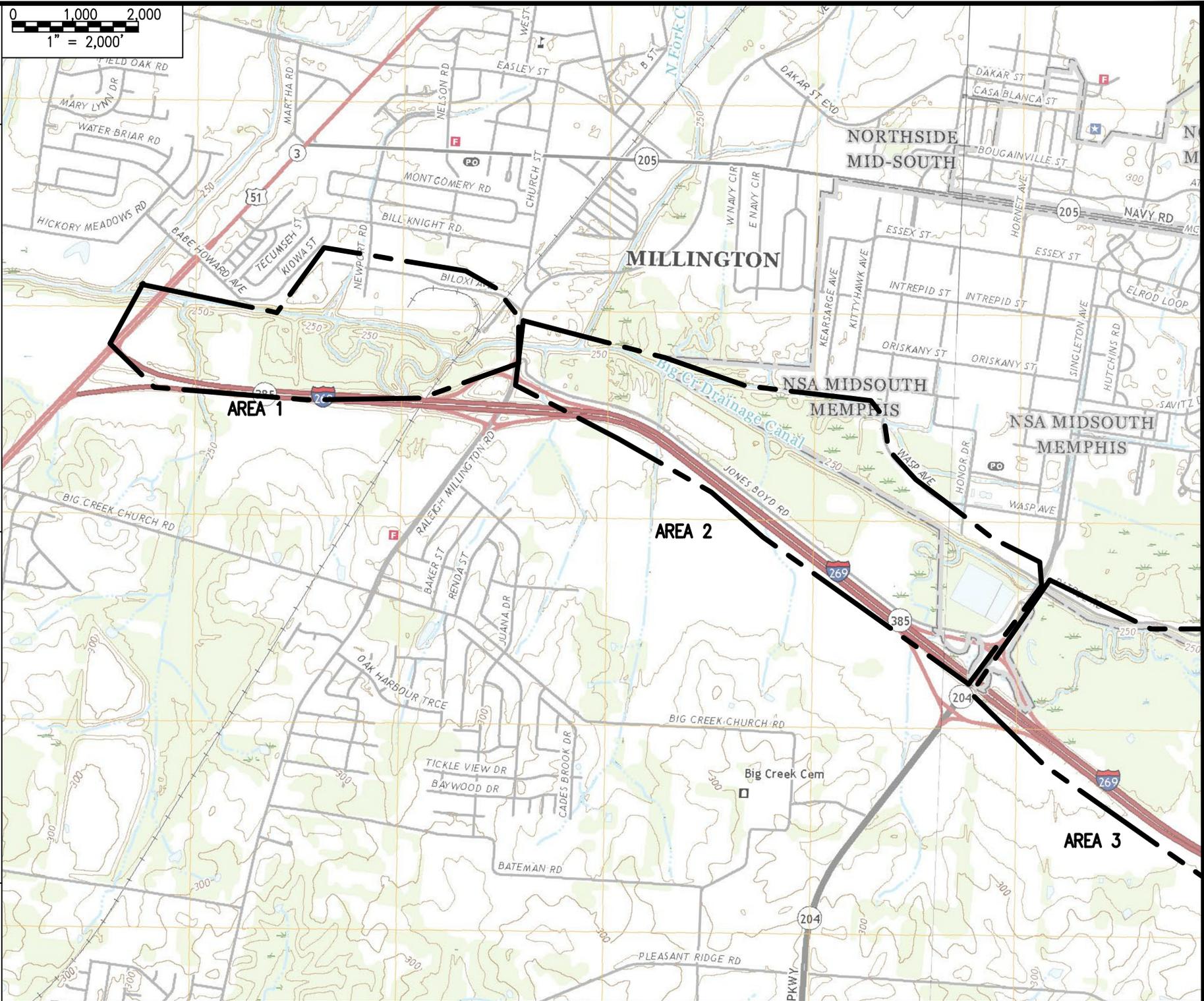
Fax: (901) 544-0211

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 Branch office for examination.

