



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, OK 74128-4609

SWT-2012-519
Public Notice No.

Jan 17, 2014
Public Notice Date

Feb 16, 2014
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 USC 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 USC 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.

NOTICE TO PUBLISHERS

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.



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

Application Number SWT-2012-519

PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899. The application is to obtain and improve additional barge fleeting areas for use by the existing Johnston's Port 33, Inc. (JP33) facility. The proposed project will require dredging and excavation of two existing Verdigris River "cutoffs".

Name of Applicant: Mr. Fred A. Taylor
Johnston's Port 33, Inc.
328 N. 321st E. Ave.
Catoosa, OK 74015

Location: The proposed site cutoff 18-9 is north of the existing JP33 facilities located at river mile (RM) 435.8 on the McClellan-Kerr Arkansas River Navigation System (MKARNS), in Sections 9, 15, and 16, Township 20 North, Range 16 East, Rogers County, Oklahoma. Coordinates for the approximate center of the project are latitude 36.220392 and longitude -95.602512 (NAD 83). The proposed site cutoff 18-6 is north of the existing Johnston's Port 33 facilities located at RM 432.6 on the MKARNS, in Section 28, Township 20 North, Range 16 East, Rogers County, Oklahoma. Coordinates for the approximate center of the project are latitude 36.180973 and longitude -95.614833 (NAD 83). The project area is mapped on the Inola, Oklahoma 7.5 Minute USGS Quadrangle map.

Description of Work: The 18-9 cutoff would be dredged to a depth of 12 feet with a 1 to 1 slope on the right and left descending bank. A total of 95,000 cubic yards of dredge material would be removed to return the cutoff to its original depth. At the southern end of the cutoff, 12,000 cubic yards of soil would be removed above the normal pool elevation which would be removed using a hydraulic excavator and trucked to the adjacent upland dredge disposal area. Sediment from below the normal pool elevation would be removed using a hydraulic cutter head and pumped into the proposed disposal area. Twelve deadman anchors would be installed on the right descending bank starting at the southern end and placed every 200 feet. The proposed disposal area is located approximately 100 yards south of Cutoff 18-9. This dredge disposal area was previously constructed and is approximately 20+ acres in size. JP33 proposes to install a berm within the existing area to segment the basin and only disturb/utilize the northern 15 acres. JP33 would construct a new berm on the north side and south side of the disposal area. A new discharge pipe would be installed in the new (southern) cross berm approximately 6 to 8 feet above the disposal area floor. The discharge pipe will be set at an elevation to be determined in the field which will maintain sufficient freeboard to ensure the surface elevation of the dredged material does not overtop the existing disposal area berms. Dredged material will be discharged into the northern portion of the newly segmented disposal area and the return water will flow, via the new drainage pipe, into the southern segment of the existing disposal area. The southern

portion of the existing disposal area will not be used for dredged material placement. Return water will transition overland through the southern portion of the disposal area before discharging through an existing drainage pipe in the southeast corner of the existing disposal area. Once water levels reach the drainage pipe elevation, the return water will vacate the disposal area and transition overland across a wide vegetated area in which no pilot channel is present. The return water will then collect in a previously excavated stilling basin before returning to the MKARNS. Vegetation in the existing upland disposal area will be removed, piled, and burned inside the area. Remnants of trees will be distributed throughout the disposal area basin to dissipate dredged material velocities. The depth of the disposal area ranged from 4 feet on the north end to 8 feet on the south end with an average of about 6 feet. The holding capacity of the disposal area would be approximately 653,400 square feet or 120-acre feet. Figure 3 shows the location of Cutoff 18-9 and associated upland disposal area.

The 18-6 cutoff would be dredged to a depth of 12 feet leaving a 1 to 1 slope on the right and left descending bank from the existing riverbank to the channel floor. A total of 85,000 cubic yards of dredge material would be removed returning the cutoff to its original depth. Sediment from below the normal pool elevation would be removed using a hydraulic cutter head and pumped into the proposed upland disposal area. The upper 800 feet of the cutoff would not be disturbed to allow the existing shallow aquatic habitat to remain. Twelve deadman anchors would be installed on the left descending bank starting at the southern end and placed every 200 feet. The new proposed upland dredge disposal area would be constructed on the highest elevations of the present island and occupy approximately 15 acres to the immediate west of the cutoff. A dozer would be used to assist in moving the dredge material in and around the disposal area. When the dredge disposal area is not in use, the cell would be kept free of tree growth and mowed routinely. The surrounding property could not be used for construction due to private ownership and hardwood timber growth. The proposed depth of the new created upland disposal area is 4 feet. The holding capacity of the disposal area would be approximately 653,400 square feet or 90-acre feet. Figure 4 shows the location of the Cutoff 18-6 and associated upland disposal area. The proposed construction methods require dredging and excavation activities only. The placement of dredge or fill material into jurisdictional waters of the United States will not be required.

