



US Army Corps
of Engineers®
Little Rock District

JOINT PUBLIC NOTICE

CORPS OF ENGINEERS – STATE OF ARKANSAS AND MISSOURI

Application Number: SWL 1988-09046-GU

Date: August 28, 2020

Comments Due: September 22, 2020

CONSIDERATION OF REISSUANCE OF A REGIONAL GENERAL PERMIT (RGP)

for work, including the placement of dredged and fill material, in waters of the United States associated with U.S. Army Corps of Engineers (USACE) work on the McClellan-Kerr Arkansas River Navigation System in Arkansas and on USACE Lakes within the Little Rock District, including that work conducted by recognized stakeholders and sanctioned by the US Army Corps of Engineers.

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

Point of Contact. If additional information is desired, please contact the regulator, Gerald Dickson, telephone number: (501) 340-1372, mailing address: Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867, email address: Gerald.W.Dickson@usace.army.mil

Background. On October 26, 2015, the Little Rock District Corps of Engineers issued a RGP for the repair of levees, creation of dredged material disposal areas, fill of scour holes, and the construction, modification, or maintenance of dikes and revetments. The authority for permit issuance is found in Section 404 of the Clean Water Act (33 U.S. Code 1344). Corps districts are authorized to develop RGPs in accordance with Title 33, Code of Federal Regulations (CFR) Parts 325.2(e)(2) and 325.5(c)(1).

Proposed Reissuance. This RGP has proven to be successful in authorizing a minor, noncontroversial category of work that has had no significant individual nor cumulative adverse environmental impacts, and we propose reissue the RGP an additional five (5) years. Twelve (12) projects have been approved under this RGP since October 26, 2015.

The RGP and procedures for verifying authorization are enclosed. The documents enclosed are as presently administered with minor revisions to update the documents.

Notification/Verification Requirement. The Little Rock District Regulatory Division must be notified and provide verification that the proposed work meets the terms and conditions of the RGP. The notification/verification details are outlined in the Procedures for Verifying Authorization attached to the RGP.

Water Quality Certification. By copy of this public notice, water quality certification is being requested from the Arkansas Department of Energy and Environment, Division of Environmental Quality and Missouri Department of Natural Resources in accordance with Section 401(a)(1) of the Clean Water Act. Upon completion of the comment period, a determination relative to water quality certification will be made.

Public Involvement. Any interested party is invited to submit to the above-listed POC written comments, objections or suggestions related to this proposed reissuance on or before **September 22, 2020**. Comments, both favorable and unfavorable, will be accepted and made a part of this record and will receive full consideration in determining whether it would be in the public interest to reissue the RGP.

Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider the proposed RGP. Such requests 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.

Additional Information. Additional information about the proposed reissuance of the RGP may be obtained by writing Gerald Dickson, at the address or email listed above, or by calling (501) 340-1372.

NOTE: The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and 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

DEPARTMENT OF THE ARMY PERMIT

Regional General Permit: **US ARMY CORPS OF ENGINEERS WORK ON THE McCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM IN ARKANSAS AND ON US ARMY CORPS OF ENGINEERS LAKES WITHIN LITTLE ROCK DISTRICT, INCLUDING THAT WORK CONDUCTED BY RECOGNIZED STAKEHOLDERS AND SANCTIONED BY THE US ARMY CORPS OF ENGINEERS**

Permit No.: **1988-09046-GU**

Issuing Office: Department of the Army
Little Rock District
PO Box 867
Little Rock, Arkansas 72203-0867

NOTE: The term "you" and its derivatives, as used in this regional general permit, means any of the permittees whose work is authorized under its terms and conditions. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: **Work authorized under this regional general permit is limited to the following and DOES NOT INCLUDE ANY FILLS IN WETLANDS: (Examples of typical work which falls within the scope of this regional general permit are shown on the attached drawings (see enclosed Sheets 2 through 8 of 8).)**

