



US ARMY Corps
Of Engineers®
Little Rock District

JOINT PUBLIC NOTICE

CORPS OF ENGINEERS – STATE OF ARKANSAS

Application Number: SWL 2013-00343

Date: January 06, 2014

Comments Due: January 31, 2014

TO WHOM IT MAY CONCERN: **Comments are invited on the work described below. Please see the Public Involvement section for details on submitting comments.**

Point of Contact. If additional information is desired, please contact the project manager, Mr. Louis Clarke, telephone number: (870) 886-3610, mailing address: Little Rock District Corps of Engineers, Walnut Ridge Regulatory Field Office, PO Box 865, Walnut Ridge, Arkansas 72476-0865, email address: Louis.E.Clarke@usace.army.mil.

Project Information. Pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344), notice is hereby given that

**Mr. Alan Cheek
PO Box 255
Mount Dora, Florida 32756**

has requested authorization for the placement of dredged and fill material in waters of the United States associated with the construction of a greentree reservoir (GTR), to be named the Spoonbill GTR. The proposed project is located in wooded wetlands adjacent to the right descending bank of the Black River, mile 153.5, in the NE ¼ of section 33, T. 21 N., R. 5 E., east of Corning, Clay County, Arkansas.

The basic purpose of the project is to inundate wooded areas to provide duck hunting opportunities. The overall purpose of the project is to inundate the wooded area in this part of Clay County to attract ducks and allow all weather access. The project is water dependent.

The proposed project would involve the construction of 5,700 linear feet of levee and the inundation of approximately 115 acres in a single cell using a well with a 16-inch casing. The levee would be constructed by excavating the material from the cell, and the footprint of the levee would be 1.83 acres. The proposal includes an outlet structure along the borrow ditch to drain the water off of the trees. The applicant indicated that he may construct two additional outlet structures along the southern end of the GTR.

The Black River originates in the Missouri Ozarks in Reynolds and Iron Counties, where it is a pristine stream. In Wayne County, Missouri, the Black River and tributaries flow into Clearwater Dam. This facility provides flood control to the City of Poplar Bluff, Missouri. As the river approaches Poplar Bluff, it runs through more expansive farming areas. Approximately 50 percent of the proposed GTR is mapped within the 100-year floodplain of the Black River. The Black River is considered navigable in the subject reach. Its confluence with the White River is at Jacksonport, Arkansas.

The wooded area to be inundated is indicated as forested wetland on the National Wetlands Inventory produced by the US Fish and Wildlife Service. The soils are indicated as Amagon soils, frequently flooded, and Foley silt loam, on the Natural Resources Conservation Service Web Soil Survey. Both of these soils are considered hydric.

The applicant proposes to mitigate within the Cache River watershed. The mitigation area is 8.5 miles south-southeast of the proposed GTR and lies between Cache River Ditch No. 1 and Ditch No. 10. The Cache River flows into the White River at Clarendon, Arkansas. The proposed mitigation site is in the southern portion of section 6, T. 19 N., R. 6 E., which is within the jurisdictional boundary of the Memphis District of the US Army Corps of Engineers.

The applicant agrees to the following proposed conditions for the project construction:

1. Prior to construction of the GTR, the District Engineer will require that a portion of the approved mitigation plan be accomplished, such as: a) deed restrictions and/or deed recorded conservation easements, b) listing with County Tax Assessor, c) posting of perimeter signs. Prior to use of the GTR (man-induced flooding), mitigation plan components that will normally be required are: c) site preparation, and/or e) planting of seedlings.
2. Prior to use of the GTR (man-induced flooding), an initial baseline report (prepared by a forester, biologist, or other qualified land management professional) must be submitted. The baseline report will designate location of sampling points for use in future monitoring of the GTR and include a base map of vegetation communities on the site.
3. Wherever possible, direct impacts to bottomland hardwood wetlands for levee construction will be minimized or avoided, allowing only those impacts necessary to form the impoundment. For example, the levees will be constructed in previously disturbed areas such as farmland, cleared pipeline right-of-way, or where possible, incorporate existing dikes or roadways to minimize impacts.
4. A proposed GTR site should be properly positioned in the floodplain (at a slightly higher elevation) with soils that exhibit low permeability. Topography of the GTR site will generally be flat (i.e. slope less than 1%). Vegetation of the proposed GTR site should contain water tolerant species, preferably dominated by species classified as Facultative Wet. The proposed site should exhibit the potential to discharge adequate amounts of water to protect forest resources whenever necessary.
5. Construction of dams and/or levees across primary rivers, perennial streams, or in sites dominated with bald cypress (*Taxodium distichum*) and/or water tupelo (*Nyssa aquatica*) is not allowed by this individual permit.
6. Manipulated water levels within the GTR are not to exceed 18-inches (excluding channels), with levee design and alignment location selected to impound water between four and ten inches in depth over the majority of the site.