Mitigation: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan: Consideration was given to other options or alternatives before applying for the proposed project. Due to the physical nature of the MKARNS system, specifically RM 400 to RM 445, areas for fleet operations would need to be accomplished by using areas adjacent to the physical navigation channel; and several cutoffs were identified by the U.S. Corps of Engineers (Corps) for such purpose. The simple question and answer to any alternative is... “there are no other locations to fleet barges other than these designated cutoffs”. Fleet operations require that barges are as close to those required operations as possible. This is not only an issue of “cost of operations” but also “safety and security” of the moored barges. JP33 is trying to accommodate and increase tonnage handled in Oklahoma but this cannot be provided without additional fleet space. Our proposed project would open the last 2 remaining cutoffs designated for such activity within feasible reach of JP33 operations.

The applicant is not proposing compensatory mitigation for the work within the stream channel. The proposed activity should not necessitate the placement of fill, dredge material, or cause a loss of any water of the United States.

This mitigation plan is the applicant's proposal. The Corps of Engineers 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.

Project Setting: The proposed construction area is located within the Midwest Regional ecoregion of northeast Oklahoma. The Midwest Regional ecoregion is differentiated from surrounding regions mainly by the combination of a relatively low level of topographic relief, a humid climate with moderate to abundant rainfall, mixed prairie and hardwood natural vegetation, and the predominance of agricultural land uses including the extensive use of agricultural drainage systems (ERDC/EL TR-08-27, 2008). The localized general vicinity of this subject property includes undeveloped land, industrial/marine ports, and recent residential development with associated infrastructure. Habitat on the subject property includes large existing agricultural fields, feral fields containing invasive non-native grass species (i.e. johnsongrass), native fields with scattered trees, and some mature forested riparian areas adjacent to the river and associated tributaries.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 7). The application (to include a copy of a final environmental assessment completed by Eagle Environmental Consulting, Inc.) is on file and may be viewed during normal working hours at the Tulsa District, U.S. Army Corps of Engineers, 1645 South 101st East Avenue, Tulsa, Oklahoma. If additional information is desired, it may be obtained from Mr. Ed Parisotto, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7549.

Cultural Resources: 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. The DE will comply with the requirements of the National Historic Preservation Act for any historic or archeological resources that exist in the project vicinity and which could be directly affected by the proposed work. This public notice is also being sent to the State Historic Preservation Officer and to Indian Tribal Governments to reveal if other known historic or archeological resources that might 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 done to fulfill our requirements under the National Historic Preservation Act of 1966 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 might be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 (Public Law 89-665), 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: whooping crane (*Grus Americana*); interior least tern (*Sterna antillarum*); American burying beetle (*Nicrophorus americanus*), piping plover (*Charadrius melodus*); Arkansas darter, candidate (*Etheostoma cragini*); Neosho mucket mussel, candidate (*Lampsilis rafinesqueana*); rabbitsfoot, candidate (*Quadrula cylindrical ssp. cylindrical*). 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.

