



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-2016-336
Public Notice No.

March 3, 2017
Public Notice Date

April 3, 2017
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.

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 No. SWT-2016-336

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 and Section 10 of the Rivers and Harbors Act of 1899. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

Applicant: Mr. James McCoy
P.O. Box 626
Gore, OK 74435

Location: The proposed project is in Sections 32 and 33, Township 13 North, Range 21 East, within the Illinois River, near Gore, Sequoyah County, Oklahoma. The project site can be found on the Gore, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 35.559038 and West Longitude 95.092492.

Project Description: The application is for an After-the-Fact Permit for the unauthorized placement of fill into waters of the United States and the proposed excavation of riverine gravel from the Illinois River associated with a bank stabilization project.

Purpose: The basic purpose of this work is to stabilize eroding riverbanks, which are water dependent activities.

The overall purpose of this work is to stabilize eroding banks to protect the uplands from further erosion.

Table of Impacts:

Original Proposal					
<u>Number or Location</u>	<u>Impact Activity</u>	<u>Type of Water</u>	<u>Type of Fill Material</u>	<u>Qty of Material cys below OHWM</u>	<u>Footprint (ac and/or lf)</u>
Illinois River (right descending bank)	Placement of fill material	Riverine	Concrete Rip Rap	2,310cys	0.05 ac (770 lf)
Illinois River (left descending bank)	Excavation and Placement of fill material	Riverine	Native river gravel fill	31 cys	0.03 ac and 0.03 ac (100 lf)
Illinois River	Placement of fill material	Riverine	Demolition Concrete Slabs	278 cys	0.20 ac (900 lf)
TOTAL				2,619 cys	0.31 ac (1,770 lf)
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant’s proposal would require both the excavation of native river gravel and the placement of excavated fill material for bank stabilization. Demolition concrete slabs and concrete rip rap have been placed for erosion protection within the Illinois River, without a DA permit. The applicant’s proposal is to leave the demolition concrete and rip rap in place and to fill voids behind and between the concrete slabs with native river gravel (0.03 ac), which would be excavated from the proposed project location. The proposal includes approximately 1,770 lf (0.31 ac) of existing and proposed impacts, resulting in a total of approximately 2,619 cys of fill material below the OHWM. All work would be performed using conventional earthmoving equipment. For safety, the Corps has required that all protruding rebar and metal be removed from the concrete.

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

The bank protection is limited to what is needed to protect the applicant’s property.

Mitigation: The applicant has not proposed any compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

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.

Project Setting: This project is located within the Lower Boston Mountains. The Lower Boston Mountains is characterized by low mountains, rounded high hills, and benches in the Ozark Plateau physiographic province. This ecoregion is comprised of mostly oak-hickory forest, including bottomland hardwood forests.

Existing Condition: Based on 2014 aerial imagery and a site assessment, the proposed project site is comprised of rural agricultural land, which is adjacent to one of two year-round Oklahoma trout fisheries (Illinois River). It is also bordered by a few rural commercial and residential developments.

Cultural Resources: The DE is responsible to ensure compliance with the National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665), as amended and other cultural resources laws and Executive Orders. A preliminary review of the state's records has been completed for the presence of sites included in, or eligible for inclusion in the National Register of Historic Places, as well as the Oklahoma Landmark Inventory Database. There are no known historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area.

This notice has been provided to the Oklahoma State Historic Preservation Office, Oklahoma Archaeological Survey, Native American Tribal governments, and other interested parties. If you have information pertaining to cultural resources within the permit area, please notify the Corps project manager identified within this notice to assist in a complete evaluation of potential effects. The DE will evaluate any input received and may require further investigations within the permit area, if warranted.

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: interior least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), American burying beetle (*Nicrophorus americanus*), gray bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*). 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.

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 effect 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.

Plans and Data: 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 PM name, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

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 the expiration date of this public notice. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128 4609; or email CESWT-RO@usace.army.mil, please include the public notice number SWT-2016-336 in the subject line of the message.

