



# Public Notice

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U.S. Army Corps  
of Engineers  
Tulsa District

Reply To:

U.S. Army Corps of Engineers  
ATTN: Regulatory Office  
2488 East 81<sup>ST</sup> Street  
Tulsa, Oklahoma 74137-4290

SWT-2019-157  
Public Notice No.

April 8, 2019  
Public Notice Date

May 8, 2019  
Expiration Date

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## **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**

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DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, TULSA DISTRICT  
2488 EAST 81ST STREET  
TULSA, OKLAHOMA 74137-4290

Application No. SWT-2019-157

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 (CWA) 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. Steve Carter  
Sequoyah County Commissioner, District 2  
117 South Oak, Suite 112  
Sallisaw, OK 74955

Location: The proposed project is in located in and adjacent to 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 35.522744 and West Longitude -95.088154.

Project Description: The application is to continue the excavation of gravel at this location by utilizing a track hoe and bulldozer. The applicant's primary source of gravel would be along the left descending bank (east side) bordering the Illinois River.

Fill material for the proposed project would consist of the redistribution of dredged material by the operation of the bulldozer. This material would consist of gravel throughout various locations along the project area and would include two work roads utilized by Sequoyah County and the Oklahoma Department of Wildlife Conservation.

This project was previously authorized with a Department of the Army permit, Number OKR3015100, which is expired.

Purpose: The overall purpose of this work is to excavate gravel to be used for Sequoyah County road maintenance. The project is not a water dependent activity.

Summary Table of Impacts:

Original Proposal					
Number or Location	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cys below OHWM	Footprint (ac and/or lf)
Illinois River	Excavation and Redistribution of the Excavated Material	Stream	Gravel and sediment from the Illinois River and Creek	15,000 cys	25.3 ac
Road 1	Discharge of Dredge Material	Stream	Gravel and sediment from the Illinois River and Creek	1,620 cys	730 lf
Road 2	Discharge of Dredge Material	Stream	Gravel and sediment from the Illinois River and Creek	139 cys	82 lf
cubic yards (cys), ordinary high water mark (OHWM), acre (ac), linear feet (lf)					

Description of Work: The applicant proposes to use a track hoe and bulldozer to excavate approximately 15,000 cubic yards of gravel per year. All excavated materials would be loaded and hauled to a worksite. All equipment will be stored above the Ordinary High Water Mark of the Illinois River. The proposed primary sources of gravel would be along the left descending bank (east side) bordering the Illinois River. Fill material for the project would consist of the redistribution of dredged material by the operation of the bulldozer and the maintenance of Roads 1 and 2.

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:

“Our intent is to keep as much of the Rivers fresh water in the main channel as we can....for the sport fish (stippers, crappie, sand bass, trout, etc.)”

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

No mitigation has been proposed for this project.

This mitigation plan 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. Compensatory Mitigation for unavoidable impacts may be required to ensure that this activity requiring a Section 404 permit, if issued, complies with the Section 404 (b)(1) Guidelines. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Government Authorizations obtained or received:

Project Setting: The proposed project site consists of previously excavated area within the Illinois River, surrounded by agricultural areas, located southeast of Gore, OK.

Existing Condition: The proposed project site consists of an area that has been previously used for gravel excavation from the Illinois River. The project is labeled as a gravel pit area on USGS 7.5 minute topographic maps (Gore, OK) and is located adjacent to agricultural land.

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.

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: Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), Least tern (*Sterna antillarum*), Piping plover (*Charadrius melodus*), Red knot (*Calidris canutus rufa*), Neosho mucket (*Lampsilis rafinesqueana*), Rabbitsfoot (*Quadrula cylindrica cylindrica*), American burying beetle (*Nicrophorus americanus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. The IPAC consultation number is 02EKOK00-2019-SLI-1310.

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.

Evaluation Factors: 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.