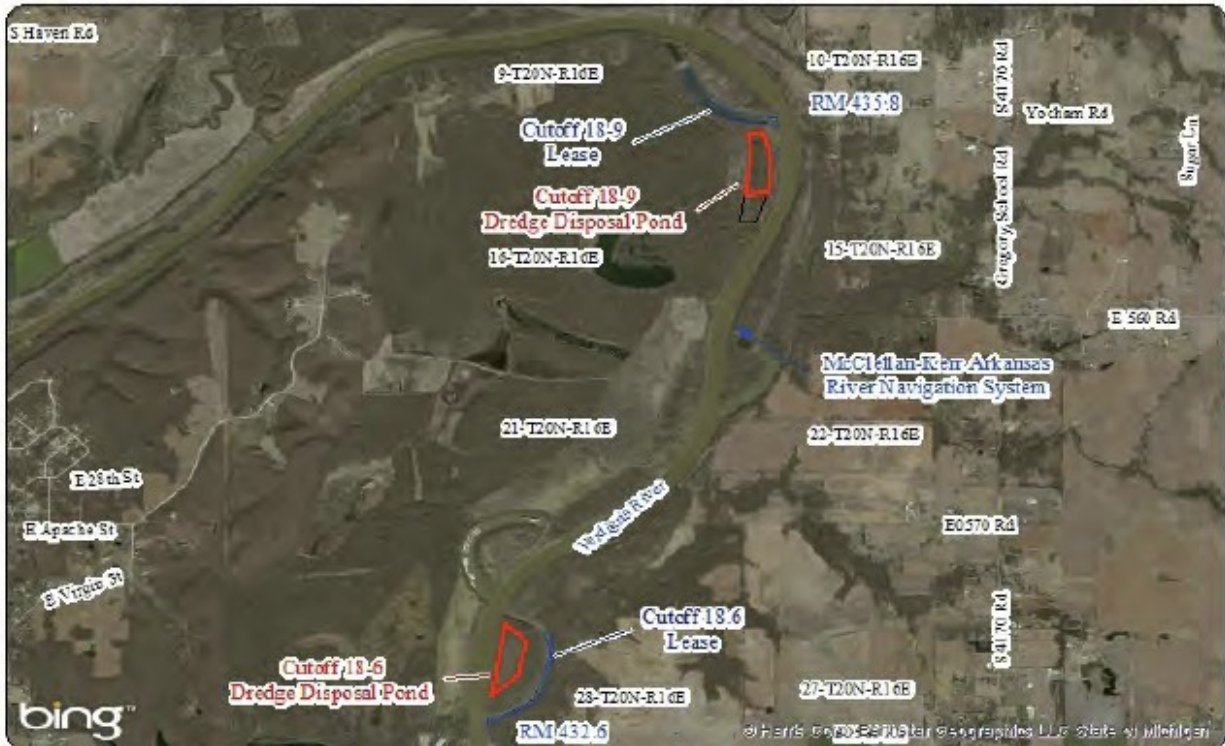
Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization 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; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore 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 granted unless the DE determines that it would be contrary to the public interest.



Comments: The Corps 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. 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 Floodplain 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 (Flood Plain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. The local Floodplain Administrator is required to perform this review for all proposed development and maintain records of such review.

Andrew R. Commer
Chief, Regulatory Office

Enclosures



 <p>EAGLE ENVIRONMENTAL CONSULTING, Inc. 0 10,000 2,000 3,000 4,000 5,000 6,000 7,000 8,000 Feet 1 inch = 4,000 feet</p>	<p>Legend</p> <ul style="list-style-type: none"> Dredge Disposal Pond Dredging Areas 	<p>Project Vicinity Map</p> 	<p>Figure 1 General Location Map Johnston's Port 33 Rogers County, Oklahoma</p>
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SWT-2012-519
 Johnston's Port 33, Inc.
 Cutoff Dredging and Spoil Pond Construction
 Verdigris River, Rogers Co. OK.
 Enclosure 1 of 7



Legend	
	Photo Location
	Dredge Disposal Pond
	Dredging Area
	Pipelines
	Berm
	Wetland