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

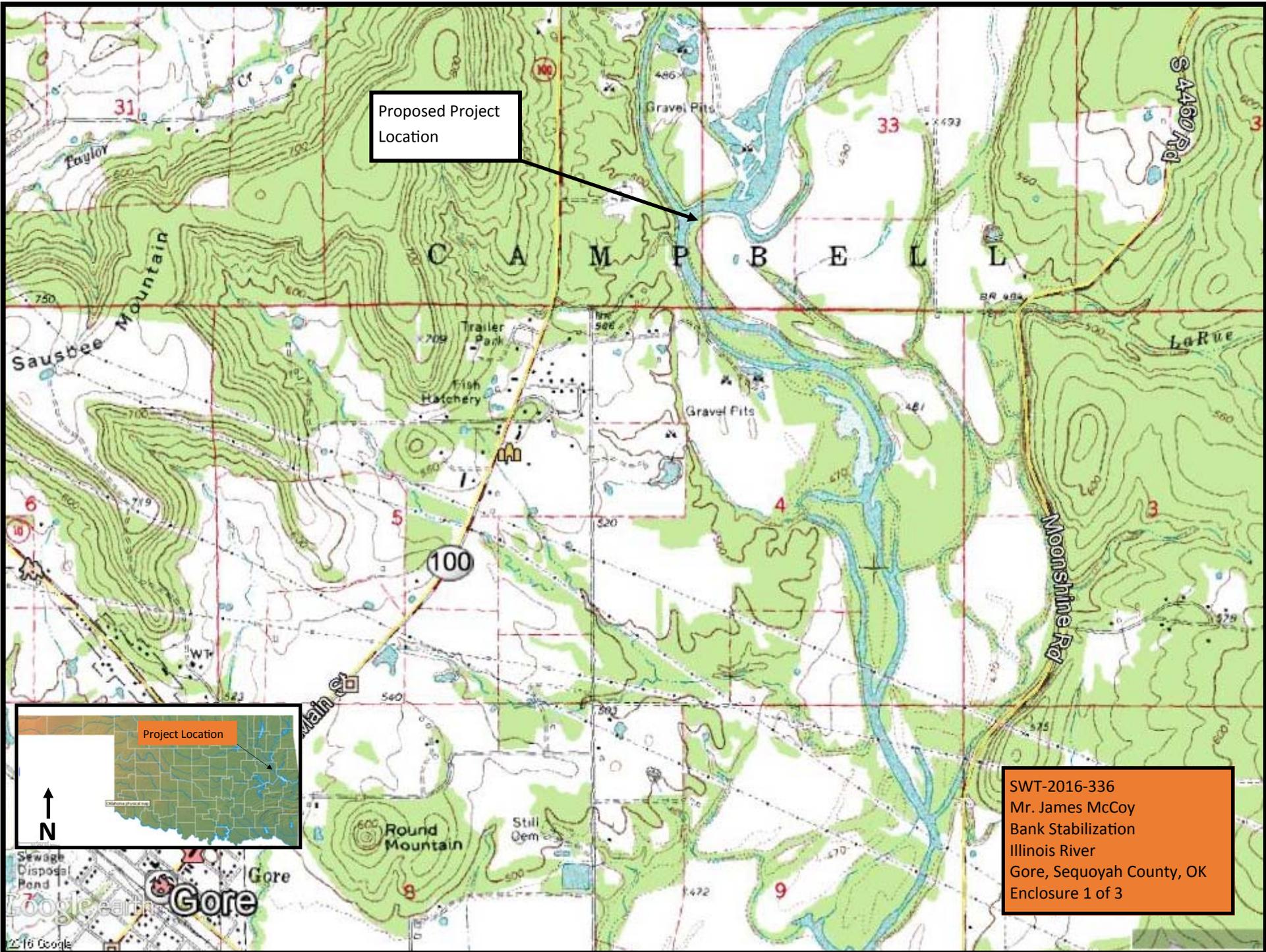
administrator is required to perform this review for all proposed development and maintain records of such review.

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 and Section 10 of the Rivers and Harbors Act of 1899.

