



# Public Notice

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

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

**Public Notice No.  
P-2644  
Public Notice Date  
May 20, 2016  
Expiration Date  
June 10, 2016**

**Postmaster Please Post Conspicuously Until:**

File Number: MVS-2007-426

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters 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 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  
Regulatory Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833  
ATTN: Jaynie Doerr

**APPLICANT:** James Dierberg, Femme Osage Farm, LLC., 135 N. Meramec Avenue, 6<sup>th</sup> Floor, Clayton, Missouri 63105.

**AGENT:** Rick Gundlach, SCI Engineering, Inc., 130 Point West Boulevard, St. Charles, Missouri 63301.

**LOCATION:** The approximate 100-acre project area is located on private property, in Defiance, Missouri, on Deep Forest Lane, just southeast of Femme Osage Ridge Road. More specifically, Section 23, Township 45 North, Range 1 East, St. Charles County (see attached location map).

**SITE DESCRIPTION:** The site primarily exists as forested and agricultural property bound by forested property to the east, south, and west and agricultural property to the north. The southeast portion of the site contains an abandoned lake bed, drained sometime between 2013 and 2014. Tributary A originates below the breached dam and flows to the Femme Osage Creek. It exists on-site for approximately 2,910 linear feet (LF). The intermittent tributary consists of a gravel substrate with isolated pools of water throughout the channel. Some pools are deep enough to support small aquatic life and portions of the channel bed are comprised of bedrock. The riparian corridor is



dominated by sycamore and cottonwood trees, river oats, Pennsylvania smartweed, blackberry and goldenrod. Tributary B is located in the southwestern portion of the proposed lake footprint, and flows northeast toward Tributary A for approximately 3,560 LF on-site. As with Tributary A, the channel substrate is gravelly with deep pools throughout the stream. The OHWM is approximately 10 to 15 feet wide, with a narrow riparian corridor along both banks. Sycamore, hackberry, black willow, blackberry and goldenrod were observed along the banks. Both tributary A and B appear to be intermittent, but may contain perennial pools and/or perennial flows during years of normal or above normal precipitation.

**PROJECT DESCRIPTION:** The applicant seeks authorization to construct an approximate 90-acre recreational lake with a 67.5-foot high dam, impacting two unnamed, intermittent tributaries to Femme Osage Creek, which flows to the Missouri River. The impoundment and dam will impact approximately 6,470 LF of jurisdictional waters. The applicant desires to construct a single lake that is large enough to site all four families listed in the trust. The families of the trust also seek access to the lake via a sea plane. This type of access requires a minimum distance of approximately 1,500 to 2,500 LF of water to take off, thus necessitating a lake of the proposed size. Therefore the lake construction would require a footprint large enough to accommodate safe ingress and egress; otherwise the project would be rendered unfeasible.

As part of the application process, the applicant and agent reviewed 6 various alternatives for this project, including no build (Alternative 1). Alternative 2 consisted of building a 25-41 acre lake on the property. This alternative was reviewed and authorized under Section 404 and 401 of the Clean Water Acts by our office in September 2008. However, the design ultimately did not meet the needs of the applicant and was never built. Impacts to on-site tributaries would have been reduced and the location of the lake would be desirable within the property, however, the LF resulting from the design of the lake would not meet the minimum safety requirements to take-off and land a seaplane. Additionally, the smaller lake did not meet the long-term estate planning requirements to site four private residential houses on the lake. The term private refers to not having other residences highly visible to the other residences, therefore, construction of the smaller lake alternative was abandoned as it did not achieve the applicants overall purpose and need. Alternative 3 is a 99-acre lake development. This proposal would impact approximately 7,060 LF of both tributaries through impoundment and construction of the dam. Although the size of the lake meets the purpose and need of the project, it does not meet the environmental objectives therefore deemed unfeasible. Alternative 4 is to create a lake approximately 119-acres in size which would include impacts to Tributaries A, B and 2 stock ponds totaling 1.2-acres. Although the impact to the tributaries would be less than the preferred alternative, this design would widen the surface area of the lake and encroach on forested areas that contain suitable habitat for threatened and endangered bat species. The preferred alternative sought to decrease the encroachment on the forested areas and restrict the footprint to the farmed valley. While the valley still has suitable habitat due to the forested riparian corridors, the preferred alternative is minimizing the impact to the higher quality upland forests. Alternative 5 is the preferred alternative. Pursuing this design, approximately 2,610 LF of Tributary A would be impounded for the creation of the lake and approximately 300 LF would be filled for the construction of the dam. Additionally, approximately 3,560 LF of Tributary B would be impacted by the impoundment. Finally, the families researched alternative sites outside of the Femme Osage Creek watershed, either existing lakes or suitable locations with lower quality watersheds. However, these were deemed economically unfeasible since the families of the trust currently own the land for the preferred lake alternative.