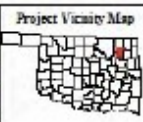
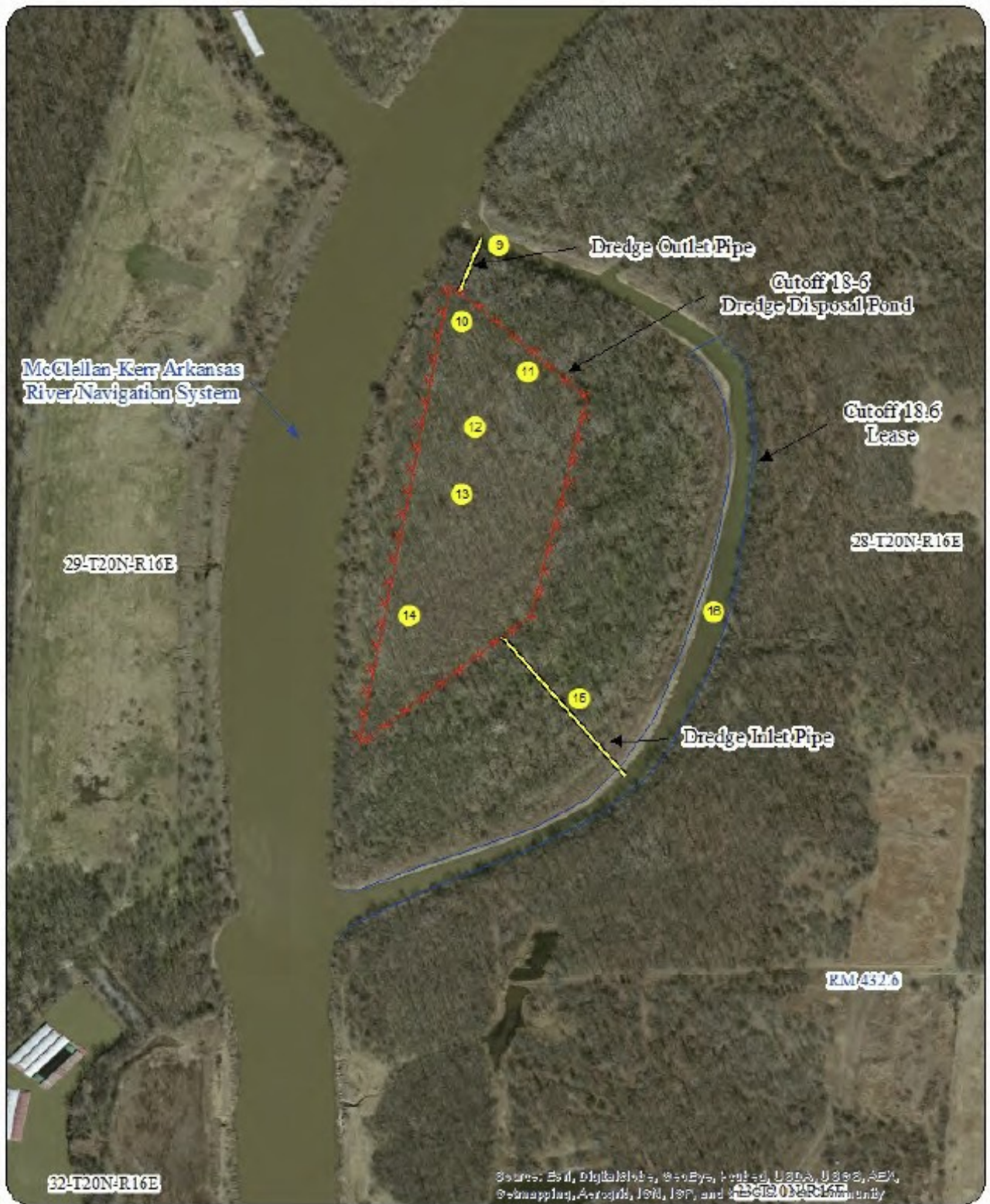