7. GTR impoundments proposed to contain multiple cells will be designed such that each individual cell is capable of being flooded and/or drained independently.
8. Levee(s) will not exceed four feet in height, with a maximum crown width of 10 feet, and will be constructed with side slopes of 3H: 1V (see typical GTR Levee Cross-Sectional Diagram). Levees may be constructed to a flatter slope (i.e. 6H: 1V) if desired by the landowner and/or may be required by the Corps on sites subject to over-bank flooding with high flow velocities.
9. Fill materials (dirt, rock, gravel, etc.) may be obtained from within the GTR and/or adjacent to levees if appropriate (i.e. drainage needs). Also, fill materials may be obtained offsite from an upland (non-wetland) area, but must be clean and free of pollutants capable of contaminating the aquatic environment.
10. Water control structures will be of sufficient size and/or number to carry expected high flows that would pass through the reservoir impoundment and effectively drain the reservoir in a timely fashion. Emergency spillways will be incorporated in the levee system as necessary to facilitate passing of high flows and prevent excessive damage from erosion. In areas subject to beaver activity, installation of beaver pond levelers and/or emergency drainage systems may be necessary to maintain control of water levels.
11. Mechanized clearing for food plots and/or duck holes is allowed under this individual permit. These may be up to 0.5-acre in size with no more than one of these per 50 acres within the GTR impoundment. Offsetting these impacts will be addressed in the overall mitigation plan. Ditches for the express purpose of boat access are prohibited. Mechanized clearing for access trails must be in accordance with an approved forest management plan and will be limited to the minimum (number & size) necessary to meet forestry goals.
12. All soils disturbed by construction (including the borrow site if necessary) will be compacted upon completion of work and planted with native grasses to prevent erosion. In areas subject to stronger water currents, placement of rock materials (i.e. riprap, crushed limestone, gravel, etc.) may be required for slope protection depending on an evaluation of the site conditions. Prior to the beginning of any construction activities, appropriate erosion control measures, such as silt fences, silt barriers or other suitable devices shall be placed between the construction area and affected waterways (wetlands); and maintained in a functioning capacity until the area is permanently stabilized upon project completion.
13. Use of control structures to impound water within the GTR is prohibited prior to November 15th and after the last day of duck season or February 15th (whichever occurs first). It is recommended that draw-down of the impounded water occur at a slow pace (i.e. \leq one inch per day) for nutrient retention in the GTR with all floodwaters removed by March 1.
14. The GTR impoundment authorized by this individual permit is required to experience at least one “dry year” (i.e. no man-induced flooding) for every two “wet years” (i.e. years that flooding is manipulated by the owner). If the GTR is scheduled to experience a “dry year”

and a natural flood event occurs exceeding two weeks in duration, then the GTR must remain dry for the following year as well.