Gregg W. Williams
Chief
Regulatory Division

Attachments



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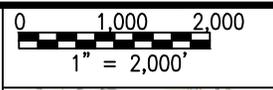
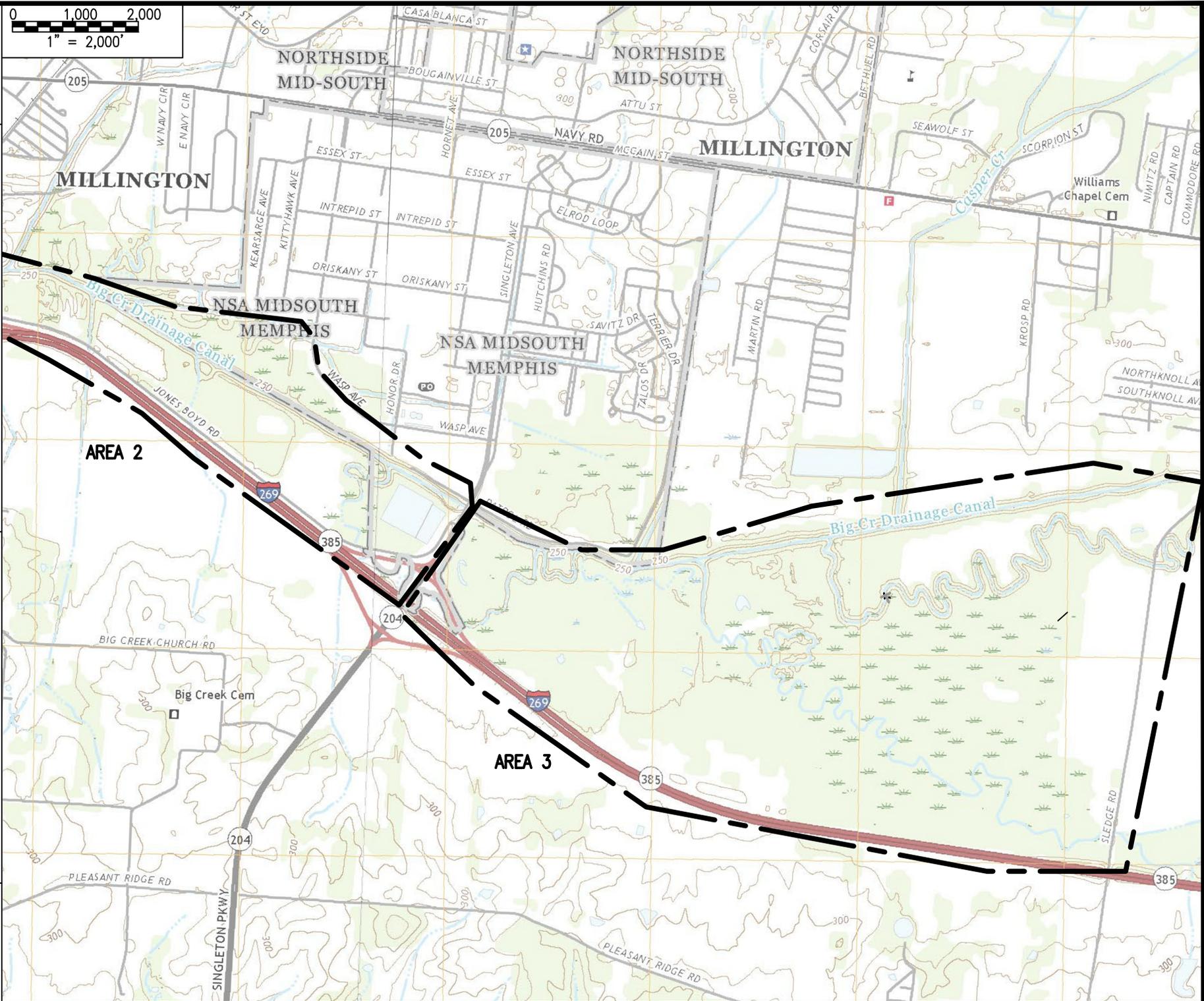
**BIG CREEK WETLAND & RECREATION AREA
JURISDICTIONAL WATERS PERMITTING**