- 1. Disposal of minor amounts of dredged material in waters of the United States associated with activities such as the removal of shoals or emergency work to maintain the navigation channel. The material would be sidecast outside of the navigation channel or placed in a previously approved disposal area.**
- 2. The placement of dredged and fill material in waters of the United States associated with the repair, rehabilitation, and maintenance of existing dikes, existing revetments, and other existing channel stabilization structures.**
- 3. The placement of dredged and fill material in waters of the United States associated with the construction, modification, or maintenance of dikes, revetments, and other channel stabilization structures necessary to maintain the navigation system.**
- 4. The placement of dredged and fill material in waters of the United States associated with levee maintenance and scour holes.**

Project Location: **Work would be on the McClellan-Kerr Arkansas River Navigation System in Arkansas and on US Army Corps of Engineers Lakes within the Little Rock District (see enclosed Sheet 1 of 8).**

Permit Conditions:

General Conditions:

1. Authorization under this regional general permit is valid for **three years** from the date of your verification letter unless the regional general permit is modified, revoked, or suspended. If you find additional times is needed to complete the authorized activity, a time extension request should be submitted to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this regional general permit in good condition and in conformance with the terms and conditions of this regional general permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this regional general permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this regional general permit, you must immediately halt construction activity and notify this office. We will initiate the state and tribal coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this regional general permit, you must inform the new owner to contact this office so that the authorization can be transferred or reissued.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this regional general permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this regional general permit.

Special Conditions:

1. **No activity is authorized under this regional general permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under this regional general permit which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.**
2. **Any activity authorized under this regional general permit which would be located within 1,000 feet of any known active Interior Least Tern nesting site would require coordination with the United States Fish & Wildlife Service (USFWS) and other agencies as appropriate.**

3. Any activity authorized under this regional general permit which would be conducted from January 15th through May 30th and located within 1,000 feet of identified gravel habitat boundaries would require coordination with the USFWS and other agencies as appropriate.

4. Any activity authorized under this regional general permit which would be located within 1,000 feet of any known active mussel concentration would require coordination with the USFWS and other agencies as appropriate.

5. Any activity authorized under this regional general permit which would be located within 1,000 feet of any known migratory bird breeding colony or active bald or golden eagle nest would require coordination with the USFWS and other agencies as appropriate.

6. The clearing of suitable habitat trees and/or snags (typically greater than 3-5 inches in diameter at breast height that have exfoliating bark, cracks, crevices, and/or hollows) within a 150-foot radius of a known occupied maternity roost tree associated with this project must be conducted during the Northern Long-eared Bat (*Myotis septentrionalis*) winter hibernation period between November 15th and March 15th through that portion of the McClellan-Kerr Arkansas River Navigation System from the Oklahoma/Arkansas State Line downstream to Pulaski County, as well as Arkansas County, Arkansas. The clearing of trees associated with this project must be conducted during the Indiana Bat (*Myotis sodalis*) winter hibernation period between November 15th and March 15th in Crawford, Franklin, Johnson, and Pope Counties, Arkansas. Alternatively, a professional biologist can perform a habitat assessment to ensure that no Northern Long-eared Bats or Indiana Bats are present outside of this hibernation period. This assessment must be submitted to the Corps of Engineers Regulatory Division for review, coordination with Federal and state agencies, and approval before tree removal can commence.

7. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) For losses of streams or other open waters, the district engineer may require compensatory mitigation, such as the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation, to ensure that the activity results in no more than minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with 33 Code of Federal Regulations Part 332.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

(X) Section 404 of the Clean Water Act (33 U.S. Code 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization:

a. This regional general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This regional general permit does not grant any property rights or exclusive privileges.

c. This regional general permit does not authorize any injury to the property or rights of others.

d. This regional general permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this regional general 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 regional general permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this regional general permit.

