



**US ARMY CORPS
OF ENGINEERS
St. Louis District
Gateway to Excellence**

Public Notice

Reply To:
U.S. Army Corps of Engineers
Attn: CEMVS-OD-F
1222 Spruce Street
St. Louis, MO 63103-2833

Public Notice No.

P-2675

Public Notice Date

May 22, 2008

Expiration Date

June 12, 2008

Postmaster Please Post Conspicuously Until:

Interested parties are hereby notified that an application has been received for an **After-the-Fact** Department of the Army permit to approve previously unauthorized clearing, excavation and filling activities that impacted jurisdictional waters of the United States, as described below and shown on the attached figures.

COMMENTS AND ADDITIONAL INFORMATION: Comments on the described work should reference the U.S. Army Corps of Engineers File Number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers
CEMVS-OD-F
1222 Spruce Street
St. Louis, Missouri 63103-2833
Attn: Kale Horton

APPLICANT: Mr. Danny Evans, 3527 State Route 111, Pontoon Beach, IL 62040.

LOCATION: The unauthorized dredging and filling activities occurred in an emergent wetland adjacent to Horseshoe Lake. Specifically, the unauthorized activity is located in the northwest 1/4 of Section 14, Township 03 North, Range 09 West in the Village of Pontoon Beach, Madison County, Illinois (Attachment 1).

PROJECT DESCRIPTION: Mr. Danny Evans requests an **After-the-Fact** Department of the Army permit for the discharge of dredged and fill material into "waters of the United States". Activities involved dredging and sidecast of the dredged material and the placement of offsite fill in approximately 1.10 acres of emergent wetland. The purpose of the wetland fill was to raise elevation at the site for the construction of an access road and for the potential future commercial development of an RV Park. Fill material was placed in the wetland in October of 2007. The unauthorized activity was confirmed as violations of Sections 301 [33 U.S.C. 1311] and 404 [33 U.S.C. 1344] of the Clean Water Act (CWA) based on a field inspection completed by Kale Horton, Regulatory Project Manager.

The onsite emergent wetland has a hydrologic connection to Horseshoe Lake. The receiving waterway, Horseshoe Lake is an abandoned oxbow and a primary tributary of the Mississippi River. Approximately, 7.0 river miles separate the project site from the Mississippi River.

Total size of the onsite wetland is 11.4 acres. The wetland is a shallow low-lying depressional feature that captures surface runoff from its surroundings and flows to and from numerous man-made canals, ditches, and drainage features. Historically, this wetland was part of a larger approximate 400-acre wetland complex. However, due to increased urban development and the construction of IL-111, hydrology of the site has been drastically altered. Vegetation tolerant to disturbance such as cattails dominate the wetland with some early

successional woody interspersion occurring in the shallows. The entire wetland is located in the FEMA mapped 100-year floodplain and is in the American Bottoms physiographic area. Dredging and fill of 1.10 acres of the wetland occurred along the southern boundary of the site between a shallow water zone and a semisaturated zone extending to a forested berm that was created from a historical sand excavation operation (Attachment 2). Additionally, most of the fill associated with the violation was placed along an existing 50-foot utility easement that traverses the southern boundary of the site.

To compensate for the anticipated spatial and temporal loss of wetland functions the applicant has proposed an onsite mitigation plan. Onsite mitigation includes the purchase and restoration of a 1.50-acre parcel of the wetland. The mitigation area is located directly east of the impacted project site between the affected area and IL-111 (Attachment 2). Proposed mitigation includes the creation of three depressional cells to enhance hydrology and flood storage capacity, the removal of approximately 40 cubic yards of broken concrete and fill material that was historically placed in the wetland, and the planting of native bottomland mast producing tree species for vegetation enhancement. A permanent easement and deed restriction will be placed on the proposed mitigation site in perpetuity for protection.

In summary, the applicant requests **After-the-Fact** authorization to allow for the fill of 1.10 acres of emergent wetland along the southern boundary of the project site. The applicant has agreed to an onsite mitigation plan through the purchase, restoration, and preservation of a 1.50 acre portion of the wetland that has been disturbed by past activities. Color photographs of the violation activities can be viewed online by visiting <http://www.mvs.usace.army.mil/ConOps/permits/pn.htm> and clicking on P-2675 (Attachment 3).