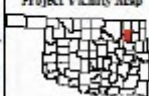


Figure 3
Cutoff Lease 18-9 Location
Johnston's Port 33
Rogers County, Oklahoma

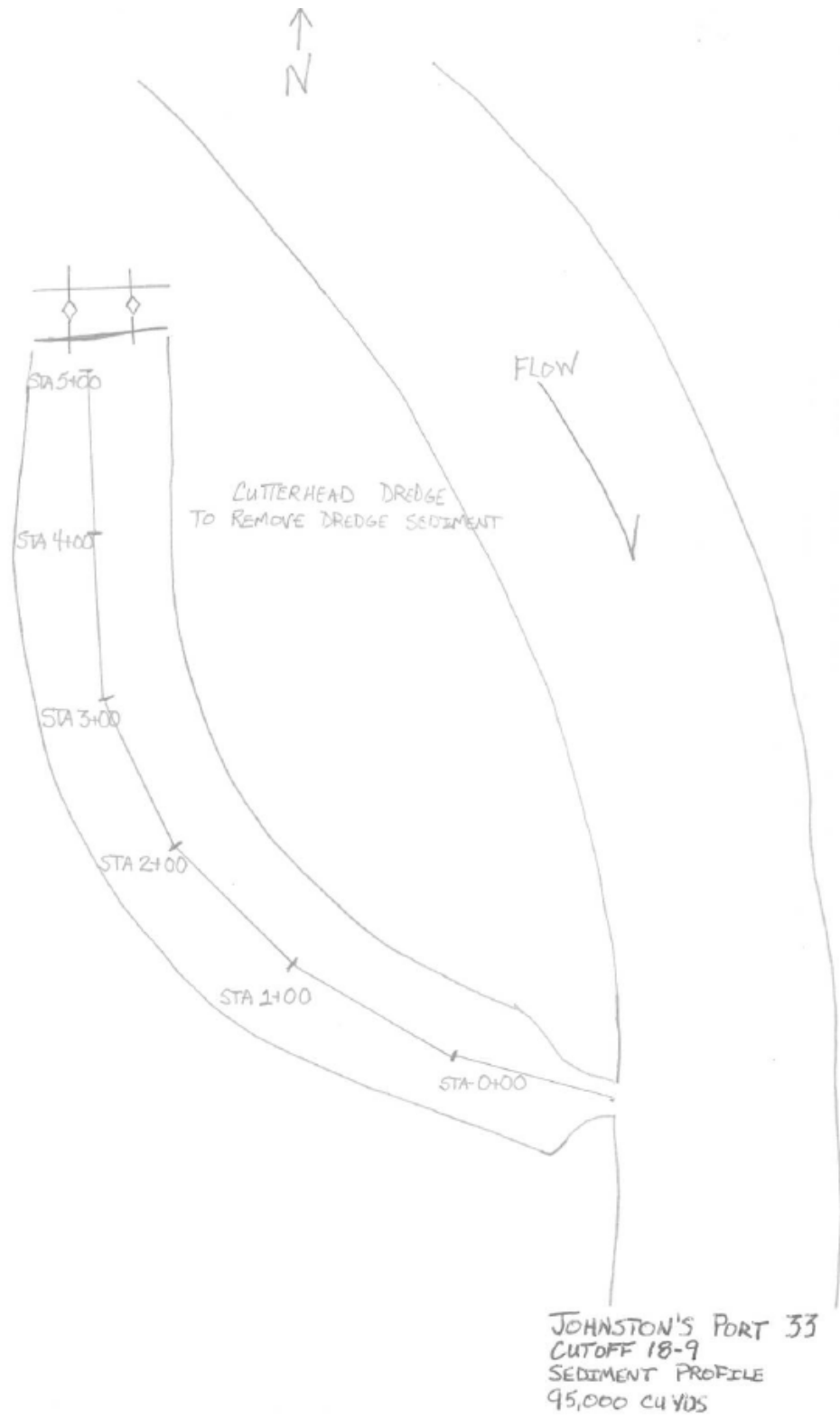
SWT-2012-519
Johnston's Port 33, Inc.
Cutoff Dredging and Spoil Pond Construction
Verdigris River, Rogers Co. OK.
Enclosure 2 of 7



