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# Public Notice

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

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

**Permission No.**  
**OD-R 22-036**  
**Public Notice Date**  
**February 15, 2024**  
**Expiration Date**  
**March 14, 2024**

**Postmaster, Please Post Conspicuously Until:**

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## **REQUEST FOR PERMISSION TO MODIFY A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408**

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for certain work near federally constructed flood protection projects of the United States, as described below and shown on the attached maps.

**COMMENTS AND ADDITIONAL INFORMATION:** Comments on the described work should reference the U.S. Army Corps of Engineers Public Notice 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  
Readiness Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833  
ATTN: Jeffrey Wells, P.E.  
or Jeffrey.M.Wells@usace.army.mil

**REQUESTER:** Stock & Associates Consulting Engineers, Inc. Attention: Mr. George Stock, P.E.

**LOCATION:** The site is located along and perpendicular to the Monarch-Chesterfield Levee System. The work is located at the approximate coordinates 38°40'34.31"N 90°39'5.50"W in Chesterfield, MO. (St Louis County, Missouri).

**PROPOSED ACTION:** The applicant is requesting to make alterations to the Monarch-Chesterfield Levee embankment and seepage berm. The proposed alteration includes the construction of two multistory buildings with associated parking lots and underground utilities including a water and sewer main that run through the project footprint, a recreational pond with walking trails, and parking lots at the access points. Specifically, this Section 408 application details improvements to the portions of the project that are located on the seepage berm and those that are within the levee easement. A review

of the recreational pond and walking trails was completed to ensure there were no adverse impacts to the usefulness of the federal project or the injuries to the public interest.

**LOCATION MAPS AND DRAWINGS:** See Attachment

**ADDITIONAL INFORMATION:** Additional information may be obtained by contacting Jeffrey Wells, P.E., St. Louis District 408 Coordinator, U.S. Army Corps of Engineers, at (314) 331-8568. Your inquiries may also be sent by e-mail to Jeffrey.M.Wells@usace.army.mil.

**REGULATORY AUTHORITY:** The St. Louis District Regulatory Branch has conducted a preliminary review of the proposed project. Based upon review of the project activity description, as well as the location of the work, the Regulatory Branch determined that this activity may trigger the need for a Department of the Army Permit under Section 404 of the Clean Water Act. The St. Louis District Regulatory Branch has requested additional information from the applicant to determine permitting requirements.

**EVALUATION:** The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification will be reviewed by a U.S. Army Corps of Engineers technical review team considering the following factors:

1. Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. The decision whether to approve a request for modification would be based on a determination of no impairments.
2. Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the U.S. Army Corps of Engineers project may have on the public interest requires a careful weighing of all those factors that are relevant in each case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.
3. Environmental Compliance. A decision on a Section 408 request is a federal action and is therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the St. Louis District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis completed to comply with the other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that

would alter the US Army Corps of Engineers project. The scope of analysis for the NEPA and environmental compliance evaluations for the Section 408 review is limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration.

In compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, lists of species and critical habitat were acquired from the USFWS Information for Planning and Conservation (IPaC) website on 27 June 2023 (Project Code: 2023-0041115) for the Proposed Action Area. The IPaC list included: the gray bat, Indiana bat, northern long-eared bat, tricolored bat, monarch butterfly, and decurrent false aster. A “may affect, not likely to adversely affect” determination was made for gray bat, Indiana bat, northern long-eared bat, tricolored bat, and decurrent false aster, and a “not likely to jeopardize the continued existence of” determination was made for the monarch butterfly. The Service provided concurrence for these effects determinations by email on 26 October 2023 and would also be invited to comment on the project during the Public Notice period.

An automated Heritage Report was obtained from MDC on 18 July 2023. The report identified resources that may be in the vicinity of the project location including the bald eagle, gray bat, pallid sturgeon, and karst features. Impacts to bald eagles and the federally-listed species are addressed above. Karst features like caves, springs, and sinkholes would not be impacted by the proposed actions. On 25 August 2023, MDC was invited to comment on the project. MDC provided a Natural Heritage Review Report on 5 December 2023. This more detailed report included the following Level 3 federally-listed resource, the Missouri River. The Level 2 state-listed resources included lake sturgeon, flathead chub, and Blanding’s turtle. The report also provided a list of Level 2 state-ranked resources including wood frog (*Lithobates sylvaticus*), ringed salamander (*Ambystoma annulatum*), eastern tiger salamander (*Ambystoma tigrinum*), bullsnake (*Pituophis catenifer sayi*), American badger (*Taxidea taxus*), long-tailed weasel (*Mustela frenata*), American eel (*Anguilla rostrata*), highfin carpsucker (*Carpoides velifer*), western silvery minnow (*Hybognathus argyritis*), plains minnow (*Hybognathus placitus*), sturgeon chub (*Macrhybopsis gelida*), river darter (*Percina shumardi*), and bergia (*Bergia texana*). Given that the work would take place in upland areas there would be no direct adverse impact to the aquatic species using the Missouri River. However, sedimentation pollution during construction would be a temporary minor indirect impact. The amphibian and reptile species may be benefitted by the creation of the detention basin. The terrestrial mammals, amphibians, and reptiles could experience temporary minor adverse impacts during construction of the gravel parking lot and the buildings. Any bergia present in the construction areas would be destroyed or buried, but the detention basin would provide suitable moist habitat for germination.