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Kale Horton, Regulatory Project Manager, U.S. Army Corps of Engineers at electronic mail address: kale.e.horton@usace.army.mil

AUTHORITY: This **After-the-Fact** permit review will be processed under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

WATER QUALITY CERTIFICATION: This public notice provides documentation to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the already completed activities in accordance with Section 401 of the Clean Water Act. Issuance of a Certification or waiver would indicate the IEPA believes the activities have not violated applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under 35 Illinois Administrative Code Subtitle C. The water quality standards provide for the IEPA to review individual projects by providing an antidegradation assessment, which includes an evaluation of alternatives to any proposed increase in pollutant loading that may result from this activity. The "Fact Sheet" containing the antidegradation assessment for this proposed project may be found on the IEPA's web site, at www.epa.state.il.us/public-notices/. In the event that the IEPA is unable to publish the "Fact Sheet" corresponding to the timeframe of this Joint Public Notice, a separate public notice and "Fact Sheet" will be published by the IEPA at the web site identified above. You may also obtain a copy of the "Fact Sheet" by contacting the IEPA at the address or telephone number shown below.

Written comments specifically concerning possible impacts to water quality should be addressed to:

Illinois Environmental Protection Agency
Bureau of Water
Watershed Management Section
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

A copy of all written comments should also be provided to the Corps of Engineers. If you have any questions, please contact the IEPA at (217) 782-3362.

SECTION 404 (b)(1) EVALUATION: The impact of the activity on the public interest will be evaluated in

accordance with the Missouri Department of Natural Resources, Water Pollution Control Program guidelines and the Illinois Environmental Protection Agency's guidelines pursuant to Section 404 (b)(1) of the Clean Water Act.

IMPACTS TO WATERS OF ILLINOIS: By issuance of this public notice, the project plans are considered submitted to the Illinois Department of Natural Resources, Office of Water Resources for state approval of the proposed work in accordance with "an Act in relation to the regulation of the rivers, lakes and streams of the State of Illinois" (Ill. Rev. Stat.; Chap. 19, par 52 et seq.). Written comments concerning possible impacts to waters of Illinois should be addressed to Illinois Department of Natural Resources, Office of Water Resources, 3215 Executive Park Drive, Post Office Box 19484, Springfield, Illinois, 62794-9484, with copy provided to the Corps of Engineers.

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. Request for public hearings shall state, with particularity, the reasons for holding the public hearing.

ENDANGERED SPECIES: Based on the timeframe when the applicant cleared the wetland tree species (November to December), a preliminary determination, in compliance with the Endangered Species Act as amended, has been made that the unauthorized clearing and filling activities likely did not adversely affect species designated as threatened or endangered, or adversely affect critical habitat. In order to complete our evaluation, this public notice solicits further comments from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

CULTURAL RESOURCES: The St. Louis District will evaluate information provided by the State Historic Preservation Officer and the public in response to this public notice and we may conduct, or require a reconnaissance survey of the project area.

EVALUATION: The decision whether to issue this **After-the-Fact** permit will be based on an evaluation of the probable impact including cumulative impacts of the completed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which may reasonably be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity 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, flood plain values, land use, navigation, shoreline erosion, and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of these proposed activities. Any comments received will be considered by the U.S. Army 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 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.

In accordance with 33 CFR 325.3, it is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project.