The applicant prefers to compensate for the unavoidable loss of waters by mitigating for the impacts on the site and a preliminary plan is currently under review (see attached). The required mitigation is proposed by the applicant through the enhancement of in-stream features such as bank stabilization and a crossing replacement. Tributaries A and D will be modified in an effort to stabilize the channels at the location of the spillway discharge. Stream banks along 400 LF of Tributary A will be modified to aid in the stabilization of channel banks. Additionally, approximately 150 LF of stone toe protection will be applied to Tributary D at the location of the spillway discharge to further armor the channel from erosion due to flash discharges from the lake impoundment.

Native trees will also be planted along the left descending bank of Tributary A downstream of the dam to enhance the existing riparian corridor in two separate areas that exhibit little to no existing vegetation. The two riparian corridor restoration areas total approximately 1,450 LF and 1,045 LF and begin near the lake impoundment and extend north toward its confluence with Femme Osage Creek. The width will vary but on average approximately 150 feet of riparian corridor will be planted in these areas. An additional area of riparian corridor restoration along both banks of Tributary A is proposed for 885 LF. This area will average 100 feet in width along both banks and is located between the existing caretaker residence and the proposed crossing removal. An existing riparian area will be preserved along the southwestern reach of Tributary B, upstream from the proposed lake. The corridor width will vary, but on average approximately 100 feet along both banks of 6,715 LF will be preserved. Approximately 1,160 LF of riparian corridor along Tributary A, north of the impoundment and adjacent to the caretaker residence will also be preserved. A third area of riparian corridor preservation is proposed along 1,665 LF of both banks of Tributary C for an average width of 100 feet.

Furthermore, an existing crossing on adjacent property over Tributary A north of the impoundment area is proposed to be removed and replaced with a structure that will allow for aquatic resource movement both up and downstream of the intermittent tributary. Currently, the crossing prohibits the movement of fish and other aquatic resources upstream. Replacement of the crossing will be constructed in a way that restores normal conditions to the stream channel allowing for aquatic organism passage.

Finally, the applicant is evaluating the replacement of an existing dilapidated low water crossing carrying Deep Forest Lane over Femme Osage Creek. The crossing is currently allowing the passage of aquatic organisms, including fish, but if not replaced soon, the structure may collapse and cause an impediment to the stream life. Remaining mitigation credits necessary to compensate for the loss of waters for the proposed project may be purchased through an in lieu fee program or other on-site mitigation alternatives explored.

**LOCATION MAPS AND DRAWINGS:** See Sheets 1-3, attached.

**ADDITIONAL INFORMATION:** Additional information may be obtained by contacting Jaynie Doerr, Project Manager, U.S. Army Corps of Engineers, at (314) 331-8581. Your inquiries may also be sent by electronic facsimile to (314) 331-8741 or by e-mail to Jaynie.g.doerr@usace.army.mil.

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



**WATER QUALITY CERTIFICATION:** The project plans have been submitted to the Missouri Department of Natural Resources, Water Protection Program for state certification of the proposed work in accordance with Section 401 of the Clean Water Act. The certification is requested as of the date of this Public Notice, and if issued, will express the Agency's opinion that the proposed activities will not violate applicable water quality standards. Written comments concerning possible impacts to waters of Missouri should be addressed to: Water Protection Program, Post Office Box 176, Jefferson City, Missouri 65102-0176, with a copy provided to the Corps of Engineers.

**SECTION 404 (b)(1) EVALUATION:** The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404 (b)(1) of the Clean Water Act.

**PUBLIC HEARING:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the applicant's proposal. Any request for a public hearing shall state, with particularity, the reason for the hearing, and must be based on issues that would warrant additional public review.

