



**US Army Corps
of Engineers.**

Vicksburg District

4155 Clay Street
Vicksburg, MS 39183-3435
www.mvk.usace.army.mil



Public Notice

FILE NO.:	<u>MVK-2014-445 (General Permit 60)</u>
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DATE:	<u>May 28, 2014</u>
EXPIRATION DATE:	<u>June 27, 2014</u>

**FOR: ENTERGY OWNED ARKANSAS HYDROPOWER LAKES
PROGRAMMATIC GENERAL PERMIT FOR MINOR CONSTRUCTION
ACTIVITIES AND THE ASSOCIATED DISCHARGE OF DREDGED
AND/OR FILL MATERIAL FOR THE FOLLOWING ACTIVITIES:**

**MVK-PGP-60-A: SHORELINE STABILIZATION/RETAINING WALLS
MVK-PGP-60-B: BOAT RAMPS
MVK-PGP-60-C: DREDGING/EXCAVATION
MVK-PGP-60-D: CUT-IN BOAT DOCKS**

**WHERE: LAKE CATHERINE AND LAKE HAMILTON, GARLAND AND HOT
SPRING COUNTIES, ARKANSAS, WITHIN THE REGULATORY
JURISDICTION OF THE VICKSBURG DISTRICT**

**BY WHOM: DISTRICT ENGINEER, VICKSBURG DISTRICT, ON BEHALF OF
ENTERGY ARKANSAS, INCORPORATED, HYDRO OPERATIONS**

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Vicksburg District, and the Arkansas Department of Environmental Quality are considering the reissuance of a General Permit and State Water Quality Certifications for the activities described herein. Comments should be forwarded to the Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435, and to the Arkansas Department of Environmental Quality at 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

The U.S. Army Corps of Engineers, Vicksburg District, is currently considering the reissuance of a Department of the Army Programmatic General Permit for regulated activities associated with minor construction activities within waters of the United States, and the associated discharge of dredged and/or fill material within the regulatory jurisdiction of the Vicksburg District on Entergy owned lakes in the State of Arkansas. A map identifying the Vicksburg District is provided (enclosure 1). A general location map identifying the Entergy owned lakes: Catherine and Hamilton, within the Vicksburg District is provided (enclosure 2).

This proposed General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Conformance with conditions contained in the General Permit would not necessarily guarantee authorization under this General Permit. In cases where the District Engineer or Entergy Personnel considers it necessary, an application would be required for an individual permit. Construction, dredging, or fill operations not specifically authorized by this General Permit would be prohibited unless authorized by a separate permit.

This action is being taken pursuant to Federal regulations printed in the Federal Register on November 13, 1986, concerning permits for activities in waters of the United States. These regulations state the U.S. Army Corps of Engineers' responsibility for regulating structures or work in or affecting waters of the United States under Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

General Permits may be issued for a category or categories of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the General Permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, State, or local agency, provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. The final decision regarding a determination that the proposed activities would comply with the requirements for the issuance of General Permits will be made based in part on comments received from responders to this public notice. Documentation of the final decision will be made available for inspection at the office of the Vicksburg District's Regulatory Branch at 4155 Clay Street, Vicksburg, Mississippi.

If issued, this General Permit would be valid for a 5-year period beginning on the issue date. At the end of that time, the cumulative environmental effects of completed work would be reviewed and reissuance of the permit would be considered. However, if unforeseen adverse environmental effects result from the issuance of this General Permit, it may be modified or terminated at any time. Case specific authorizations under this General Permit would be valid until the

General Permit expires or is terminated. When authorized activities are in progress on the expiration date of this General Permit, the authorization would be extended for up to 1 year to allow for completion of authorized work.

In compliance with requirements of Section 401 of the Clean Water Act, the Vicksburg District would obtain water quality certification from the Arkansas Department of Environmental Quality stating that the work authorized by the proposed General Permit would not violate applicable provisions of Sections 301, 302, 306, and 307 of the Act.

Listed below are the types of activities that may be authorized under this Programmatic General Permit, along with the special conditions and limitations.

DEFINITIONS:

Excavation – Removal of newly deposited silt or other material through means that result only in incidental fall-back.

Dredging – Any form of excavation under the water or below the high water mark.

Wetlands – For this Programmatic General Permit, the Corps recognizes wetlands at Lakes Hamilton and Catherine as those areas previously identified in Entergy's Shoreline Management Plan as "Limited Use – Existing Wetlands Areas".