4. Reliance on Applicant's Data: The determination of this office that your proposed work complies with the terms and conditions of this regional general permit was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this regional general permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this regional general permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your regional general permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of your activity authorized by this regional general permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

PROCEDURES FOR VERIFYING AUTHORIZATION

REGIONAL GENERAL PERMIT – 1988-09046-GU

FOR US ARMY CORPS OF ENGINEERS WORK ON THE
McCLELLAN-KERR ARKANSAS RIVER NAVIGATION SYSTEM IN ARKANSAS
AND ON US ARMY CORPS OF ENGINEERS LAKES
WITHIN THE LITTLE ROCK DISTRICT

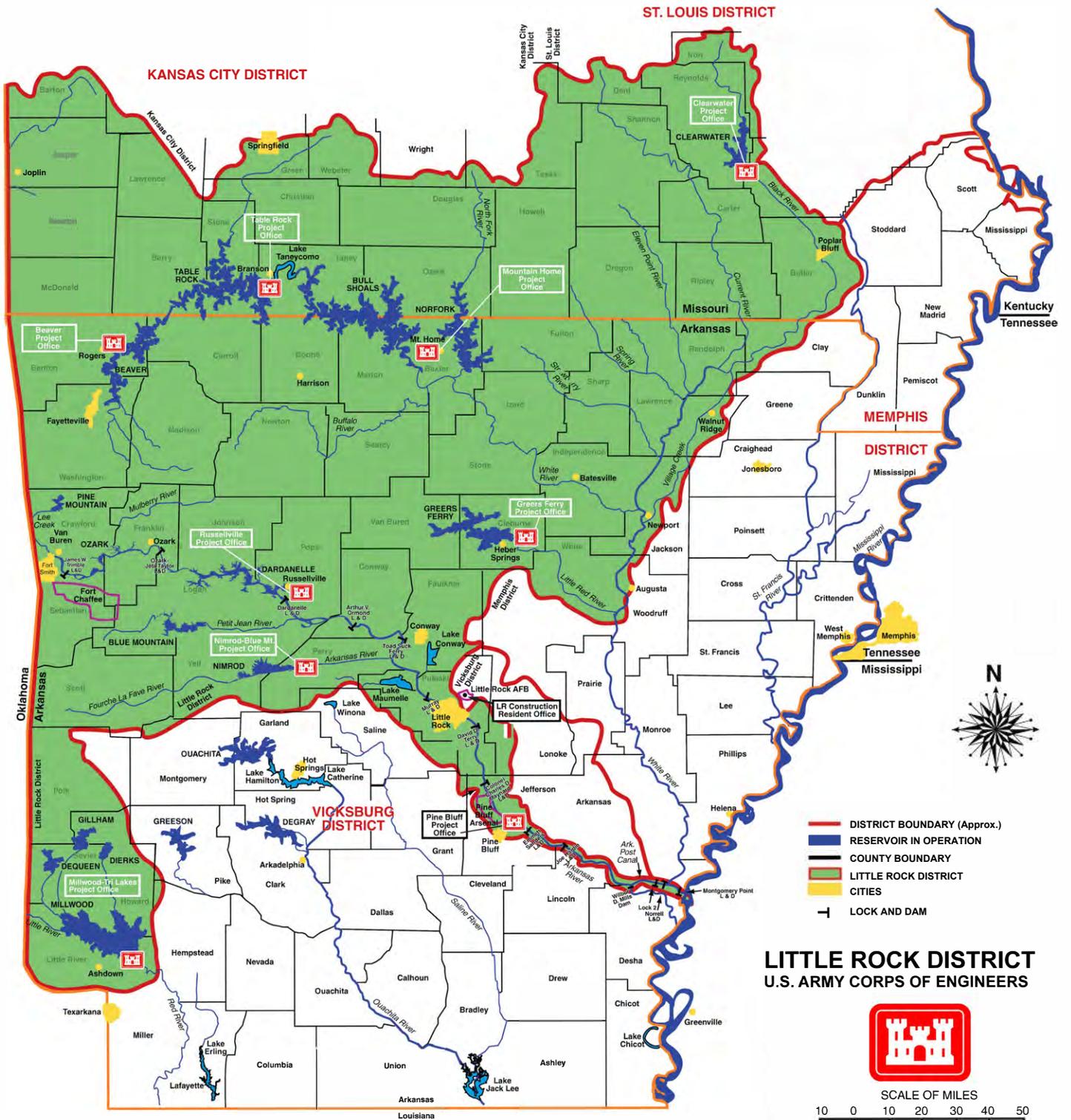
1. The US Army Corps of Engineers, Little Rock District, has issued the enclosed regional general permit for work on the McClellan-Kerr Arkansas River Navigation System within the State of Arkansas and for work on US Army Corps of Engineers Lakes within the Little Rock District. This regional general permit is currently valid until <<Expiration Date>>. The following procedures must be followed to verify authorization to do work under this regional general permit.
2. Procedures for Verifying Authorization. You shall use the following procedures in verifying authorization under this regional general permit.
 - a. You shall submit a written description of the proposed work to the District Engineer, ATTN: CESWL-RD, US Army Corps of Engineers, Little Rock District, PO Box 867, Little Rock, Arkansas 72203-0867, email address: CESWL-Regulatory@usace.army.mil, at least 30 days prior to proposed commencement of work.
 - b. Included with the submittal shall be drawings which accurately depict the work and its exact location. The type, sizes, and quantities of structures and/or materials to be used should be fully described, including appropriate dimensions.
 - c. Upon receipt of your request, the Corps of Engineers Regulatory Division will determine whether the work falls within the criteria established by this regional general permit. The length of time required to process each request under this regional general permit will be directly related to the adequacy and completeness of the information you submit. You will receive a letter of memorandum if the work is covered by this regional general permit. If the work cannot be authorized under this regional general permit, you will be notified that your application must be processed under other procedures, which may involve submission of additional information and likely issuance of a public notice.
 - d. To comply with the intent of the National Historic Preservation Act (NHPA), each proposed activity that meets the criteria in this regional general permit will be coordinated