**ENDANGERED SPECIES:** A preliminary determination, in compliance with the Endangered Species Act, as amended, has been made that the proposed work **MAY** affect potential summer habitat for the endangered Indiana bat (*Myotis sodalis*) and the Northern Long-eared bat (*Myotis septentrionalis*). A summer bat survey complete with mist-netting and acoustic recordings is planned this month. However, in order to complete our evaluation, comments are solicited from the Fish and Wildlife Service and other interested agencies and individuals through this Public Notice.

**CULTURAL RESOURCES:** A cultural resource investigation, Phase I survey, was conducted in April 2016 which resulted in a finding of no significant cultural resources. However, the St. Louis District will evaluate information provided by the State Historic Preservation Officer and the public in response to this public notice.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that 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 activity described, will be considered including the cumulative effects. Among factors considered 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.

**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 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.

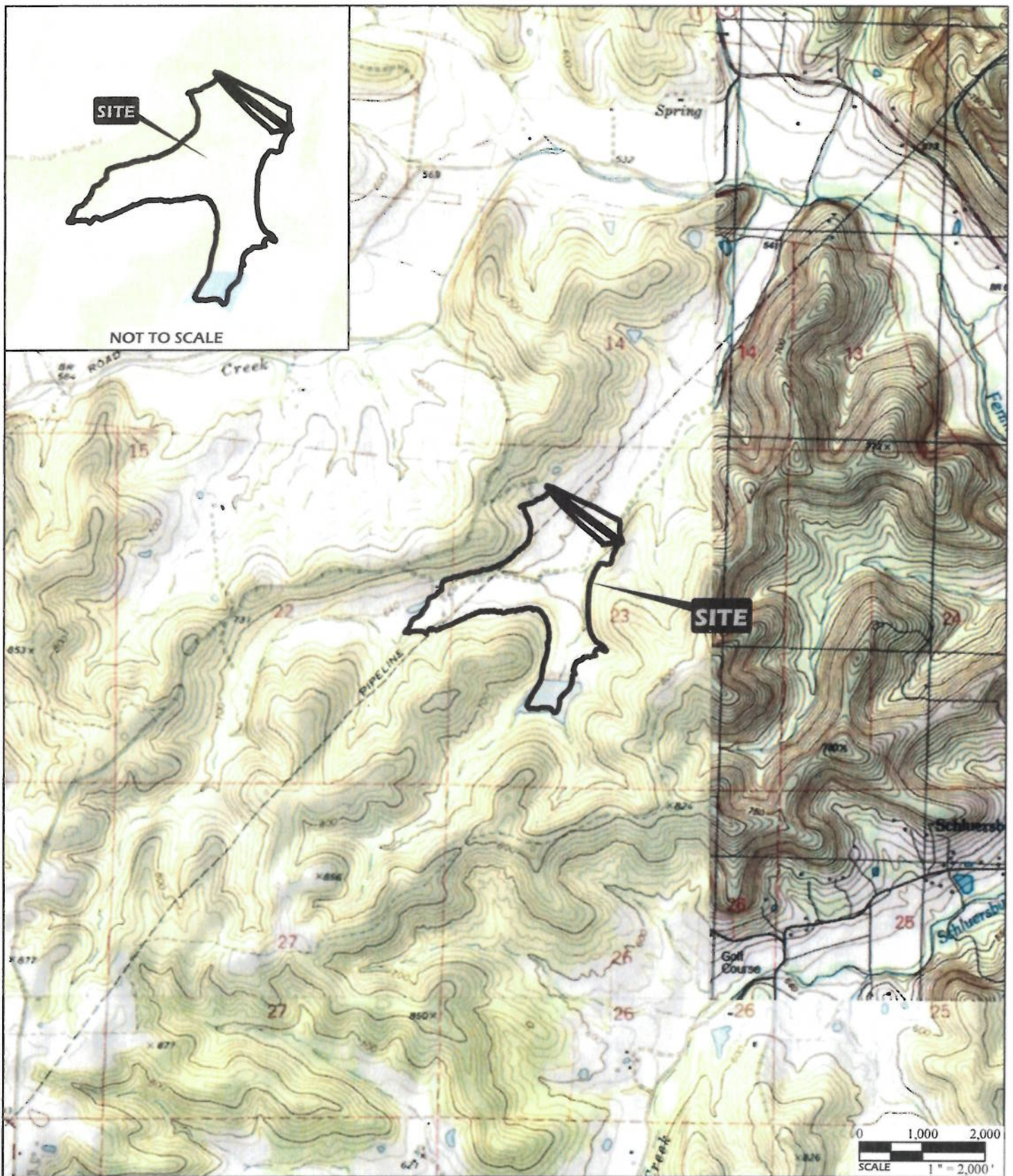
  
DANNY D. MCCLENDON  
Chief, Regulatory Branch



Attachments

**NOTICE TO POSTMASTERS:**

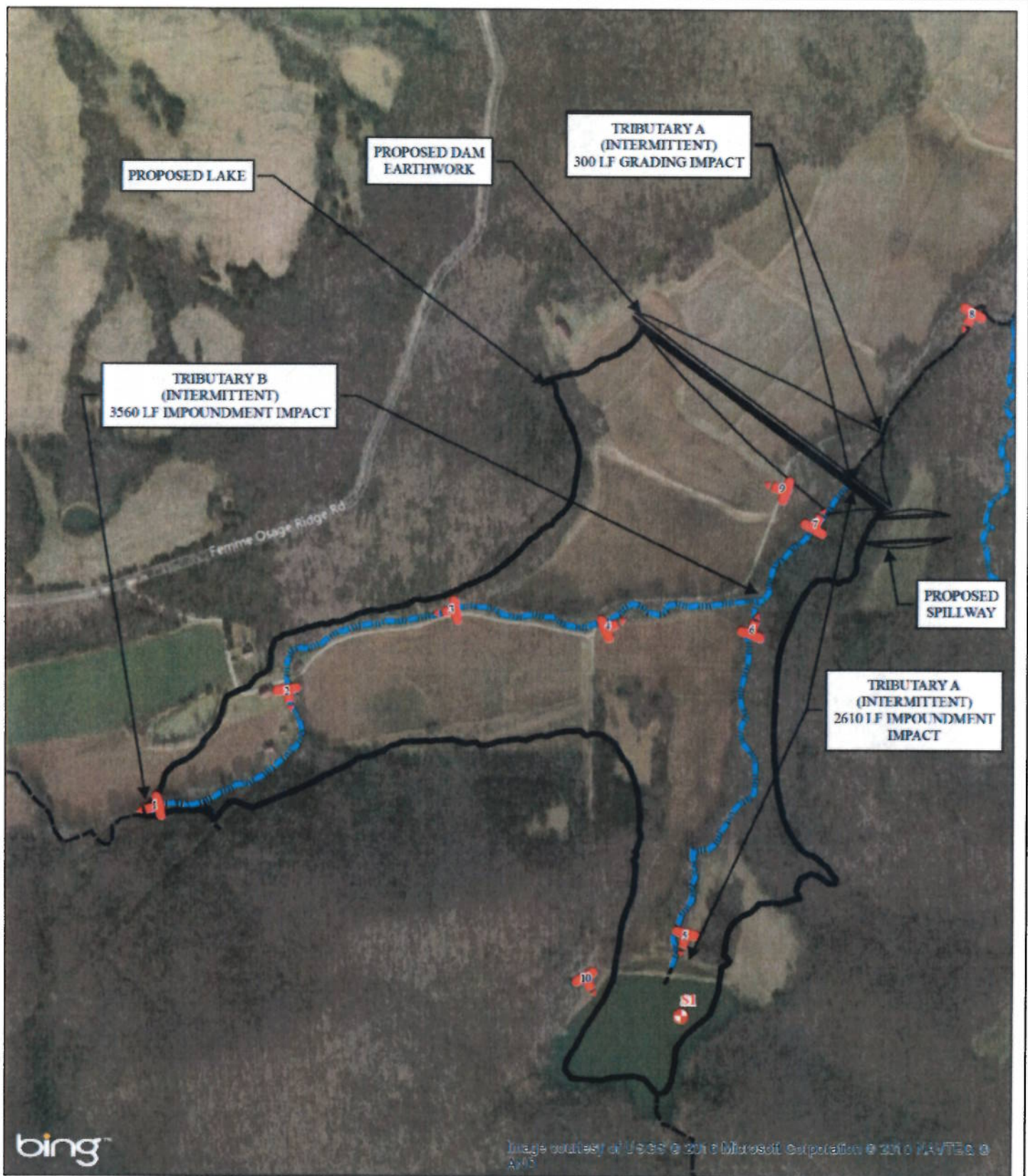
It is requested that this notice be conspicuously and continually placed for 21 days from the date of this issuance of this notice.