Ordinary High Water (OHW) – A line on the shore established by the fluctuation of water and indicated by the physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

1. MVK-PGP-60-A: Shoreline Stabilization/Retaining Walls: This general permit would authorize the construction of retaining walls, the placement of armoring systems (rip rap), bioengineering, and other standard shoreline protection/stabilization devices at, along, or roughly paralleling the shoreline or bank.

a. Retaining wall construction would be limited to a total project length of 750 feet. There is no limit to the length that may be authorized for other protection devices.

b. Protection structures would be at:

- 1. ordinary high water line in non-tidal waterbodies;**
- 2. landward of all jurisdictional wetlands.**

c. No wetlands would be filled, although protection devices may be constructed for wetland areas, as long as the wetlands themselves are not otherwise adversely affected.

1. If the area or any portion to be protected is a wetland, no fill would be placed in the wetland, and the shore protection device would be designed to allow the normal hydrologic regime to be maintained in wetland areas.

2. Flow-through retaining walls (e.g., gabions) designed to dissipate wave energy in wetland areas may be constructed waterward of the wetlands and placed below the line of ordinary high water, if they are designed to allow for the normal hydrologic regime and they do not interfere with navigation.

d. Armoring material (e.g., rip rap) placed below the plane of ordinary high water would not exceed an average of one (1) cubic yard per linear foot of shoreline being protected.

e. Vertical face structures intended to replace failing erosion control structures may be placed waterward of the line of ordinary high water, but would not extend more than 24 inches waterward from the base of the failed structure. In no instances would vegetated wetlands (emergent or submersed) or shellfish beds be filled.

f. Rip rap or other approved stabilization material would not extend farther than six feet into the waterway from the ordinary high water line.

g. Use of the appropriate filter fabric is required to stabilize backfill and other easily eroded material.

h. Only clean material, free of waste, metal and organic trash, unsightly debris, petroleum products (e.g., asphalt), etc., may be used as backfill.

i. Only clean rip rap material, free of exposed rebar, asphalt, plastic, soil, etc., may be used as armoring material to augment/armor other protection devices/measures.

j. Solid groins and jetties roughly perpendicular to the shoreline would not be authorized under this General Permit.

k. This General Permit may not be used to create fast land, or otherwise accrete land.

2. MVK-PGP-60-B: Boat Ramps: This General Permit would authorize the construction or modification of boat ramps.

- a. Care would be taken in the placement of boat ramps to avoid interrupting the natural movement of sediments.
- b. Stormwater runoff from boat ramp approaches and parking areas would not be directed down the boat ramp.
- c. This type of activity would be limited to 100 cubic yards of dredged material and 25 cubic yards of fill material placed below ordinary high water. Fill material must be approved by Entergy personnel (e.g., concrete).
- d. Best management practices would be used at all times during construction to minimize turbidity at both the dredge and spoil disposal sites.
- e. All dredged material would be properly confined in an upland area, unless otherwise specifically authorized.
- f. Spoil disposal areas would be immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
- g. No dredging or filling would be authorized in wetlands or submerged grass beds, and no dredged material would be used to raise the elevation of any wetlands, unless otherwise specifically authorized.

3. **MVK-PGP-60-C: Dredging/Excavation:** This General Permit would authorize dredging/excavation to depths no greater than the depth of the waters leading to the area to be maintained.

- a. Dredging would be limited to the previously dredged and previously authorized dimensions.
- b. Dredging of up to 500 cubic yards of material would be authorized by this General Permit.
- c. Best management practices would be used at all times during construction to minimize turbidity at both the dredge and spoil sites.
- d. All dredged material would be properly confined in an upland area, unless otherwise specifically authorized.
- e. Spoil disposal areas would be immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
- f. No dredging would be authorized in wetlands or designated fish spawning nursery areas. Exceptions may be made for noxious and/or exotic vegetation in man-made water bodies.

4. MVK-PGP-60-D: Cut-In Boat Docks: This General Permit would authorize the placement of dredged and/or fill material related to the construction and installation of cut-in boat docks.

- a. No keyhole slips would be permitted.
- b. Cut-in slips would be indented, or angled such that the cut-in is less than or equal to 45 degrees. Cut-in slips would not be situated such that they are perpendicular to the shoreline (e.g., with 90 degree sides).
- c. Best management practices would be used at all times during construction to minimize turbidity at both the dredge and disposal sites.
- d. All dredged material would be properly confined in an upland area, unless otherwise specifically authorized.
- e. Spoil disposal areas would be immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
- f. No dredging or filling would be authorized in wetlands or designated fish spawning nursery areas. No material may be used to raise the elevation of any wetlands, unless otherwise specifically authorized.
- g. Disturbed wetland areas would be revegetated with naturally occurring indigenous species, if the area has not revegetated to pre-project conditions within one year of project completion.

REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT:

In order to be authorized by this General Permit, persons proposing the work would be required to submit to the Entergy Arkansas, Incorporated, Hydro Operations Office, in writing, a completed application form, which includes location maps and drawings. The required format may be obtained from the Entergy Arkansas, Incorporated, Hydro Operations Office, 141 West County Line Road, Malvern, Arkansas 72104, telephone 501-844-2148.

General Conditions:

- a. No activity that may adversely impact a site listed in or eligible for listing in the National Register of Historic Places, or a site that has previously been unevaluated, would be allowed by this General Permit. Additional fill material would not be taken from a known historical or archaeological site within or outside of regulated areas. If the permittee, during prosecution of work authorized herein, inadvertently discovers or accidentally destroys a cultural resource such as a cemetery, shipwreck, mound, historic structure, or archaeological site, within the area subject to Department of the Army

jurisdiction, they would cease work in the immediate area and notify the District Engineer within 24 hours. The District Engineer, in consultation with the appropriate State Historic Preservation Officer and the Federally recognized Tribe, would comply with the procedures set forth in 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).

b. Dredged, excavated, or fill material used for construction would be non-polluting material, in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.

c. All construction activities would be performed in a manner that will minimize increased turbidity of the water in the work area, and otherwise avoid adverse effects on water quality and aquatic life, especially during fish spawning seasons.

d. All fill material would be compacted upon completion of construction. The site would be naturally revegetated or manually seeded, or sodded as necessary, to restore cover and prevent erosion. In areas subject to currents, riprap may be required for slope protection.

e. All material not used as backfill would be placed upland, and no runoff water from these disposal sites would be allowed to enter the waterway or adjacent wetlands.

f. The discharge would not be located so as to adversely affect a public water supply intake and/or a national or state fish hatchery intake.

g. The discharge would not contain unacceptable levels of pathogenic organisms in areas used for sports involving physical contact with the water.

h. The discharge would not occur in areas of concentrated shellfish production.

i. No activity that is likely to adversely affect Federally listed threatened or endangered species, or that is likely to destroy or adversely modify the critical habitat of such species, would be authorized under this General Permit.

j. The construction activity would not result in the relocation of the stream or river channel, and would not impede stream flow.

k. Authorized structures would not increase frequency, duration, or elevation of floodwaters on adjoining property.

l. Creation of fast lands would not be authorized under this General Permit.

m. Authorization may not be granted for structures and activities that may be hazardous to navigation or that may produce adverse effects on the chemical, physical, or biological integrity of water bodies, such as the dredging and filling of wetlands. The term "wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Such areas serve important purposes relating to water quality, fish and wildlife, recreation, and other elements in the general public interest. As environmentally vital areas, they constitute productive and valuable public resources, the unnecessary alteration or destruction of which is contrary to the public interest.

n. Satisfactory plans would be submitted, and all State and local permits would be obtained before work can be initiated.

o. The discharge would not occur within 1,500 feet of a colonial wading bird rookery or nest location, without the consent of the U.S. Fish and Wildlife Service.

p. The time limit for completing an authorized activity ends one year from the date of the authorization. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the expiration date.

q. The permittee agrees to make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

r. The permittee would maintain the activity authorized by the permit in good condition and in conformance with the terms and conditions of the permit. The permittee is not relieved of this requirement if the permitted activity is abandoned. However, a good faith transfer to a third party in compliance with General Condition "s.", below, would be acceptable. If the permittee desires to abandon the authorized activity without a good faith transfer, or wishes to cease to maintain the authorized activity, a modification of the authorization must be obtained from this office, which may require restoration of the area.

s. If the permittee sells the property associated with the authorization under this General Permit, the permittee would notify this office to ensure that the authorization is transferred to the new owner.

t. Representatives from this office would be allowed 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 the permit.

u. This permit would not obviate the need to obtain other Federal, State, or local authorizations required by law.

v. This permit would not grant any property rights or exclusive privileges.

w. This permit would not authorize any injury to the property or rights of others.

x. This permit would not authorize interference with any existing or proposed Federal project.

y. In issuing individual authorizations under these General Permits, the Federal Government, State of Arkansas, designated resource agencies, their employees or staffs would not assume any liability for the following:

(1) Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities, or from natural causes.

(2) 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.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

z. In issuing individual authorizations under these General Permits, the Government will rely on the information and data, which the permittee provides in connection with his permit application. If, subsequent to the authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

Further Information:

a. Additional copies of this Public Notice are available upon request from this office. Requests may be addressed to: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

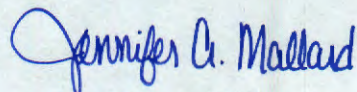
b. The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the

public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, 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, 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 ownership and, in general, the needs and welfare of the people.