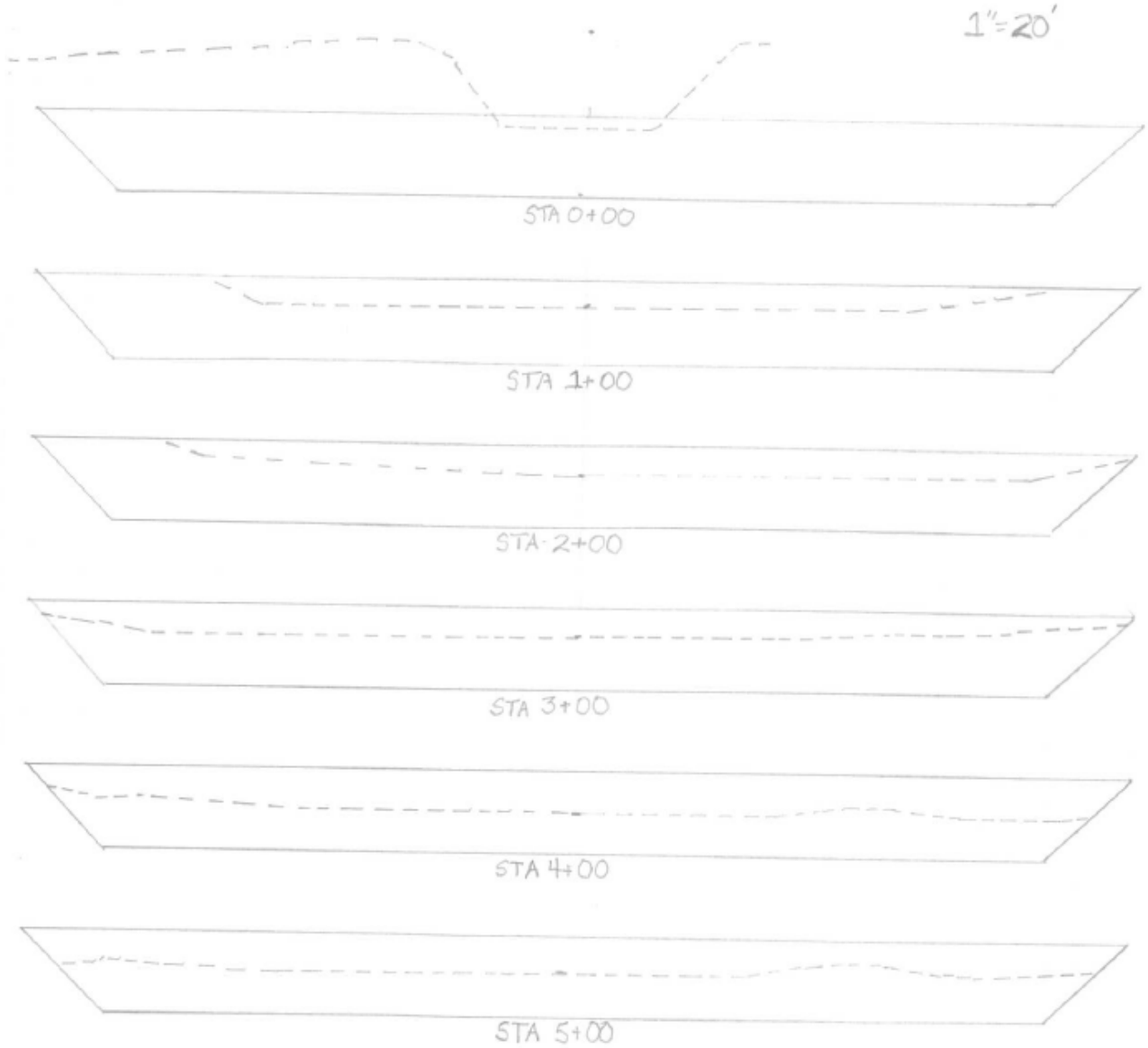
Source: Esri, DigitalGlobe, GeoEye, Earthstar (USA), USGS, Aero, GeoEye, IGN, CNR, and the community

 <p>EAGLE ENVIRONMENTAL CONSULTING, Inc.</p> <p>0 100 200 300 400 500 Feet</p>	<p>Legend</p> <ul style="list-style-type: none"> ● Photo Location Dredge Disposal Pond Dredging Area Pipeline Berm 	<p>Project Vicinity Map</p> 	<p>Figure 4 Cutoff Lease 18-6 Location Johnston's Port 33 Rogers County, Oklahoma</p>
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SWT-2012-519
Johnston's Port 33, Inc.
Cutoff Dredging and Spoil Pond Construction
Verdigris River, Rogers Co. OK.
Enclosure 3 of 7