The Migratory Bird Treaty Act (MBTA) of 1918 provides protection for bird species native to North America. The project area is in the Mississippi Flyway, a bird migration route which follows the Mississippi River, the Missouri River, and the Lower Ohio River in the United States. A variety of migratory birds might occur in the project areas, some as migrants and some as breeders, depending on the time of year. Year-round residents would also be present. The nearby Howell Island Conservation Area to the west of the Action Area and Johnson Island to the east, are undeveloped forested areas that provide migratory stopover habitat for birds using the Mississippi Flyway and habitat for year-round residents as well. The construction disturbance would cause temporary minor adverse impacts. Birds using the existing forested acres and the oldfields would be displaced by the development. The proposed wet lake/detention basin will provide some habitat for waterfowl, shorebirds, and other waterbirds.

Although the bald eagle (*Haliaeetus leucocephalus*) was removed from the federal list of threatened and endangered species in 2007, it continues to be protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). The BGEPA prohibits unregulated take of bald eagles, including disturbance. The U.S. Fish and Wildlife Service developed the National Bald Eagle Management Guidelines to provide landowners, land managers, and others with information and recommendations regarding how to minimize potential project impacts to bald eagles, particularly where such impacts may constitute disturbance. The nearest known active bald eagle nest is along the left descending bank of the Missouri River just upstream of the Daniel Boone bridge. This nest is further than 660 feet from any work area so a disturbance permit is not required. If a bald eagle nest is found in the project area, or in the vicinity of the project area, then the USFWS should be contacted and the National Bald Eagle Guidelines shall be implemented.

St. Louis District Archaeologists conducted a Historic Property Preliminary Review on 20 December 2022. This review determined that there are no known archeological sites within the project area, but that the project area was in a culturally sensitive location. A Phase 1 Survey was requested by the District.

The applicant hired Archaeological Research Center of St. Louis (ARC) and the Phase 1 survey was completed in 2023. No cultural materials were found. ARC recommended project clearance. The District reviewed the report and concurs with its findings. It is the District's opinion that no historic properties will be affected by the proposed project. MOSHPO concurred with this finding on 7 July 2023. Consultation was initiated on 1 June 2023 with 24 federally recognized Indian tribes that have an interest within this area. Three tribal nations responded that they concurred with the District's finding of no historic properties affected.

All actions taken were in accordance with the National Historic Preservation Act of 1966, as amended (NHPA). In the unlikely event that, earthmoving activities associated with the proposed work did impact potentially significant archeological/historic remains, all construction activities and earthmoving actions in the immediate vicinity of the remains would be held in abeyance until the potential significance of the remains could be determined. The precise nature of such investigations would be developed by the Saint Louis District in concert with the professional staff of the Missouri SHPO.

4. Environmental Impact Statement. A preliminary determination has been made that an environmental impact statement is not required for the proposed work.
5. Technical Analysis. The St. Louis District is working closely with the requestor to ensure that all technical plans, maps, drawings, specifications are provided and complete. A District-led Technical Review is being conducted to determine any potential adverse impacts to the US Army Corps of Engineers flood protection system.

**SOLICITATION OF COMMENTS**: 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 the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition, or deny a permission 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 taken into consideration 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.

**SUMMARY:** It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the St. Louis District Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than **March 14, 2024**. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