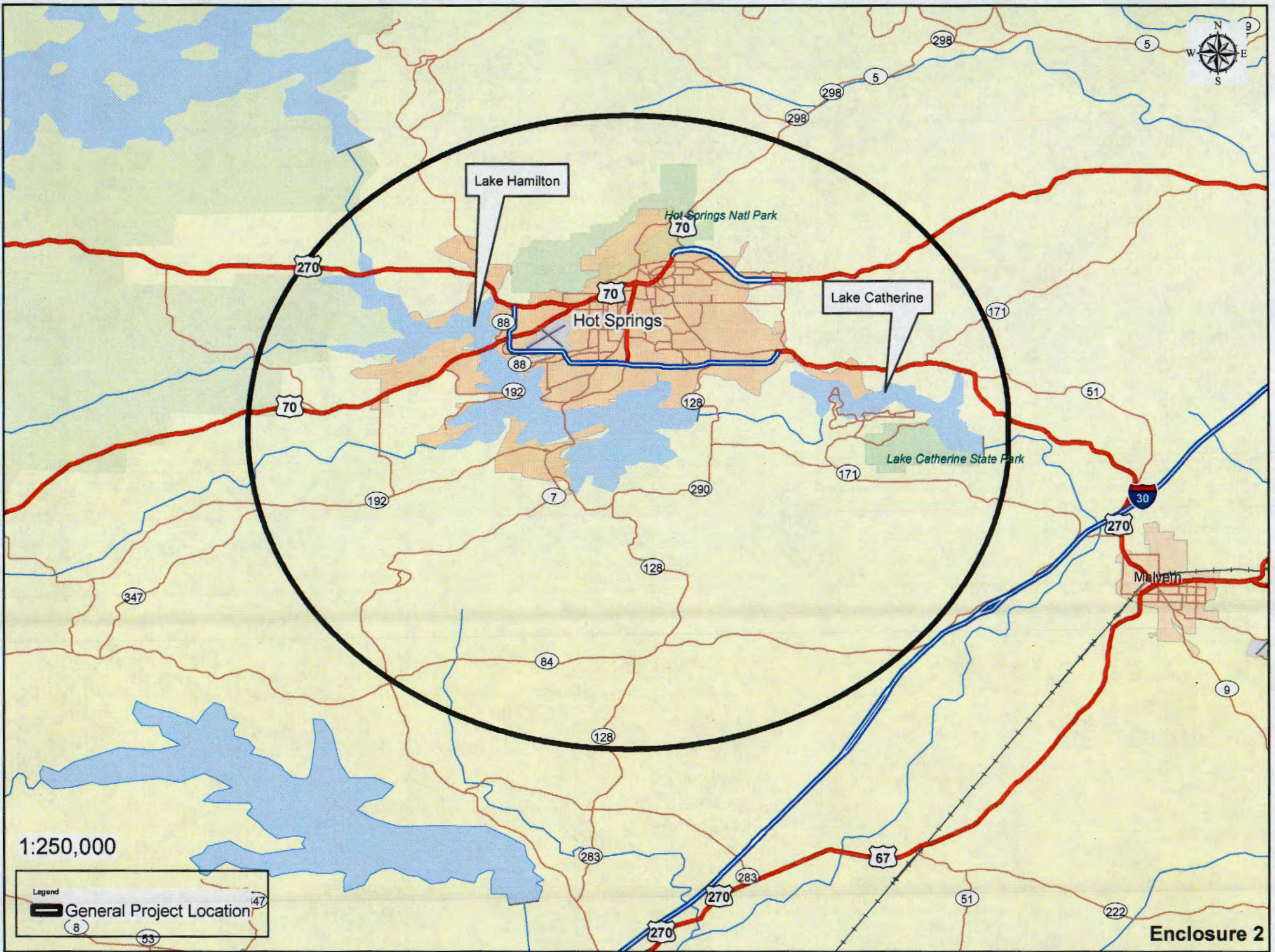
c. The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers 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.

d. Any person may make a written request for a public hearing to consider this proposed General Permit. This request must be made by the expiration date of this public notice and must clearly state why a hearing is necessary. Any individual or agency may comment on the project described in this notice; however, failure to comment will be interpreted to mean that there is no objection to this proposed General Permit. All comments received will be evaluated during the review process of this proposed General Permit.

e. Please bring this announcement to the attention of anyone you know who might be interested in this matter. Anyone wishing to make comments may communicate with us at the following address: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435. Please refer to Identification No. MVK-2014-445.



Jennifer A. Mallard
Chief, Permit Section
Regulatory Branch



Lake Hamilton

Hot Springs Natl Park

Lake Catherine


Hot Springs

Lake Catherine State Park

Melvern

1:250,000

Legend

 General Project Location

Enclosure 2