15. For each year the water control structures are used to impound water, a letter from the landowner (or an authorized representative) must be submitted to the Corps of Engineers not later than April 1st stating: a) when use of the control structure was initiated, b) when drainage of impounded water was initiated, and c) whether or not the GTR was successfully drained by March 1st. In the event the GTR was not drained by March 1st, the landowner will include a statement explaining why this did not occur and plans for corrective measures.
16. A monitoring report must be submitted to the Corps of Engineers for the life of the GTR. Initially, these reports will be submitted for five consecutive years after use of the GTR begins. If monitoring reports submitted for years 3 thru 5 are considered a success (i.e. minimal stress), then the landowner may elect to submit them only for the “dry year”. The results will be provided to the Corps of Engineers by July 15th of each year they are due.
17. The monitoring report will be based on data collected at pre-determined sampling points. The report will include but not be limited to: an assessment of vegetation, changes or stress noted, and recommendations for operating the GTR the following year.
18. Special conditions concerning the operation of the GTR may be modified or added as a result of the findings of monitoring reports. If monitoring reveals significant adverse impacts to the GTR, corrective measures may be necessary to ensure the integrity of the forested land. If monitoring reveals significant adverse impacts to the GTR, the requirement for yearly monitoring will resume until three consecutive successful reports are submitted. Additional sampling points may be added to investigate problem areas discovered in the course of monitoring.
19. The Corps may provide a copy of monitoring reports to the appropriate resource agencies. You must allow representatives from this office to inspect the GTR at any time deemed necessary to ensure that the terms and conditions of your permit are being met.
20. No activity which may adversely impact a site listed in or eligible for listing in the National Register of Historic Places shall be allowed by this permit. Additional material shall not be taken from a known historical or archeological site such as an Indian mound. If undocumented cultural resources, skeletal remains and/or other religious artifacts, etc. are uncovered during construction, work must stop immediately and the appropriate Corps District notified.
21. Creation of a GTR may not destroy or adversely affect threatened or endangered species or their critical habitat as identified under the Endangered Species Act.
22. A copy of the permit conditions will be recorded with the deed of the property at the local county tax assessor or other official responsible for maintaining records of property title. A certified copy verifying that this requirement has been met must be returned to the Corps of Engineers prior to initiation of work. If you sell the property associated with the

authorization under this Individual Permit, you must contact the appropriate Corps District so that authorization can be transferred to the new owner.

23. The landowner must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The landowner is not relieved of this requirement if management of the GTR is abandoned. Should the landowner wish to cease management of the area as a GTR and/or abandon maintenance of the authorized structure, the appropriate Corps District must be contacted to obtain modification of this permit, which may require restoration of the area.
24. Authorization under this Individual Permit does not obviate the need to obtain other Federal, state, or local authorizations as required by law, does not grant any property rights or exclusive privileges, does not authorize any injury to the property or rights of others, and does not authorize interference with any existing or proposed Federal projects.
25. In the event that the subject property is encumbered by easements (i.e. flowage, utilities, rail, highway, etc.), it will be the responsibility of the applicant and/or landowner to comply with the easement terms and/or limitations.
26. By issuing this permit, the Federal Government does not assume any liability for the following: a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; d) design or construction deficiencies associated with the permitted work; e) damage claims associated with any future modification, suspension, or revocation of this permit.
27. USACE may reevaluate its decision on this permit at any time the circumstances warrant. Please note that, in the event USACE finds it necessary to reevaluate its decision, permit authorization may be modified, suspended, or revoked. Circumstances that could require a reevaluation include, but are not limited to the following:
 - a. Failure to comply with terms and conditions of this permit.
 - b. Discovery that the information provided by the applicant and/or landowner in support of this permit request proves to have been false, incomplete, or inaccurate.
 - c. The occurrence of excessive timber mortality.

The location and general plan for the proposed work are shown on the enclosed sheets.

Water Quality Certification. By copy of this public notice, the applicant is requesting water quality certification from the Arkansas Department of Environmental Quality (ADEQ) in accordance with Section 401(a)(1) of the Clean Water Act. Upon completion of the comment

period and a public hearing, if held, a determination relative to water quality certification will be made. 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.

Cultural Resources. A Corps staff archeologist will review topographic maps, the National Register of Historic Places, and other data on reported sites in the area. The District Engineer invites responses to this public notice from Native American Nations or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns with historic properties in the area. This public notice initiates consultation under Section 106 of the National Historic Preservation Act with any Tribe that has information or concerns with historic properties in the proposed permit area.

Endangered Species. Our preliminary determination is that the proposed activity will not affect listed Endangered Species or their critical habitat. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies and constitutes a request to those agencies for information on whether any listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Flood Plain. We are providing copies of this notice to appropriate flood plain officials in accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use) and Executive Order 11988 on Flood Plain Management.

Section 404(b)(1) Guidelines. The evaluation of activities to be authorized under this permit which involves the discharge of dredged or fill material will include application of guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. These guidelines are contained in 40 Code of Federal Regulations (CFR) 230.

Public Involvement. Any interested party is invited to submit to the above-listed POC written comments or objections relative to the proposed work on or before **January 31, 2014**. Substantive comments, both favorable and unfavorable, will be accepted and made a part of the record and will receive full consideration in determining whether this work would be in 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 proposed activity on the public interest. 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. All factors which may be relevant to the proposal 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, 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; Indian 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.

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 public hearings shall state, with particularity, the reasons 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.