with our staff archaeologists for review. The Corps archeologists would (1) review the National Register of Historic Places for known historic properties, (2) review any completed archeological surveys in the affected area, and, if indicated, (3) complete an archeological reconnaissance on the proposed site if one has not already been accomplished. Due to the minor impacts of the placement of dredged and fill material in waters of the United States associated with these activities, no further coordination is proposed unless it is determined that cultural resources could be impacted by the proposed activity.

e. If the proposed work calls for material to be placed in waters in excess of the material in the original design, the applicant must contact each county or city in which the project is located for compliance with their floodplain ordinance. Hydraulic calculations may be required by the cities and/or counties participating in the National Flood Insurance Program.

f. No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered (T&E) species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. All applications must identify any Federally listed (or proposed for listing) endangered or threatened species or critical habitat that might be affected or is in the vicinity of the project. Updated and additional information on the location of T&E species and their critical habitat, as well as clearance procedures, can be obtained directly from the offices of the USFWS or at <http://ecos.fws.gov/ipac/>.

g. The State Land Commission offices will be notified of a proposed action as appropriate.



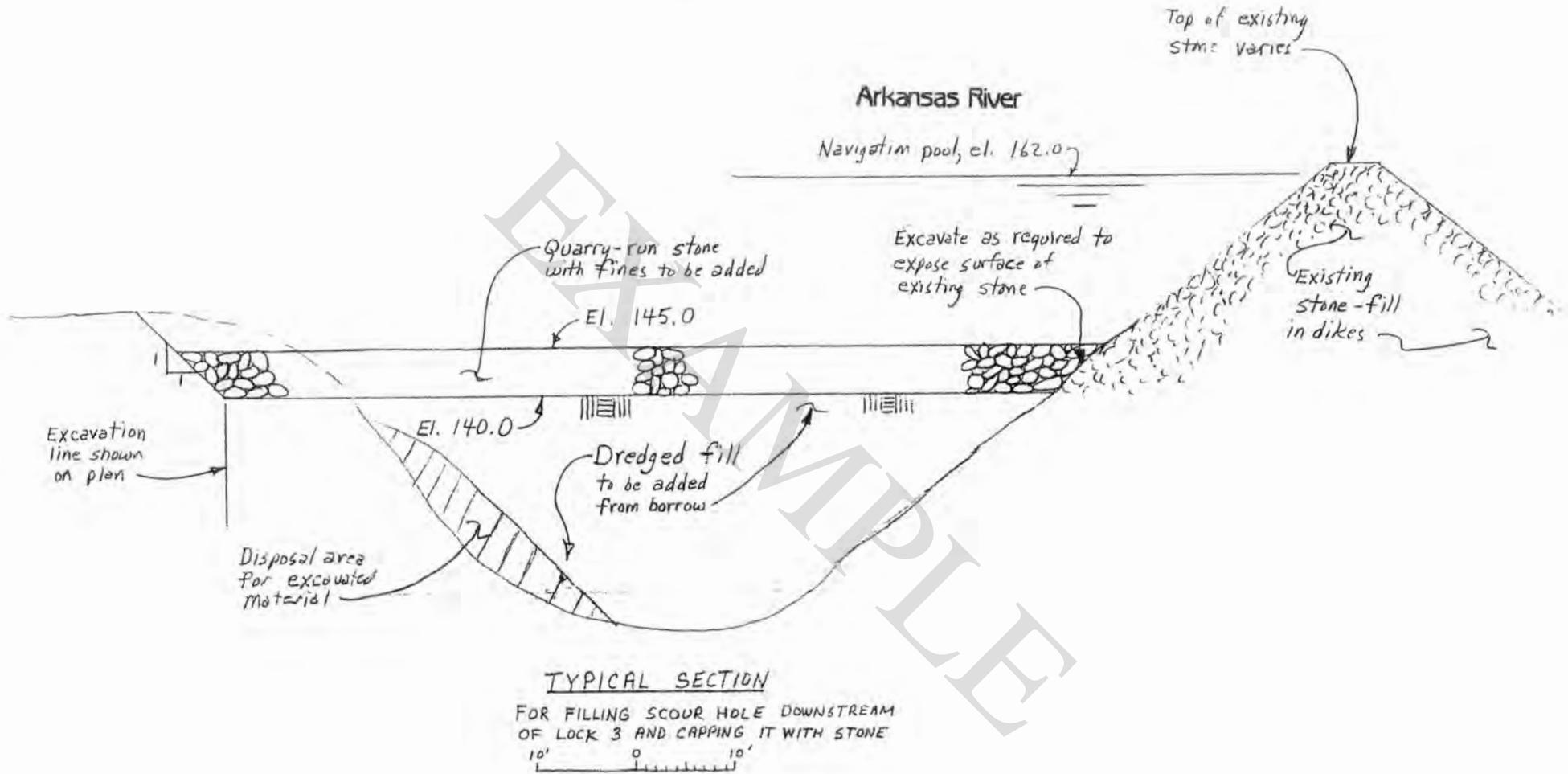
**Points of Contact
U. S. ARMY CORPS OF ENGINEERS
Regulatory Activities – Little Rock District & Adjacent Districts**

Little Rock District
ATTN: CESWL-RD
P.O. Box 867
Little Rock, AR 72203-0867
(501) 324-5295

Memphis District
ATTN: CEMVM-OD-R
167 N. Main Street, Rm. B
Memphis, TN 38103-1800
(901) 544-3471

Vicksburg District
ATTN: CEMVK-OD-R
ACTION NO. 1988-09046-GU
Regional General Permit
Corps Work on the MKARNS in Arkansas
and on Corps Lakes within SWL
August 2020
Sheet 1 of 8

Fill of Scour Hole



TYPICAL SECTION

ACTION NO. 1988-09046-GU
Regional General Permit
Corps Work on the MKARNS in Arkansas
and on Corps Lakes within SWL
August 2020 **Sheet 2 of 8**