Andrew R. Commer
Chief, Regulatory Office

Enclosures

Proposed Project Location



SWT-2016-336
Mr. James McCoy
Bank Stabilization
Illinois River
Gore, Sequoyah County, OK
Enclosure 1 of 3

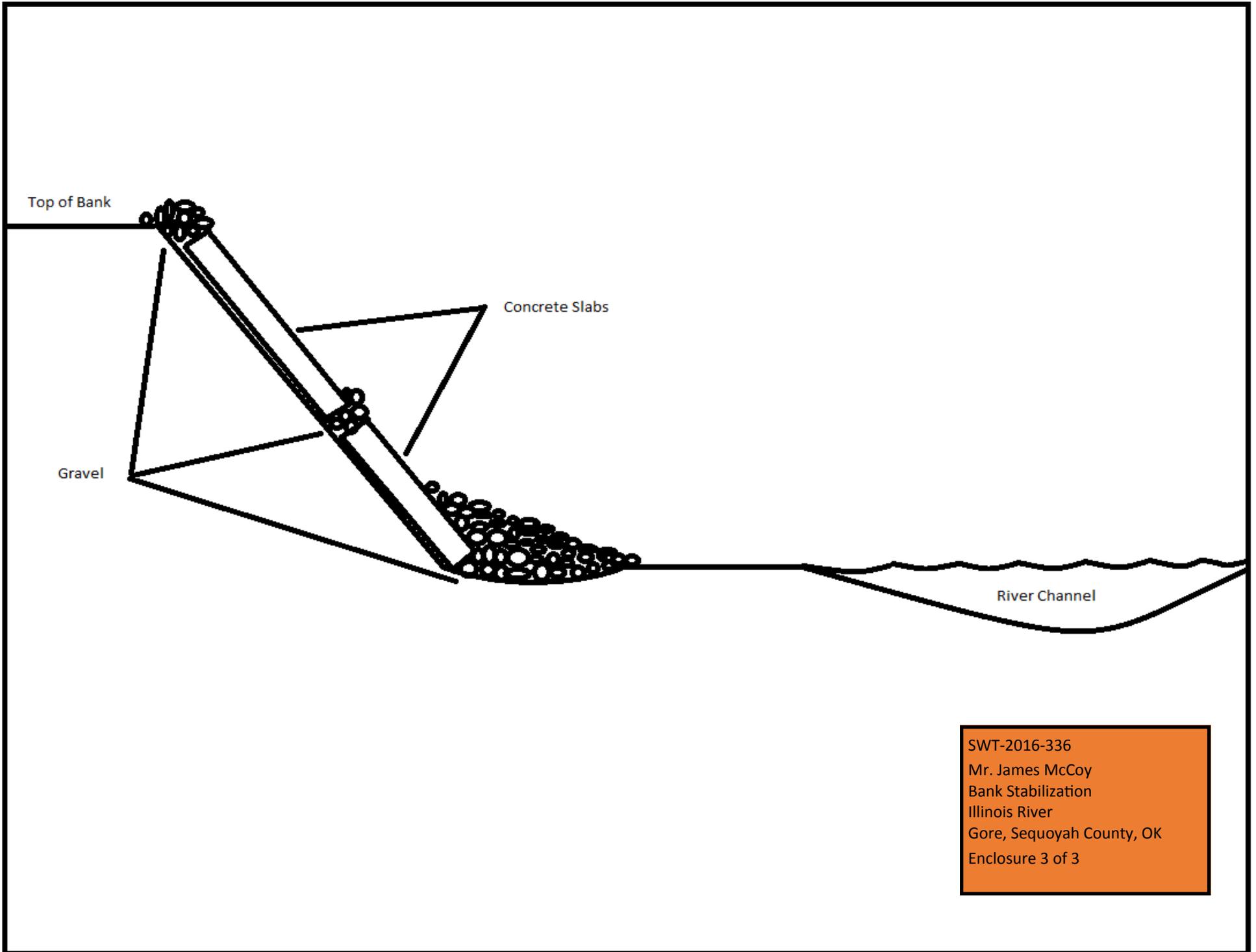


Proposed and Existing Bank Stabilization Area

Proposed Excavation Area



SWT-2016-336
Mr. James McCoy
Bank Stabilization
Illinois River
Gore, Sequoyah County, OK
Enclosure 2 of 3



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Enclosure 3 of 3