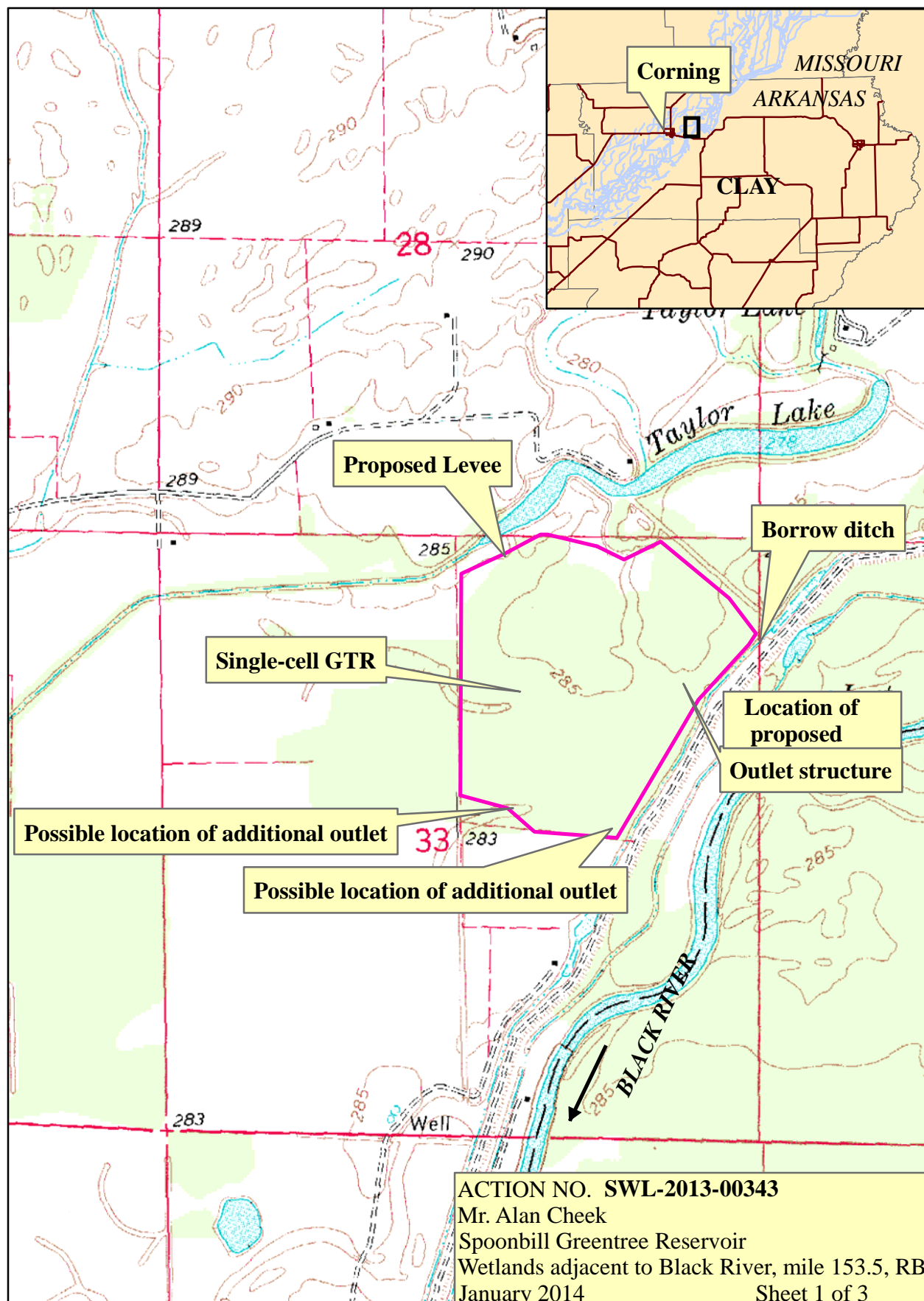
NOTE: The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and also includes any addressees who have asked to receive copies of all public notices. Please discard notices that are not of interest to you. If you have no need for any of these notices, please advise us so that your name can be removed from the mailing list.

