

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

00057804-1

Issuance Date:

30 August 2005

Stream:

Ohio River MP 404.4

Closing Date:

14 September 2005

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under 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 (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The intent of this Public Notice is to provide an opportunity for the public to express their views on proposed adverse effects to historic properties within the J.M. Stuart Station Facility.

PERMITTEE: The Dayton Power and Light Company
Post Office Box 468
Aberdeen, Ohio 45101

LOCATION: The J.M. Stuart Facility is located south of U.S. Route 52, along the right descending bank of the Ohio River, 404.4 miles downstream of Pittsburgh, Pennsylvania, near Aberdeen, Adams County, Ohio. An overall project location map is attached to this notice.

DESCRIPTION OF PROPOSED WORK: The Corps of Engineers, Huntington District (Corps) has been involved in several previous regulatory actions at this facility, including the Fly Ash Landfill Expansion Project. Cultural resource investigations performed on behalf of the permittee identified four sites, Site 33AD123, Site 33AD121, Site 33AD56, and Site 33AD365. These sites were determined to be eligible for listing on the National Register of Historic Places (NRHP) under Criteria D.

The Fly Ash Landfill Expansion Project, which include a wetland fill authorized under Section 404 of the Clean Water Act, impacted archaeological sites 33AD365 and 33AD123. To resolve adverse effects to historic properties associated with this landfill expansion, the Corps entered into a Memorandum of Agreement (MOA). This MOA, dated December 1, 1994, was signed by the Corps, the Ohio Historic Preservation Office (OHPO), the Advisory Council on Historic Preservation (ACHP), and Dayton Power & Light (DP&L). This MOA stipulated the following:

- Site 33AD56 and the majority of Site 33AD121 would be avoided, the remainder (the northeast corner) of Site 33AD121 would be preserved under a blanket of clean fill;
- The farmyard area of the Watson Farmstead (Site 33AD365) would be preserved and protected under a blanket of clean fill;
- The potential archaeological data within the cisterns at the Watson Farmstead (Site 33AD365) would be stabilized by in-filling, rather than demolition;
- Architectural data recovery would be undertaken at historic Site 33AD365;
- Archaeological data recovery would be undertaken at prehistoric Site 33AD123.

The stipulations of the MOA were carried out by DP&L and were documented in the report entitled *Data Recovery Investigations at Sites 33AD123 and 33AD365 and Historic Documentation of the Watson Family Cemetery at DP&L's J.M. Stuart Generating Station, Adams County, Ohio* prepared by Gray & Pape, Inc., dated July 18, 1996.

Continued operation of the expanded landfill requires the use of clay as landfill cover. DP&L now proposes to excavate the existing clay resources between the landfill expansion area and the Ohio River to serve this need. This area, referred to as the Greenlee Tract, contains sites 33AD56, 33AD365, and 33AD121. As outlined above, these sites were mitigation areas described in the 1994 MOA. These three sites would be adversely impacted by the proposed clay harvesting activities. DP&L has requested the signatories of the 1994 MOA consider amending the MOA to approve impacts to these sites.

Since these sites were a mitigation (thru preservation) component of the 1994 MOA, which the Corps signed as the lead Federal agency, impacts to these areas would require Federal approval. Therefore, approval of the proposed clay harvesting activities would meet the definition of an

undertaking as defined in 36 CFR 800.16(y). Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effect of their undertakings on historic properties.

In evaluating DP&L's request, we have consulted OHPO regarding this proposed undertaking. Through this consultation and based on information supplied by DP&L, preliminary options to resolve the proposed adverse effects have been identified. Based on the proposed construction plan for the clay harvesting, it is assumed all of Site 33AD56/121 would be adversely impacted. The Watson Homestead, Site 33AD365, is also within the proposed area of impact. To mitigate for this proposed adverse effect, avoidance, preservation, and Phase III mitigation has been considered. Proposed mitigation options are outlined in the report entitled *Proposed Amended Mitigation Plan for Sites 33AD56/121 and 33AD365, J.M. Stuart Generating Station, Adams County, Ohio*, dated June 23, 1999, prepared by Gray & Pape, Inc.

Phase III Archaeological mitigation has been proposed for the impacted area of Site 33AD56/121. This mitigation involves the detailed excavation and recordation of a sample of the total site area. For this particular site, the data recovery would focus on historic and prehistoric activity areas and historic shaft features defined during the Previous Phase II testing and refined from additional investigations. These activity areas are defined by high density of artifacts, a wide variety of artifact types recorded from a distant locale, or soil features (such as hearths or post holes) representing human activities.

Proposed mitigation measures for Site 33AD365 include the recovery of artifact data from sealed contents including the known cisterns, and landscape data from remote activity areas such as barns, gardens, landings, or livestock slaughtering areas. The investigation within site 33AD365 would only occur if this parcel is chosen for excavation.