**ORIGINAL SIGNED**

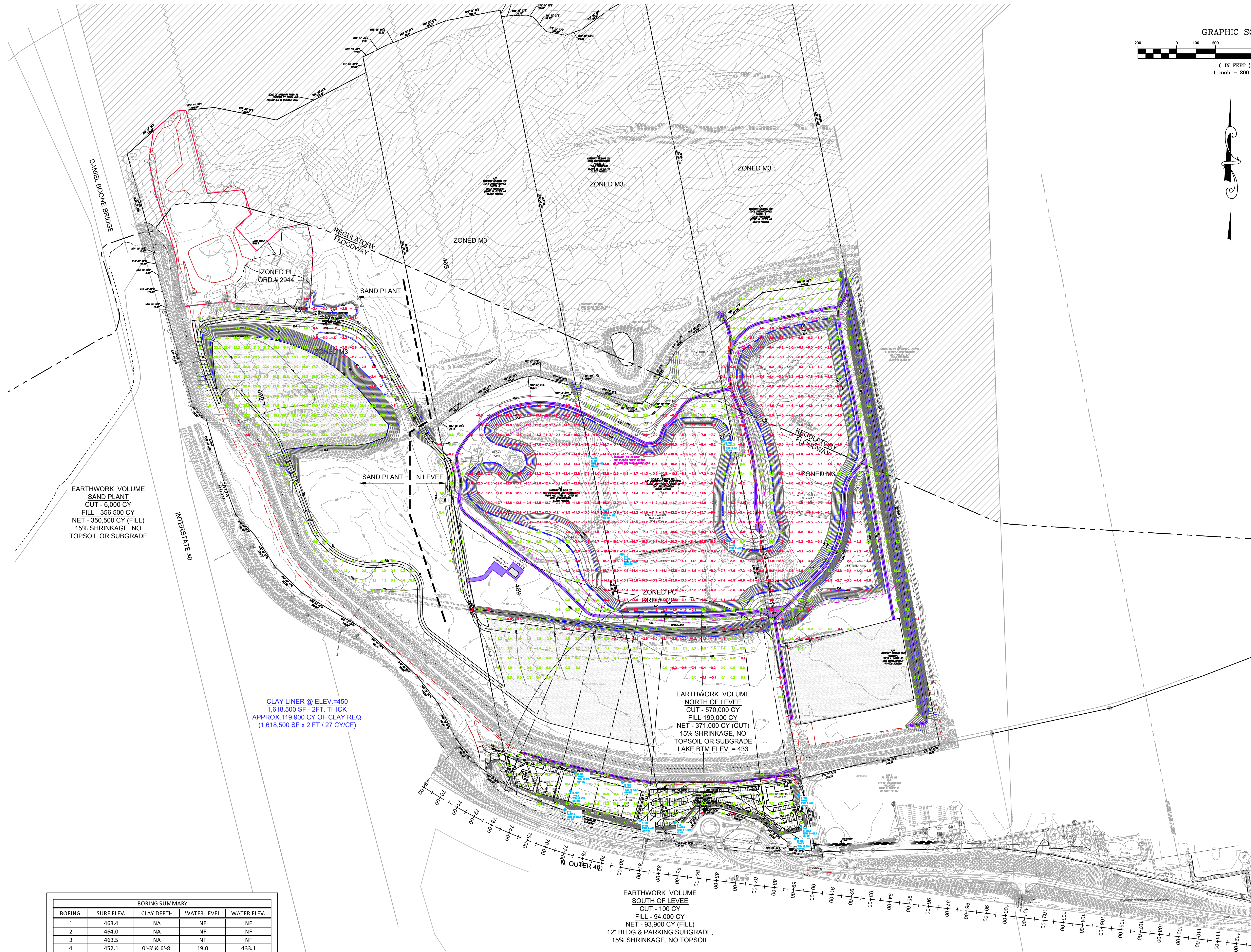
John L. Osterhage  
Chief, Readiness Branch

Attachment

**NOTICE TO POSTMASTERS:**

It is requested that this notice be conspicuously and continually placed for 30 days from the date of this issuance of this notice.





BORING SUMMARY				
BORING	SURF. ELEV.	CLAY DEPTH	WATER LEVEL	WATER ELEV.
1	463.4	NA	NF	NF
2	464.0	NA	NF	NF
3	463.5	NA	NF	NF
4	452.1	0'-3" & 6'-8"	19.0	433.1
101	465.0	NA	25.0	440.0
102	463.0	NA	24.0	439.0
103	466.0	NA	26.0	440.0
104	463.0	NA	23.0	440.0
105	465.0	NA	24.0	441.0
106	463.0	NA	23.0	440.0
107	453.0	0'-2"	22.0	431.0
108	452.0	NF	NF	NF
109	441.0	0'-6"	NF	NF
110	452.0	NF	NF	NF

NF = NOT FOUND  
NA = NOT APPLICABLE - WITHIN UNDERSEEPAGE BERM  
\* BROWN CLAY w/ ROCK FRAGMENTS (FILL) - DUMP AREA

EARTHWORK SUMMARY			
LOCATION	CUT	FILL (15% SHRINKAGE)	NET
NORTH OF LEVEE	570,000 CY	199,000 CY	(371,000) CY
SOUTH OF LEVEE	100 CY	94,000 CY	93,900 CY
SOUTH OF LEVEE	6,000 CY	356,500 CY	350,500 CY
TOTAL	576,100 CY	649,500 CY	73,400 CY

EARTHWORK VOLUME  
SOUTH OF LEVEE  
CUT - 100 CY  
FILL - 94,000 CY  
NET - 93,900 CY (FILL)  
12" BLDG & PARKING SUBGRADE,  
15% SHRINKAGE, NO TOPSOIL

EARTHWORK VOLUME  
NORTH OF LEVEE  
CUT - 570,000 CY  
FILL 199,000 CY  
NET - 371,000 CY (CUT)  
15% SHRINKAGE, NO  
TOPSOIL OR SUBGRADE  
LAKE BTM ELEV. = 433

EARTHWORK VOLUME  
SAND PLANT  
CUT - 6,000 CY  
FILL - 356,500 CY  
NET - 350,500 CY (FILL)  
15% SHRINKAGE, NO  
TOPSOIL OR SUBGRADE

CLAY LINER @ ELEV. = 450  
1,618,500 SF - 2 FT. THICK  
APPROX 119,900 CY OF CLAY REQ.  
(1,618,500 SF x 2 FT / 27 CY/CF)