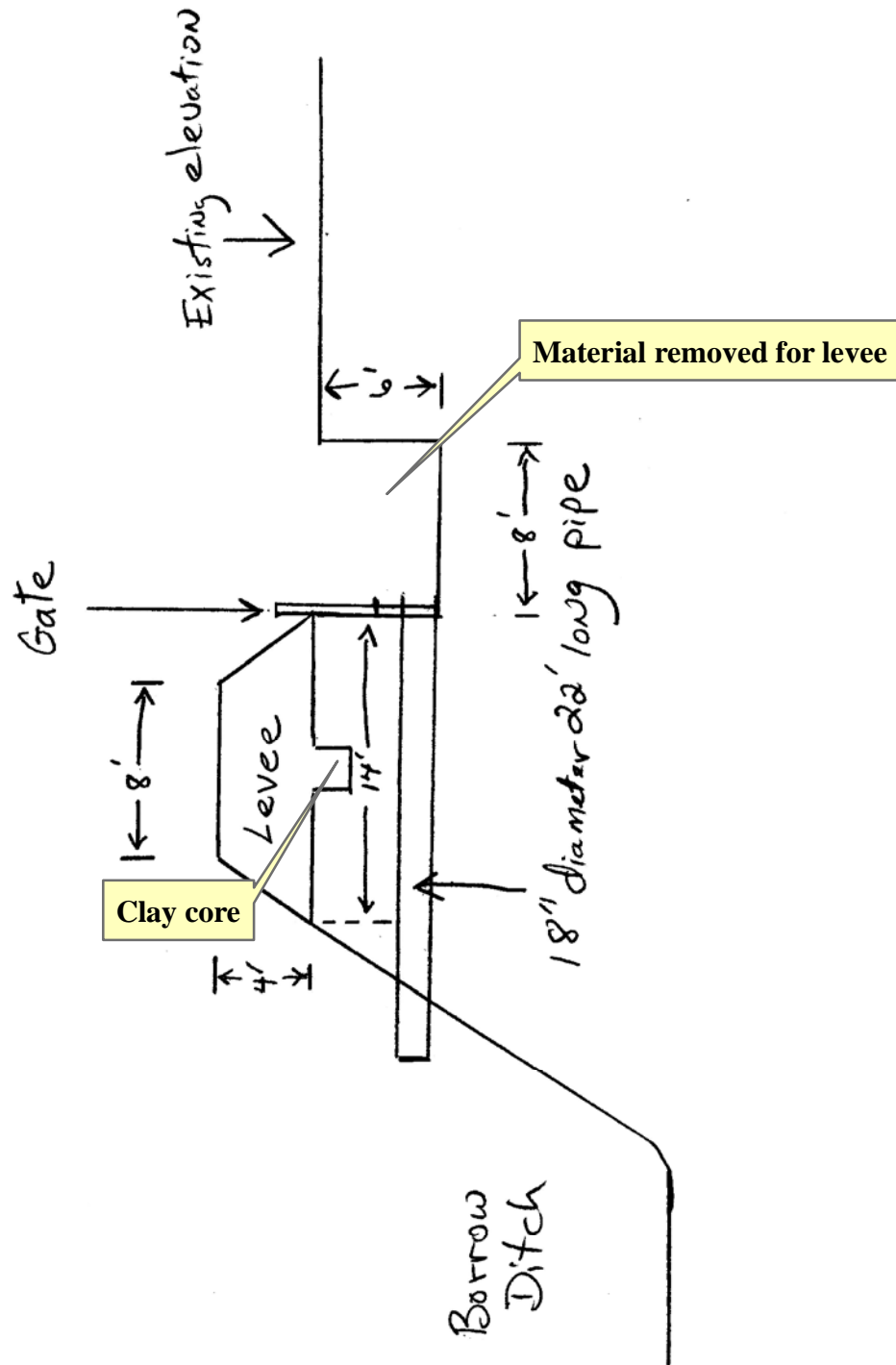
Enclosures

Approximate Coordinates of Project Center

Latitude: **36.41979** Longitude: **-90.53713**

UTM Zone: **15** North: **4033329** East: **720810**





ACTION NO. SWL-2013-00343

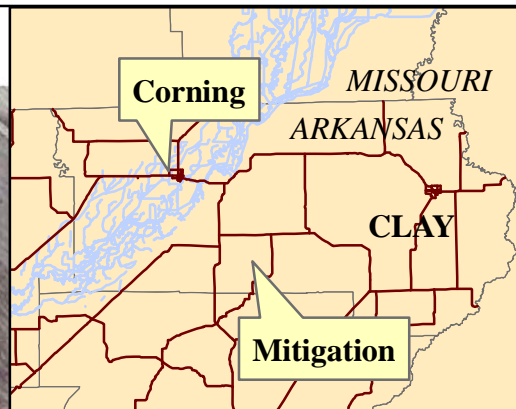
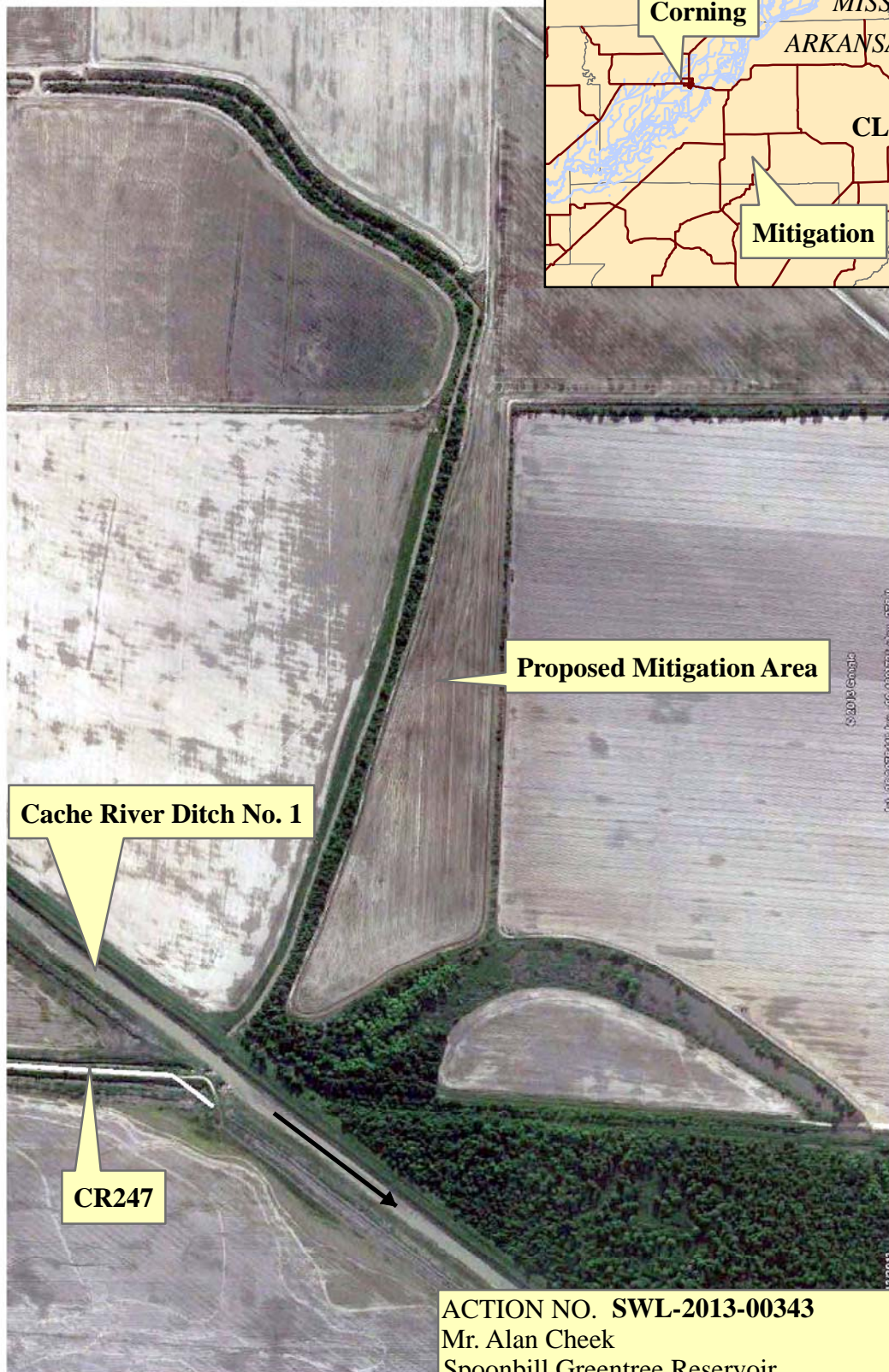
Mr. Alan Cheek

Spoonbill Greentree Reservoir

Wetlands adjacent to Black River, mile 153.5, RB

January 2014

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Mr. Alan Cheek

Spoonbill Greentree Reservoir

Wetlands adjacent to Black River, mile 153.5, RB

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