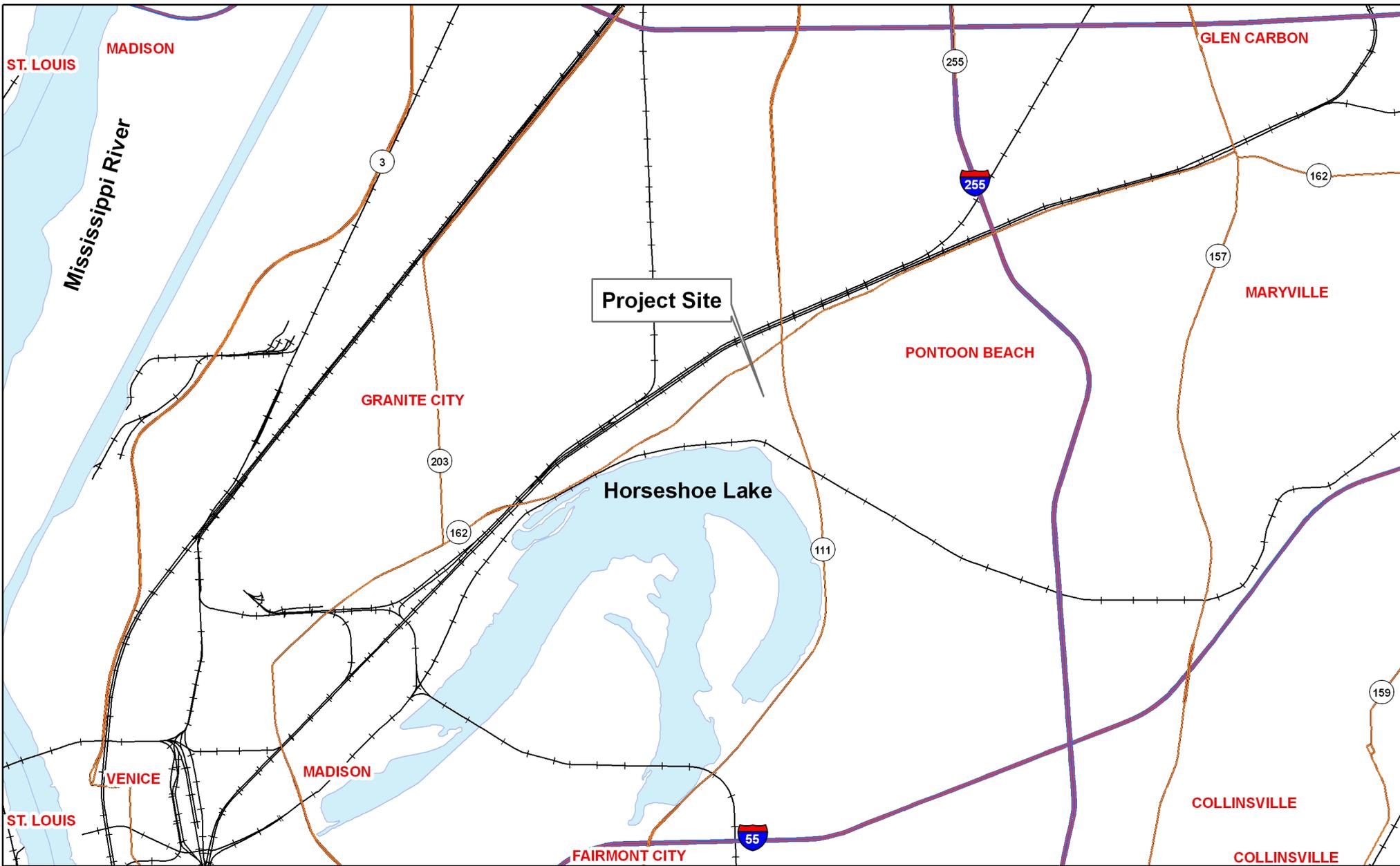


 Danny D. McClendon
Chief, Regulatory Branch

Attachments

NOTICE TO POSTMASTERS:

It is requested that this public notice be conspicuously and continually placed for 21 days from the date of issuance.



Legend

-  State Hwy
-  US Hwy
-  Interstate
-  Railroad
-  Major Waters

**AV Danny Evans Site
Project Location Map - MVS-2008-190
Pontoon Beach, Madison County, Illinois**

Attachment 1 of 3



**US Army Corps
of Engineers**®
St Louis District

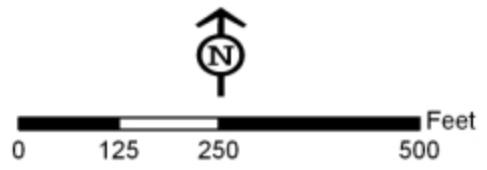


Legend

- NWI
- Street
- State Hwy

AV Danny Evans Site
Project Area Map - MVS-2008-190
Pontoon Beach, Madison County, Illinois

Attachment 2 of 3



US Army Corps of Engineers
 St Louis District



Photo 1: Fill and Dredging of Emergent Wetland.



Photo 2: Site View Toward the East and IL-111 Showing Wetland Fill.