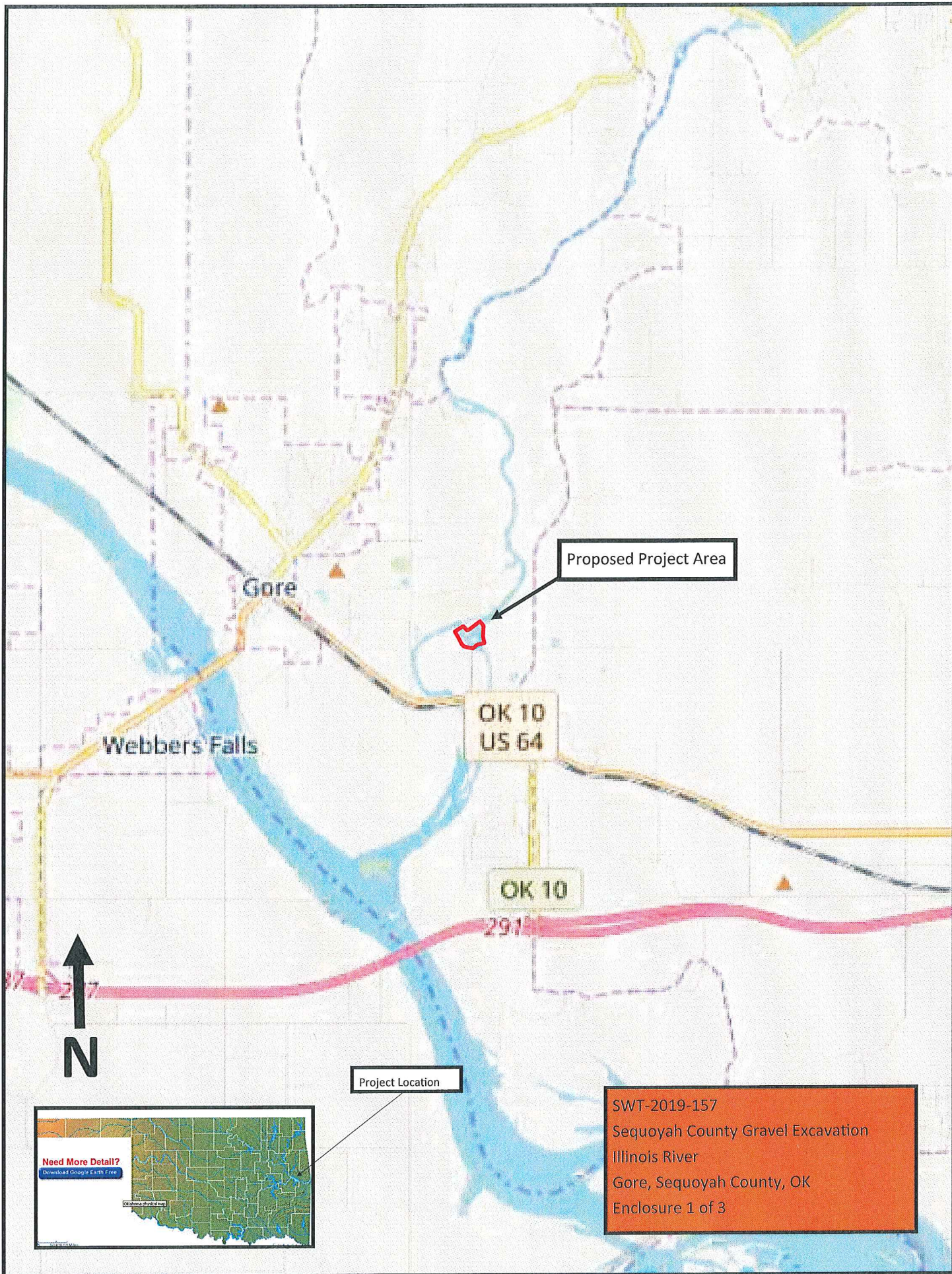
Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice. If additional information is desired, it may be obtained from Ms. Eva Zaki-Dellitt, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

Comments: 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. 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, 2488 East 81st Street, Tulsa, OK 74137; or email CESWT-RO@usace.army.mil, please include the public notice number SWT-2019-157 in the subject line of the message.