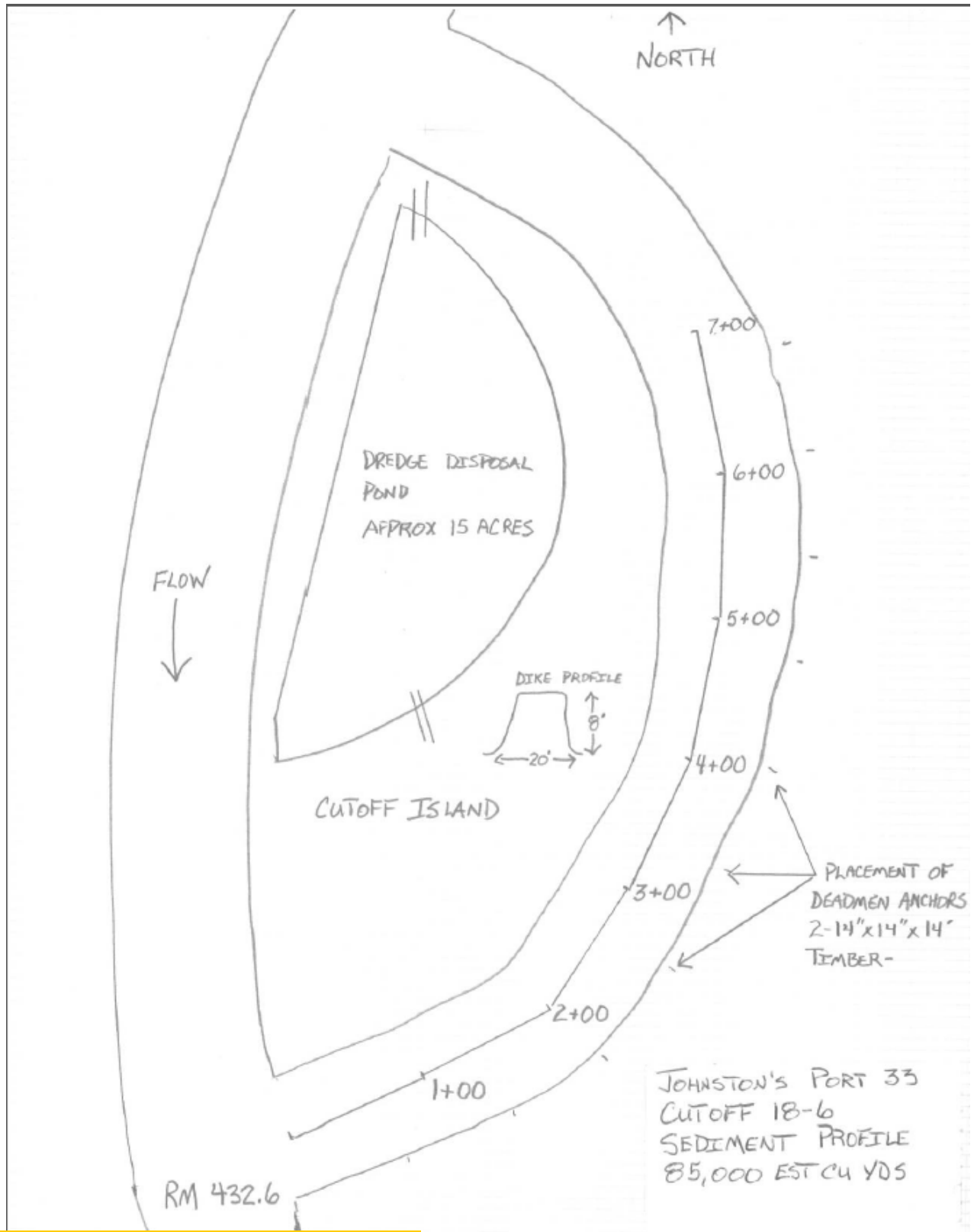
SWT-2012-519
Johnston's Port 33, Inc.
Cutoff Dredging and Spoil Pond Construction
Verdigris River, Rogers Co. OK.
Enclosure 4 of 7



2,400 Ft x 160 Ft x 12 Ft

JOHNSTON'S PORT 33
 CUTOFF 18-9
 SEDIMENT PROFILE
 95,000 CU YDS

SWT-2012-519
 Johnston's Port 33, Inc.
 Cutoff Dredging and Spoil Pond Construction
 Verdigris River, Rogers Co. OK.
 Enclosure 5 of 7



SWT-2012-519
 Johnston's Port 33, Inc.
 Cutoff Dredging and Spoil Pond Construction
 Verdigris River, Rogers Co. OK.
 Enclosure 6 of 7

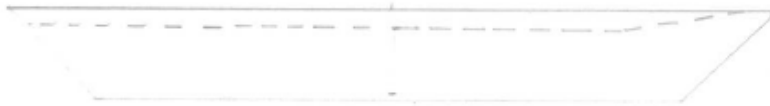
1" = 20'



STA 0+00



STA 1+00



STA 2+00



STA 3+00



STA 4+00



STA 5+00



STA 6+00



STA 7+00

2,800ft x 95ft x 12ft

JOHNSTON'S PORT 33
CUTOFF 18-6
SEDIMENT PROFILE
85,000 EST CU YARDS