	<b>PROJECT NAME</b> DIERBERG LAKE ST. CHARLES COUNTY, MISSOURI			<b>GENERAL NOTES/LEGEND</b> USGS TOPOGRAPHIC MAP NEW MELLE, MISSOURI QUADRANGLE DATED 1972 WASHINGTON EAST, MISSOURI QUADRANGLE DATED 1972 DEFIANCE, MISSOURI QUADRANGLE DATED 2000 LABADIE, MISSOURI QUADRANGLE DATED 1972, PHOTO REVISED 1983 10' CONTOURS	 <b>FIGURE</b> 1
	VICINITY AND TOPOGRAPHIC MAP				
	<b>DRAWN BY</b> RCV	<b>DATE</b> 04/2016	<b>JOB NUMBER</b> 2015-5054.32		
<b>CHECKED BY</b> JCM					





 <div>ST. CHARLES COUNTY MISSOURI PLANNING DEPARTMENT 2015-5054.32</div>	<b>PROJECT NAME</b> DIERBERG LAKE ST. CHARLES COUNTY, MISSOURI			<b>GENERAL NOTES/LEGEND</b>  INDICATES APPROXIMATE SOIL BORING LOCATION  INDICATES APPROXIMATE LOCATION AND DIRECTION OF PHOTOGRAPH AERIAL PHOTOGRAPH OBTAINED FROM BING MAPS. DIMENSIONS AND LOCATIONS ARE APPROXIMATE; ACTUAL MAY VARY. DRAWING SHALL NOT BE USED OUTSIDE THE CONTEXT OF THE REPORT FOR WHICH IT WAS GENERATED.	 <b>SCALE</b> 1" = 600' <b>FIGURE</b> 5
	<b>90 - ACRE LAKE</b> <b>PREFERRED ALTERNATIVE</b>				
	<b>DRAWN BY</b>	<b>RCV</b>	<b>DATE</b>	<b>JOB NUMBER</b>	
	<b>CHECKED BY</b>	<b>JCM</b>	<b>04/2016</b>	<b>2015-5054.32</b>	