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



Proposed Project Area

Gore

Webbers Falls

OK 10  
US 64

OK 10

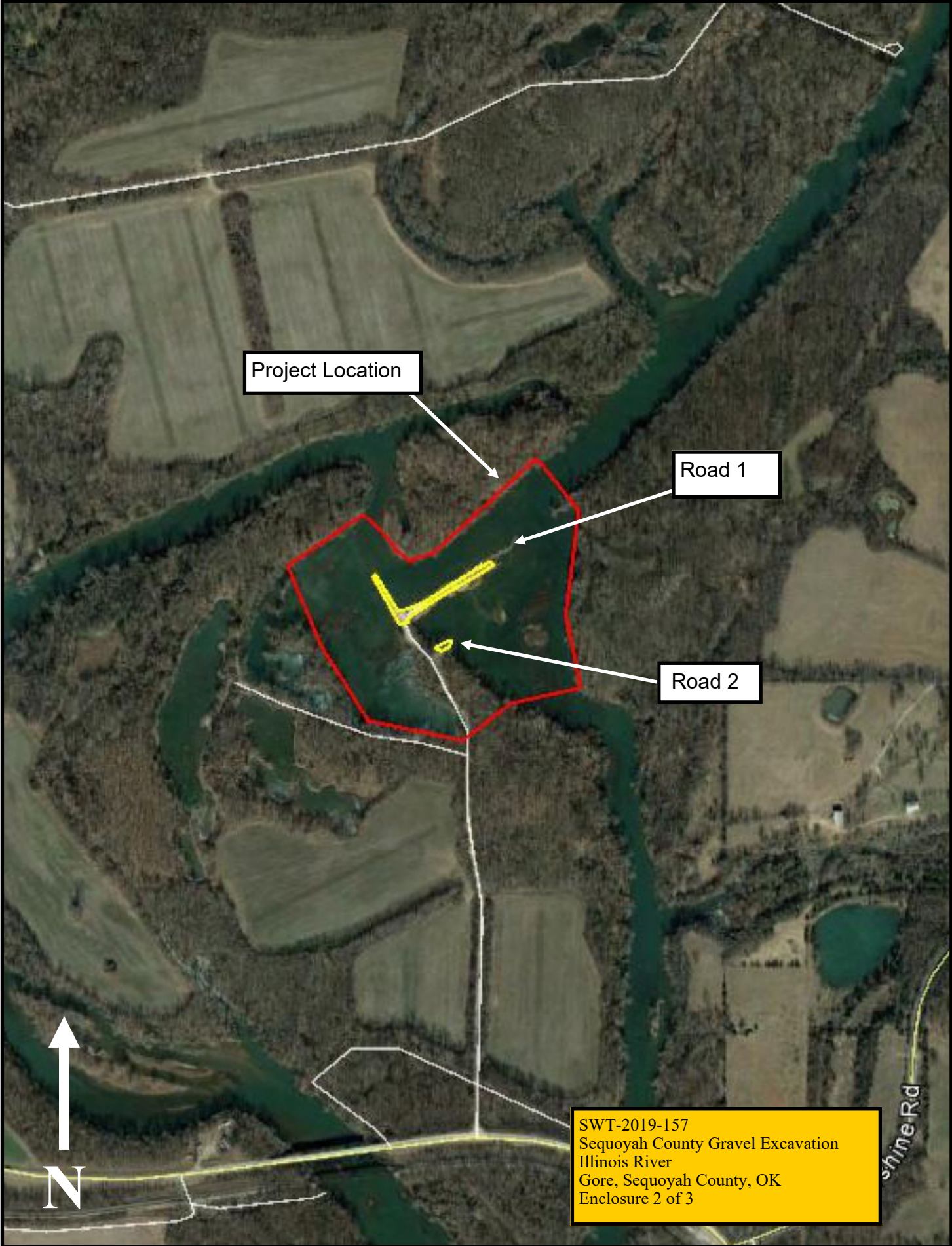
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Project Location

SWT-2019-157  
Sequoyah County Gravel Excavation  
Illinois River  
Gore, Sequoyah County, OK  
Enclosure 1 of 3





