



US Army Corps  
of Engineers  
Memphis District

# Public Notice

**FILE NUMBER: MVM 2022-338**

**NOTICE DATE:**  
**January 6, 2023**

Attn: Postmaster,  
Please Post Until

**EXPIRATION DATE:**  
**February 5, 2023**

## **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 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

**APPLICANT:**

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

**PURPOSE:** The purpose of the project is to conduct maintenance dredging.

**LOCATION:** The proposed project is located in the Mississippi River at approximate River Mile 740.3L at the Fullen Dock facility in Memphis, Shelby County, Tennessee, at approximate latitude 35.20955 and longitude -90.063017 on the Northwest Memphis 7.5-minute quadrangle map (Attachment 1).

**DESCRIPTION OF WORK:** The applicant proposes to perform periodic maintenance dredging from an area 250 feet by 1000 feet in front of the docking facility to provide navigation depths for commercial towboats and loaded barges to and from the main channel of the Mississippi River. Discharged material will be placed in an approved upland disposal area located on the high east bank of the Mississippi River near the entrance to the applicant's property. Approximately 50,000 cubic yards of silt and accumulated sediments will be removed by hydraulic dredge per year. As an alternate disposal area, the applicant is continuing to request permission to use an exposed sandbar further downstream from the existing dock. In the event the sandbar is used as an alternate disposal area, approximately 2,000 cubic yards would be discharged on the sandbar as shown on Attachment 2. This alternate disposal area was previously authorized by Permit File No. MVM-2008-348. The applicant is seeking authorization for a period of ten years.

The discharge of return water into McKellar Lake (administratively defined as a discharge of dredged material by CFR 323.2(d) and, therefore, regulated under Section 404 of the Clean Water Act) meets the requirements of Nationwide Permit 16 (*Return Water From Upland Contained Disposal Areas*), pursuant to Federal Register, Volume 86, Number 245, dated December 27, 2021.

**AVOIDANCE/MINIMIZATION:** The applicant proposes to only dredge the minimum amount of material required to meet their stated project purpose.

**MITIGATION:** The applicant did not propose compensatory mitigation for the activity.

**ENDANGERED SPECIES:** The Indiana bat and northern long-eared bat are listed as endangered or threatened by U.S. Fish and Wildlife Service (USFWS) within the project area according to their IPaC website: <https://ecos.fws.gov/ecp/>. Based on review of the Tennessee Standard Local Operating Procedures for Endangered Species (SLOPES) agreement with USFWS, the effect determination for both bat species is "may affect, not likely to adversely affect". The project area is within the consultation zone of the Pallid Sturgeon according to the Tennessee SLOPES agreement. Since the applicant is proposing to use hydraulic dredging, it is anticipated the conditions

according to Item 10. of Appendix A – Pallid Sturgeon Effects Determination Key will be incorporated to a Section 10 permit to reach an effect determination of “not likely to adversely affect”. Any additional information that is received within the applicable comment period will be considered prior to making a final decision.

**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.

**WATER QUALITY CERTIFICATION:** The Clean Water Act (CWA) Section 401 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 has requested certification for the activity (which includes dredge and disposals) from Tennessee Department of Environment and Conservation which was granted on October 5, 2022.

**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 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 Mitch Elcan using the information below:

U.S. Army Engineer District - Memphis  
ATTN: Mitch Elcan  
167 N. Main Street, Room B-202  
Memphis, Tennessee 38103-1894  
E-mail: [james.m.elcan@usace.army.mil](mailto:james.m.elcan@usace.army.mil)  
Phone: (901) 544-0737

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: <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



MEMPHIS QUADRANGLE  
TENNESSEE-ARKANSAS

(Millington)