A compensatory project proposed as mitigation would include additional landscape restoration, placement of new fencing, and the implementation of erosion control measures around the Watson Cemetery.

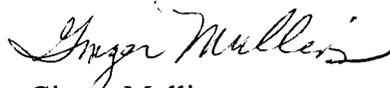
PUBLIC INTEREST: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the proposed adverse effect on historic properties. Should you wish to express your views on the undertaking's effects on historic properties, or provide comments or objections to the proposed MOA amendment, please forward this information to our office prior to the close of the comment period for this notice.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. Persons wishing to submit comments or objections concerning this proposal should write:

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 00057804-1
502 8th Street
Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act.

Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Ms. Susan A. Fields of my staff at 304-399-5210.



Ginger Mullins
Chief, Regulatory Branch

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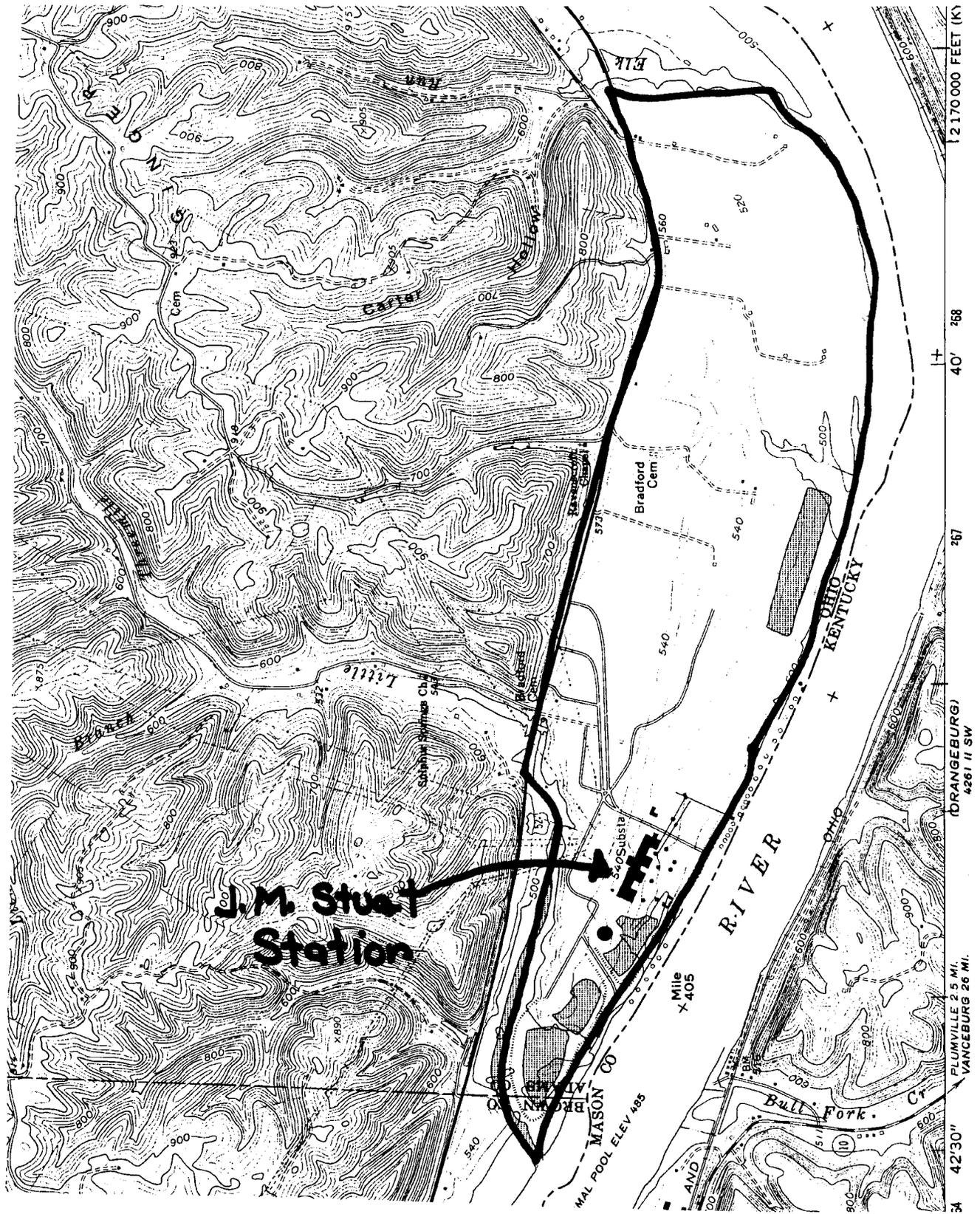


Figure 1 – Project Location Map
 Maysville East, Ohio
 USGS Topographic Map

Dayton Power & Light
 00057804-1 – Ohio River MP 404.4
 Adams County, Ohio
 Location Map, Sheet 1 of 1