DESCRIPTION:
TOPOGRAPHIC MAP - WEST

LOCATION:
MILLINGTON, TN

PROJECT#:
57802.00

DATE:
OCTOBER 2019



1:2,000



Tioga
ENVIRONMENTAL CONSULTANTS

**BIG CREEK WETLAND & RECREATION AREA
JURISDICTIONAL WATERS PERMITTING**

DESCRIPTION:
TOPOGRAPHIC MAP - EAST

LOCATION:
MILLINGTON, TN

PROJECT#:
57802.00

DATE:
OCTOBER 2019

FIGURE 3.

Resource ID	Impact ID On Figures	Linear Feet Impact	Acreage Impact	Impact Type
Streams – Direct Fill Impacts				
Big Creek	BC-1	107	N/A	Flood Control Inlet Structure
STR-1	S1-1	234	N/A	Box Culvert
STR-2	S2-1	87	N/A	Box Culvert
STR-2	S2-2	13	N/A	Box Culvert
STR-5 (North Fork Creek)	S5-1	103	N/A	Armoring
STR-10	S10-1	52	N/A	Pipe
STR-11	S11-1	132	N/A	Excavation / Inundation
STR-11	S11-2	40	N/A	Earthen Fill
STR-12	S12-1	248	N/A	Pipe & Box Culvert / Inundation
STR-13	S13-2	70	N/A	Pipe
STR-15	S15-1	136	N/A	Box Culvert
STR-18	S18-2	10	N /A	Stormwater Culvert
Streams – Stream Stabilization and Restoration Impacts				
STR-4	S4-1	398	N/A	Grade Control + Inundation
STR-7	S7-1	584	N/A	Grade Control + Inundation
STR-13	S13-1	1015	N/A	Grade Control + Inundation
STR-17	S17-1	2512	N/A	Realignment
STR-18	S18-1	665	N/A	Realignment
Wetlands				
WTL-8	W8-1	N/A	0.022	Concrete Fill
WTL-8	W8-2	N/A	0.064	Concrete Fill
WTL-8	W8-3	N/A	0.042	Excavation
WTL-8	W8-4	N/A	0.005	Piers
WTL-16	W16-1	N/A	0.122	Fill
WTL-17	W17-1	N/A	0.175	Fill
WTL-18	W18-1	N/A	0.243	Fill
			0.193	Isolation by Fill
WTL-19	W19-1	N/A	0.091	Fill
WTL-20	W20-1	N/A	0.002	Stormwater Culvert
WTL-20	W20-2	N/A	0.021	Fill
WTL-20	W20-3	N/A	0.092	Fill
WTL-21	W21-1	N/A	0.101	Fill

FIGURE 3.

			0.022	Isolation by Fill
WTL-23	W23-1*	N/A	0.130	Excavation for Drainage Channel
WTL-24	W24-1*	N/A	0.057	Excavation for Drainage Channel
WTL-25	W25-1	N/A	0.084	Fill
WTL-26	W26-1	N/A	0.050	Fill
WTL-27	W27-1*	N/A	0.079	Excavation for Drainage Channel
WTL-28	W28-1	N/A	0.035	Fill
			0.032	Isolation by Fill
WTL-29	W29-1	N/A	1.163	Excavation for Drainage Channel
WTL-29	W29-2	N/A	0.082	Fill
WTL-29	W29-3	N/A	0.083	Fill
WTL-29	W29-4**	N/A	0.523	Excavation for Drainage Channel
WTL-29	W29-5*	N/A	0.009	Excavation for Drainage Channel
WTL-29	W29-6*	N/A	0.227	Excavation for Drainage Channel
Other Waters				
Pond @ WTL-10	P2-1	51	N/A	Pier
Pond - Unnamed	P1-1	52	N/A	Pier
Pond - Unnamed	P1-2	17	N/A	Pier

*Wetland impacts W23-1, W24-1, W27-1, W29-5, and W29-6 are new impacts since the original submittal.

**Wetland impact W29-4 proposed impacts increased.