

**Public Notice** 

U.S. Army Corps of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers ATTN: Regulatory Office 1645 South 101st East Avenue Tulsa, Oklahoma 74128-4609 SWT-2015-437 Public Notice No.

October 19, 2015 Public Notice Date

November 2, 2015 Expiration Date

### **PURPOSE**

The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

## **SECTION 10**

The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

### **SECTION 404**

The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 U.S.C. 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

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### DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS, TULSA DISTRICT 1645 SOUTH 101ST EAST AVENUE TULSA, OKLAHOMA 74128-4609

Application No. SWT-2015-437

# JOINT PUBLIC NOTICE U.S. ARMY CORPS OF ENGINEERS AND OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ) (30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application is to accommodate the expansion of the existing East Oak Recycling and Disposal Facility and the existing Mosley Road Landfill in order to ultimately combine the two into one consolidated unit operating under one ODEQ permit.

Name of Applicant: Mr. Guy R. Campbell

Waste Management of Oklahoma, Inc.

3201 Mosley Road

Oklahoma City, Oklahoma 73141

Name of Agent:

Mr. Jonathan V. Queen, PE

Weaver Consultants Group, LLC 6420 Southwest Boulevard, Suite 206

Fort Worth, Texas 76109

<u>Location</u>: The proposed project is in the NE/4 of the NE/4 of the NW/4 of Section 21, Township 12 North, Range 2 West in Oklahoma County, Oklahoma. Physical location is on Northeast 36<sup>th</sup> Street 2.5 miles east from Interstate 35. The project site can be found on the Midwest City, Oklahoma 7.5 Minute USGS Quadrangle map at approximately North Latitude 35.500 and West Longitude 97.415.

<u>Purpose:</u> The basic purpose of this work is to consolidate two existing adjacent landfills into one unit.

A water dependency statement determination is not required since no special aquatic sites are located within the boundary of the proposed project site.

The overall purpose of this work is to place fill material into an unnamed tributary to the North Canadian River in order to accommodate expansion and consolidation of two

landfills into one unit by expanding the landfill foundation layer and development of the landfill liner system. Some aspects of the two existing facilities will overlap in that portions of one currently lies within the other and some new expansion of the total facility will occur when fully joined. The planned outcome of joining the two existing separately licensed facilities into one will comprise a net total area of approximately 282.96 acres. A total of 1.9 acres of disturbed aquatic area is proposed to be filled directly as the result of this proposed permitting action that is required to join the two existing sites.

# Table of Impact:

| Original Proposal   |                                  |                       |                             |                                |                             |  |  |  |  |
|---|----------------------------------|-----------------------|-----------------------------|--------------------------------|-----------------------------|--|--|--|--|
| Number or Impact Location Activity  |                                  | Type of<br>Impact     | Type of Fill<br>Material    | Qty of Material cys below OHWM | Footprint<br>(ac and/or lf) |  |  |  |  |
| Unnamed<br>Tributary  | Placement<br>of fill<br>material | Elimination of stream | Clean<br>native<br>material | 73,500 cys                     | 1.9 ac                      |  |  |  |  |
| cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf) |                                  |                       |                             |                                |                             |  |  |  |  |

<u>Description of Work</u>: The applicant proposes to place approximately 73,500 cubic yards of clean native fill material into an unnamed tributary to the North Canadian River below the OHWM, equating to approximately 1,890 linear feet comprising 0.11 acre of stream impacts. The fill material would be acquired from on-site and the stream being filled would ultimately be eliminated over a period of 10 or more years as the combined facilities continue operation.

Fill material from on-site borrow areas will be utilized for backfill purposes to the greatest extent possible. Material found on-site is typically an unconsolidated fine to coarse sand. Depending on the required excavation depth when using on-site borrow areas, there is the potential that sandstone, siltstone, and mudstone/shale may be encountered. This material is deeper and less desirable than the preferred sand layer. Based on required engineering design elements of landfill construction, highly impervious off-site material will likely be required for perimeter berm construction. This material will by necessity be categorized geotechnically as relatively homogeneous clay, silty clay, sandy clay, or clayey sand. Material used in berm construction will be highly compacted during construction and will meet ODEQ compaction requirements.

<u>Avoidance and Minimization Information</u>: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

"This site is currently being developed as a soil borrow and stormwater control area in accordance with USACE, ODEQ, and OKC permits. Developing this site

into landfill is a good utilization of resources and a compatible land use. The area is currently isolated from downstream portions of the unnamed tributary."

<u>Mitigation</u>: Furthermore, the applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

"Waste Management of Oklahoma, Inc., is requesting a Section 404 Individual Permit without requiring compensatory migration based on multiple factors."