NOT BE USED OUTSIDE THE CONTEXT OF THE REPORT FOR WHICH IT WAS DEVELOPED.  
INDICATES PROPOSED BANK STABILIZATION

GENERAL NOTES/LEGEND

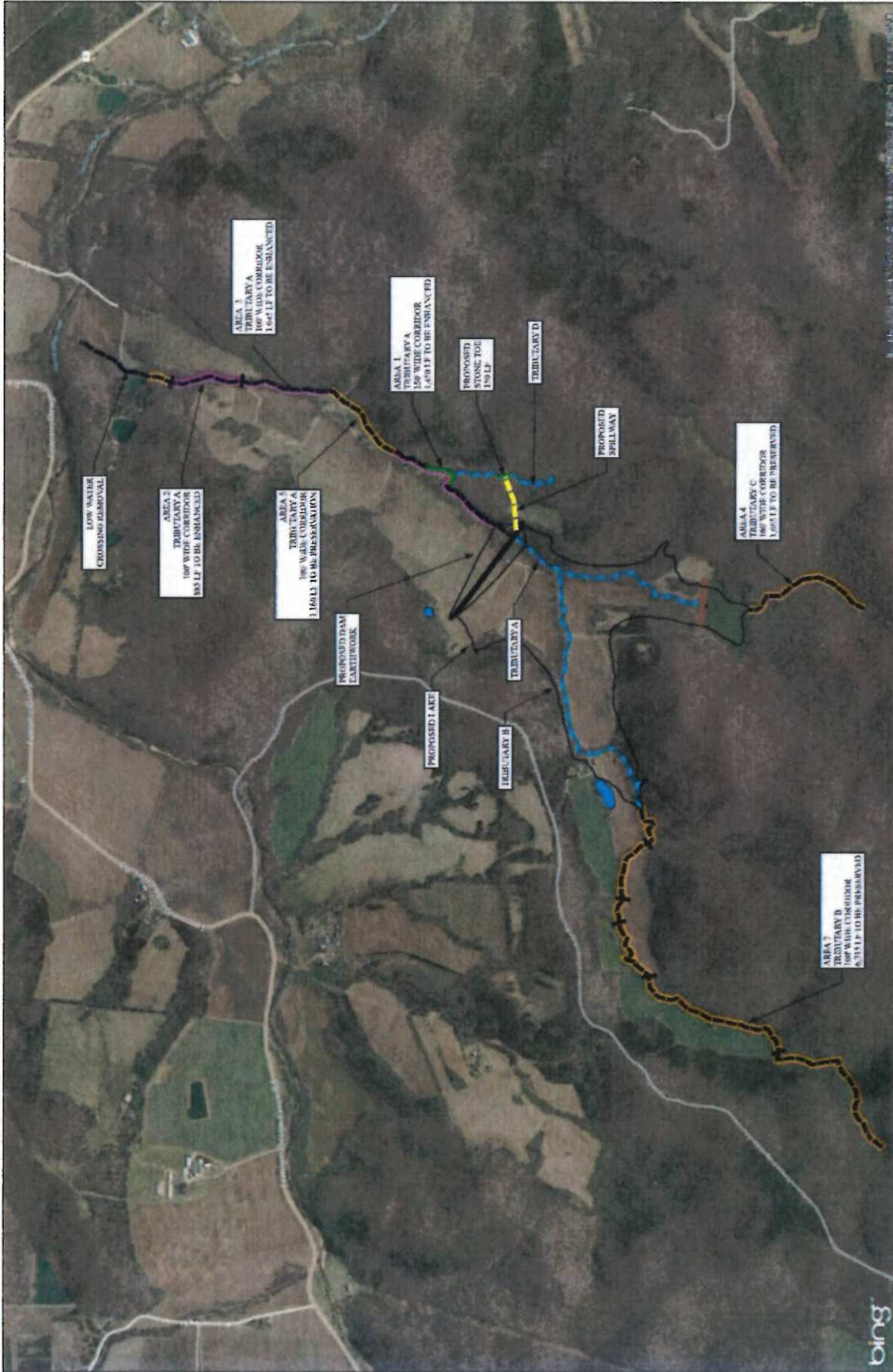
# CONCEPTUAL MITIGATION PLAN

ST. CHARLES COUNTY, MISSOURI

PROJECT NAME



SCALE	1" = 1078'
JOB NUMBER	2015-5054-30
DATE	04/2016
DRAWN BY	LAP
CHECKED BY	JCM
FIGURE	4



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OUR PUBLIC NOTICES ARE NOW AVAILABLE ON THE WORLD WIDE WEB AT OUR ST. LOUIS DISTRICT HOME PAGE (<http://www.mvs.usace.army.mil/Missions/Regulatory/PublicNotices/OpenNotices.aspx>). If you have any trouble, please call Danny McClendon at (314) 331-8574 or by e-mail to: [Danny.D.McClendon@usace.army.mil](mailto:Danny.D.McClendon@usace.army.mil)

**WE ARE ATTEMPTING TO REDUCE OUR PUBLIC NOTICE MAILING COSTS; CHECK OUR WEB PAGE THEN CONTACT US TO HAVE YOUR NAMED REMOVED FROM OUR MAILING LIST**, please call Jaynie Doerr at (314) 331-8581, or by email to: [Jaynie.G.Doerr@usace.army.mil](mailto:Jaynie.G.Doerr@usace.army.mil), or mail this cover-sheet to the St. Louis District, OD-F, 1222 Spruce Street, St. Louis, MO 63103-2833, ATTN: Regulatory Branch, indicating that your name or company name be removed. Changes to our mailing list may take a few weeks to take effect.

US ARMY ENGINEER DISTRICT, ST. LOUIS  
ATTN: CEMVS-OD-F  
1222 SPRUCE STREET  
ST. LOUIS, MISSOURI 63103-2833