Project Location

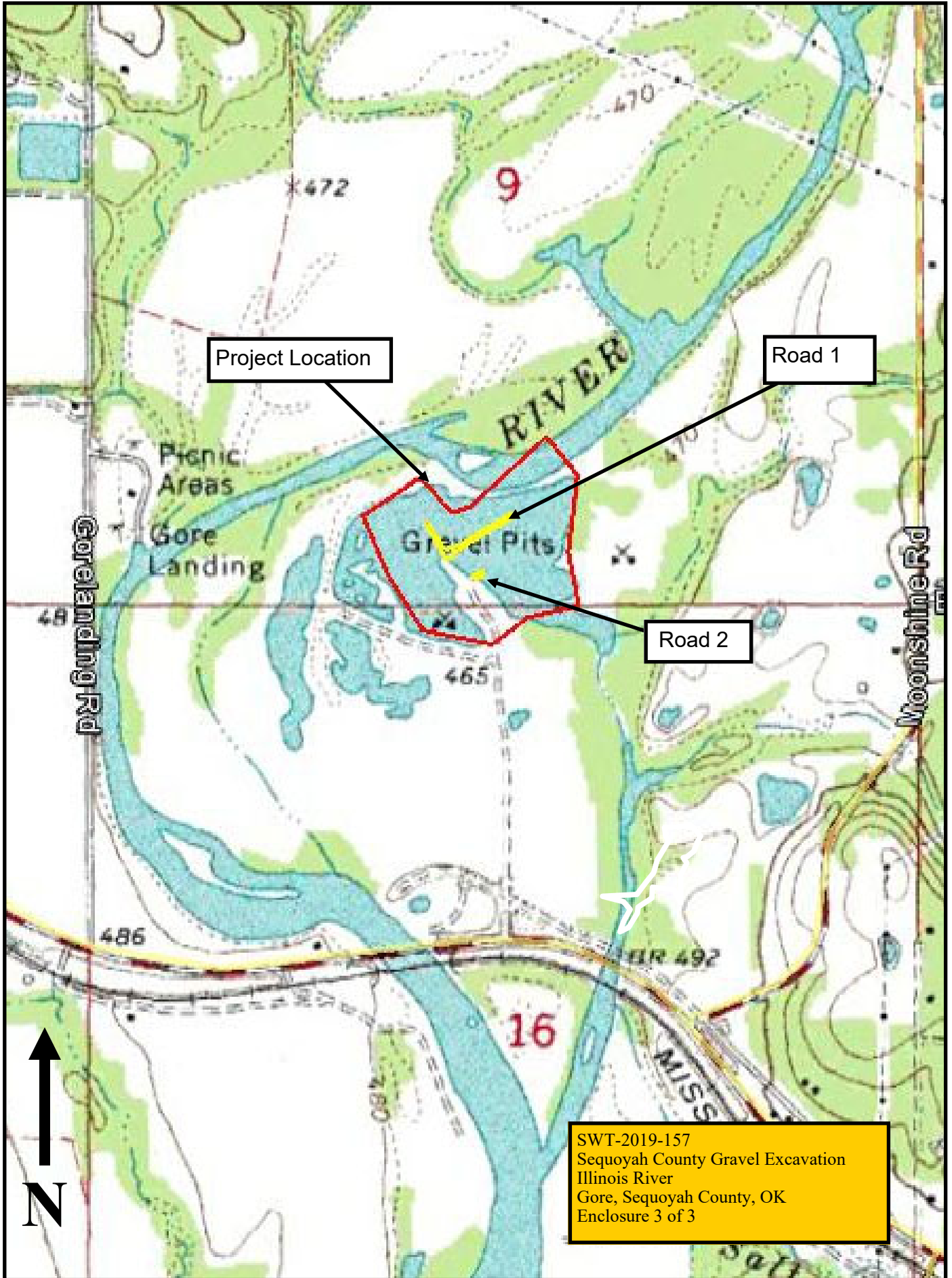
Road 1

Road 2



SWT-2019-157  
Sequoyah County Gravel Excavation  
Illinois River  
Gore, Sequoyah County, OK  
Enclosure 2 of 3

shine Rd



Project Location

Road 1

Road 2

SWT-2019-157  
Sequoyah County Gravel Excavation  
Illinois River  
Gore, Sequoyah County, OK  
Enclosure 3 of 3