This mitigation response is the applicant's proposal. The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Note: In 2009, this site was forested with an unnamed tributary transgressing through the site and exiting along the northern portion of the tract. The proponent requested a DA authorization to excavate this site into a borrow area. In 2009, the Corps determined that their request would not require an authorization, with the understanding that any future filling actions at this site would require a DA authorization. Portions of the unnamed tributary not excavated were inadvertently filled during removal of the forested area and subsequent land-leveling. The current proposal would convert a portion of the excavated borrow area (unnamed tributary) to uplands, by utilizing fill material. Additionally, the proposal would result in the permanent conversion of the unnamed tributary to uplands, due to filling in the unnamed tributary to facilitate to expansion of the facility. Surface water flow in the unnamed tributary has been absent since at least 2009 due to land surface manipulations and high-volume pumping of borrow area waters for purposes of leachate capture.

<u>Project Setting</u>: The area being considered is located within a transitional zone between the Central Great Plains and Cross Timbers ecoregions of Central Oklahoma. The Central Great Plains ecoregion includes scattered hills, low mountains, gypsum karst, and sandy flats. Mean annual rainfall increases to the east, and varies from approximately 22 to 38 inches.

The following statement was provided within the application:

"The impacted site is a unnamed tributary of the North Canadian River that transverses the project site. The unnamed tributary originates on of the project site within property owned by the applicant. The unnamed tributary collects rainwater and minimal stormwater runoff due to a levee system along the North Canadian River, Sooner Road to the west, Northeast 36th Street to the north, and landfill activities to the east and south. The project site has been greatly influenced by City of Oklahoma City, USACE, and ODEQ approved soil borrow

activities. Stormwater that is collected from landfill operations is controlled and discharged in accordance with ODEQ approvals. The approved site development along with offsite drainage features have isolated and/or disconnected the portion of the unnamed tributary within the project site from the north portion of the unnamed tributary that continues on to the North Canadian River."

Existing Condition: The following statement was provided within the application:

"The impacted site has been used as a borrow area. A corridor along the mapped stream can be described as an open, periodically maintained grassland. The stream/swale does not exhibit a high water mark or a well-defined bed and bank condition and is better characterized as broad, flat, well vegetated swale. Vegetation within the borrow area includes sugar hackberry, green ash, and American Elm trees. Vegetation within the swale corridor is dominated by Johnsongrass, Bermuda grass, Canadian wild rye, and curly dock with the occasional cottonwood and sugar hackberry tree. The sandy loam soils with the vegetated stream corridor have a uniform 5YR3/4 matrix throughout the upper 12 inches."

<u>Plans and Data</u>: Plans showing the location of the proposed activity and other data are enclosed with this notice. If additional information is desired, it may be obtained from U.S. Army Corps of Engineers, Tulsa District, ATTN: Mr. Timothy Hartsfield, Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

<u>Cultural Resources</u>: The DE has consulted the National Register of Historic Places, and it has been determined that there are no properties currently listed in the National Register which would be directly affected by the proposed work. The DE has also consulted the listing of Eligibility Determinations for Oklahoma and determined that the proposed project is not in the vicinity of properties eligible for listing. There is low probability of presence of cultural resources as these sites have been in continuous operation since 1971 and 1986 with multiple expansions and relicensures along with constant heavy traffic and daily reworking of the soil profile.

This public notice is also being sent to the State Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources may be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being accomplished to fulfill our requirements under the National Historic Preservation Act of 1966 (Public Law 89-665) and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which may be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966, as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: bald eagle (*Haliaeetus leucocephalus*), interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), and whooping crane (*Grus americana*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity. It is the Corps opinion that the heavily traveled and constantly reworked commercial disposal area under consideration does not provide habitat for any federal or state listed threatened or endangered species.

We are currently assessing the potential effects of the proposed action on these species and will comply with the Endangered Species Act with regard to any affect of our decision on this permit application.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use 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: conservation, economics. aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain 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 ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received will be considered by the Corps 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

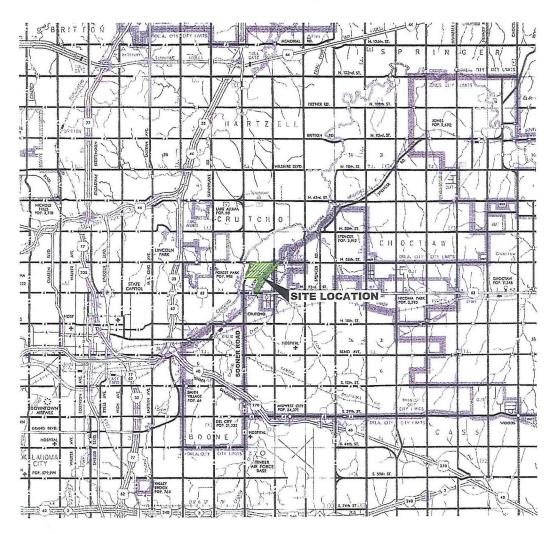
may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local floodplain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. The local floodplain administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer Chief, Regulatory Office

**Enclosures** 

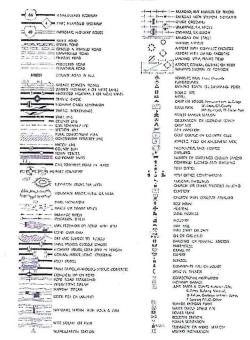


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East Oak Recycling and Disposal Facility Unnamed Tributary to North Canadian River Oklahoma City, Oklahoma County, Oklahoma Enclosure 1 of 5



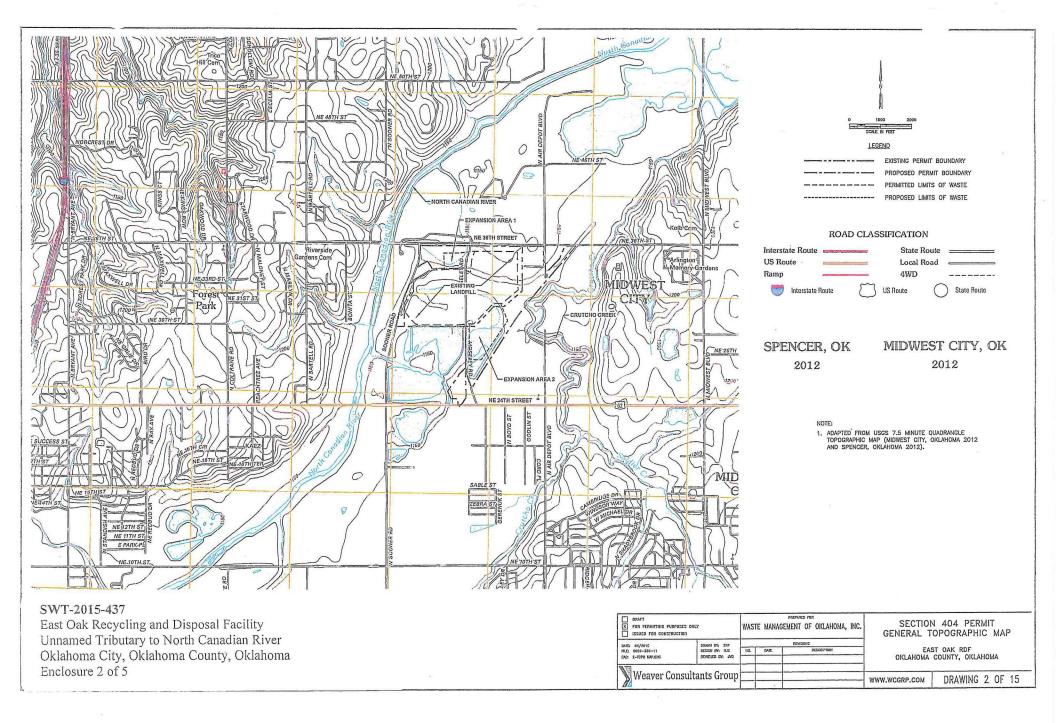
#### LEGEND

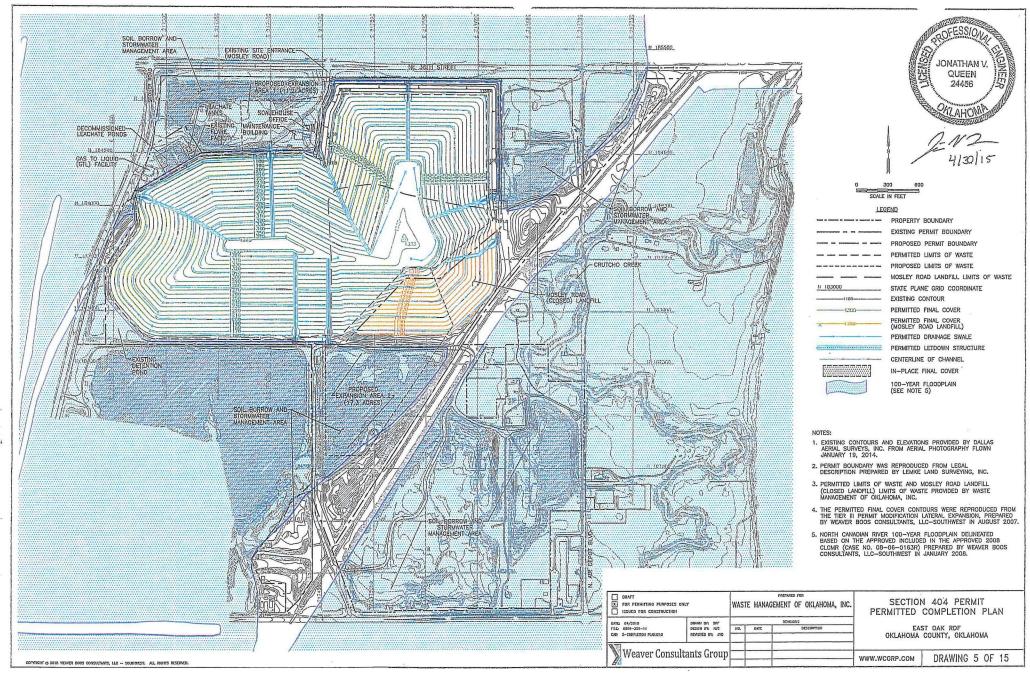


### NOTE:

 REPRODUCED FROM OKLAHOMA'S GENERAL HIGHWAY MAP, OKLAHOMA COUNTY, OKLAHOMA (OKLAHOMA DEPARTMENT OF TRANSPORTATION PLANNING DIVISION AUGUST 2007).

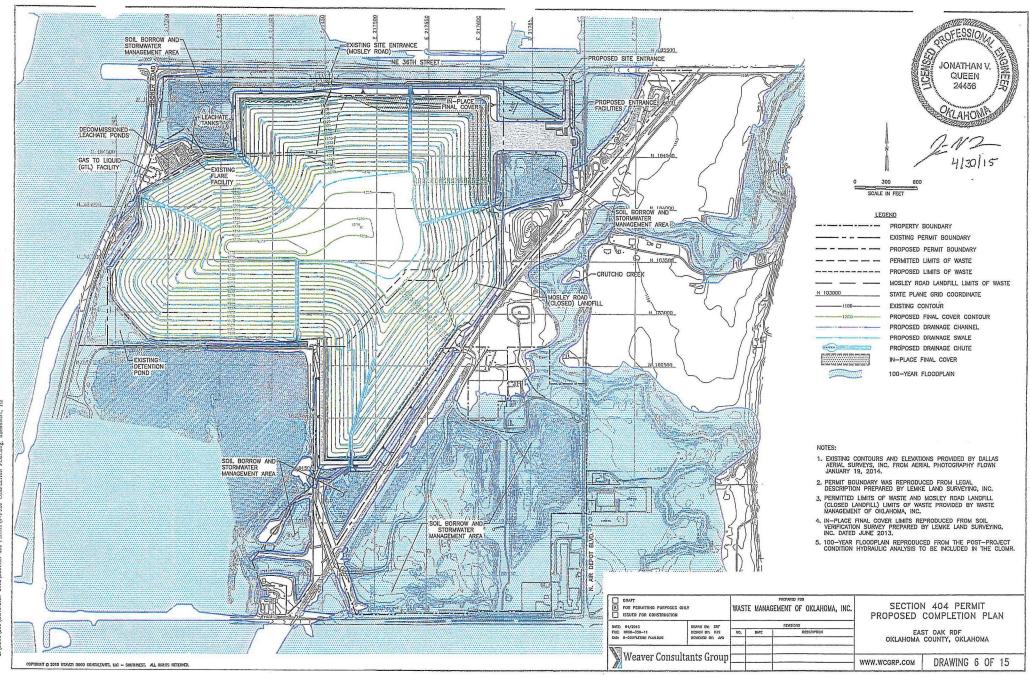
| ☐ ORAFT  ☐ FOR PERMITTING PURPOSES ONLY ☐ ISSUED FOR CONSTRUCTION |                                    |     | E MANAG | EMENT OF OKLAHOMA, INC. | SECTION 404 PERMIT<br>GENERAL SITE LOCATION MAP |                 |
|---|------------------------------------|-----|---------|-------------------------|---|-----------------|
| DATE: 04/2015<br>TILE: 0008-339-11<br>C/D: 1-601_LOC/MC           | DESIGN DY: JUS<br>REVIEWED DY: JUS | NO. | DATE    | DESCRIPTION             | EAST OAK RDF<br>OKLAHOMA COUNTY, OKLAHOMA       |                 |
| Weaver Consultants Group  |                                    |     |         |                         | WWW.WCGRP.COM                                   | DRAWING 1 OF 15 |





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East Oak Recycling and Disposal Facility Unnamed Tributary to North Canadian River Oklahoma City, Oklahoma County, Oklahoma Enclosure 3 of 5



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East Oak Recycling and Disposal Facility Unnamed Tributary to North Canadian River Oklahoma City, Oklahoma County, Oklahoma Enclosure 4 of 5

