



**St. Louis District Corps of Engineers /  
American Council of Engineering Companies of Missouri /  
American Council of Engineering Companies of Illinois  
Liaison Committee**



**- MINUTES -**

**September 27, 2023**

**Burns & McDonnell, Chesterfield, MO**

**ATTENDEES:**

USACE St. Louis: Kevin Deiters, Eric Piel, Susan Wilson

ACEC Missouri: Pam Hobbs (Chair), Jeff Bertel, Mark Bross, JR Landeck, Wayne Weber, Bob Welsch (for John Denlinger)

ACEC Illinois: Kipkoech Chepkoi, Lori Daiber, Shelly Dintelman, Scott Harding

**DISCUSSION ITEMS:**

1. **WOTUS** – the new definition and permit processing under the Supreme Court Ruling, was moved to the beginning of the meeting. Chad LaMontagne, Regulatory Project Manager, and Rob Gramke, Chief, Regulatory Branch, joined the meeting virtually for this discussion:

- Public fact sheets, the EPA website, public webinars are all available to assist in understanding the changes. Internal meetings are occurring within USACE to address how they are going to implement the guidance.
- Effects the new ruling has on current projects will vary. New rule will affect wetland adjacency calls and streams regarding determining relatively permanent (jurisdictional) vs. non-relatively permanent (non-jurisdictional) flow. Advice is to reach out to USACE to make sure you're on the same page for your particular project. USACE is preparing a guide and will have a consultants workshop this winter, send your info to Rob to get on list for updates and webinars.
- While Missouri has not adopted the 2023 rule, Illinois has (see attached map). The laws do look similar according to the Supreme Court decision. Different wording moving forward, aquatic resources will be treated the same.
- USACE is early in the process of working with the new rule, approved decisions will be sent to Washington, DC, for review which may add time in obtaining determinations for projects.
- Estimates currently on timing for determination of relatively permanent vs. non jurisdictional are 21 days to hear from DC. Recommendation is to always reach out to the local District on specific projects first to get their thoughts on which way the project will go.
- USACE St. Louis District welcomes us reaching out via email or phone and stressed all projects can have a different timeline. USACE anticipates the process getting quicker as everyone becomes with the new rules, currently decision making is going through 3 offices.
- Chad and Rob welcome an opportunity to have contractor/consultant meetings, and they welcome invitations to give presentations in consultants offices. Their contact information is:
  - Rob Gramke, robert.s.gramke@usace.army.mil, (314) 331-8187
  - Chad LaMontagne, chad.m.lamontagne@usace.army.mil, (314) 331-8044
- Public fact sheets and jurisdictional request form are attached to these minutes.

2. **Presentation on the Metro East Levees, including cut-off walls:**

- Eric Piel, Chief of Admin Section for Construction ... provided an informative presentation on the overall project to ultimately accredit the levee system to the 500-year level. Achieving this

required the construction of two cut-off walls, this presentation specifically addressed the East St. Louis Deep Trench Cut-off Wall which was tied to bedrock and was within a highly permeable geology. This project was published in Deep Foundation Institute's September/October 2023 issue.

**3. Staffing Update:**

- The St. Louis District welcomed COL Andy Pannier as the District Engineer and Commander. Some changes in Contracting, Dave Busse retires next week.

**4. Budgets – Any Updates on BIL Funding:**

- Nothing on BIL but working on potential government shutdown.

**5. Update on IDIQ Contracts Status and Schedule for Future Solicitations:**

- The St. Louis District currently has 2 IDIQs in place, those are held by Stantec and Tetrattech. The new A/E IDIQs for the Upper Mississippi Valley Division are delayed due to additional coordination. The solicitation is still coming out of the St. Paul District, but unsure when it will come out. Districts are running short of capacity.
- Per 2019 guidance, contracts have narrowed in scope and geography. A new guidance in March 2023 on TORN, introduces a "simplified TORN". Recommendation is to update SF 330s routinely, at least annually.

**6. Has CWIFP Been Implemented in the St. Louis District?:**

- CWIFP deals with water infrastructure financing. It's in the early stages, must be for dam safety projects that are not federally owned. There are no projects using this funding in STL District at this point. The program is funded at \$81 million nationally.

**7. Have Any Changes Been Made to the Section 408 Program Based on the 2022 Listening Session Series?:**

- No changes yet

**8. Next Meeting Date:**

- The next meeting is scheduled for January 17, 2024, at EFK Moen's office in Fairview Heights, Illinois.



# Fact Sheet for the Final Rule: Amendments to the Revised Definition of “Waters of the United States”

August 2023



## Overview

On August 29, 2023, the U.S. Environmental Protection Agency (EPA) and Department of the Army (the agencies) announced a final rule amending the 2023 definition of “waters of the United States.”<sup>1</sup> The amendments conform with the U.S. Supreme Court’s May 25, 2023, decision in the case of *Sackett v. Environmental Protection Agency*. While EPA’s and Army’s 2023 rule defining “waters of the United States” was not directly before the Supreme Court, the decision in *Sackett* made clear that certain aspects of the 2023 rule are invalid. Therefore, the agencies have amended key components of the regulatory text to conform it to the Supreme Court decision. The final rule provides clarity for protecting our nation’s waters consistent with the Supreme Court’s decision while advancing infrastructure projects, economic opportunities, and agricultural activities.

## Changes to the “Waters of the United States” Categories and Definitions<sup>2</sup>

The agencies’ amendments change the parts of the 2023 definition of “waters of the United States” that are invalid under the *Sackett* decision. For example, the rule removes the significant nexus test from consideration when identifying tributaries and other waters as federally protected. It also revises the adjacency test when identifying federally jurisdictional wetlands, clarifies that interstate wetlands do not fall within the interstate waters category, and clarifies the types of features that can be considered under the “additional waters” category.

### Changes that the agencies have made to the January 2023 Rule categories:

Jurisdictional Category	Key Changes to the January 2023 Rule Regulation Text	Regulatory Text Paragraph
<b>Traditional Navigable Waters</b>	No changes	(a)(1)
<b>Territorial Seas</b>	No changes	(a)(1)
<b>Interstate Waters</b>	Removing interstate wetlands from the text of the interstate waters provision	(a)(1)
<b>Impoundments</b>	No changes	(a)(2)
<b>Tributaries</b>	Removing the significant nexus standard	(a)(3)
<b>Adjacent Wetlands</b>	Removing the significant nexus standard	(a)(4)
<b>Additional Waters</b>	Removing the significant nexus standard; removing wetlands and streams from the text of the provision	(a)(5)

<sup>1</sup> The “Revised Definition of ‘Waters of the United States’” rule published in the Federal Register on January 18, 2023.

<sup>2</sup> These tables are provided for informational purposes; the rule establishes the requirements defining “waters of the United States.”

**Changes that the agencies have made to the January 2023 Rule definitions:**

Definition	Key Changes to the January 2023 Rule Regulation Text	Regulatory Text Paragraph
<b>Wetlands</b>	No changes	(c)(1)
<b>Adjacent</b>	Revised definition to mean “having a continuous surface connection.”	(c)(2)
<b>High tide line</b>	No changes	(c)(3)
<b>Ordinary high water mark</b>	No changes	(c)(4)
<b>Tidal waters</b>	No changes	(c)(5)
<b>Significantly affect</b>	Deleted definition	(c)(6)

## No Changes to the Exclusions from “Waters of the United States”

The amendments to the January 2023 Rule do not change the eight exclusions from the definition of “waters of the United States” that provide clarity, consistency, and certainty. **The exclusions are:**

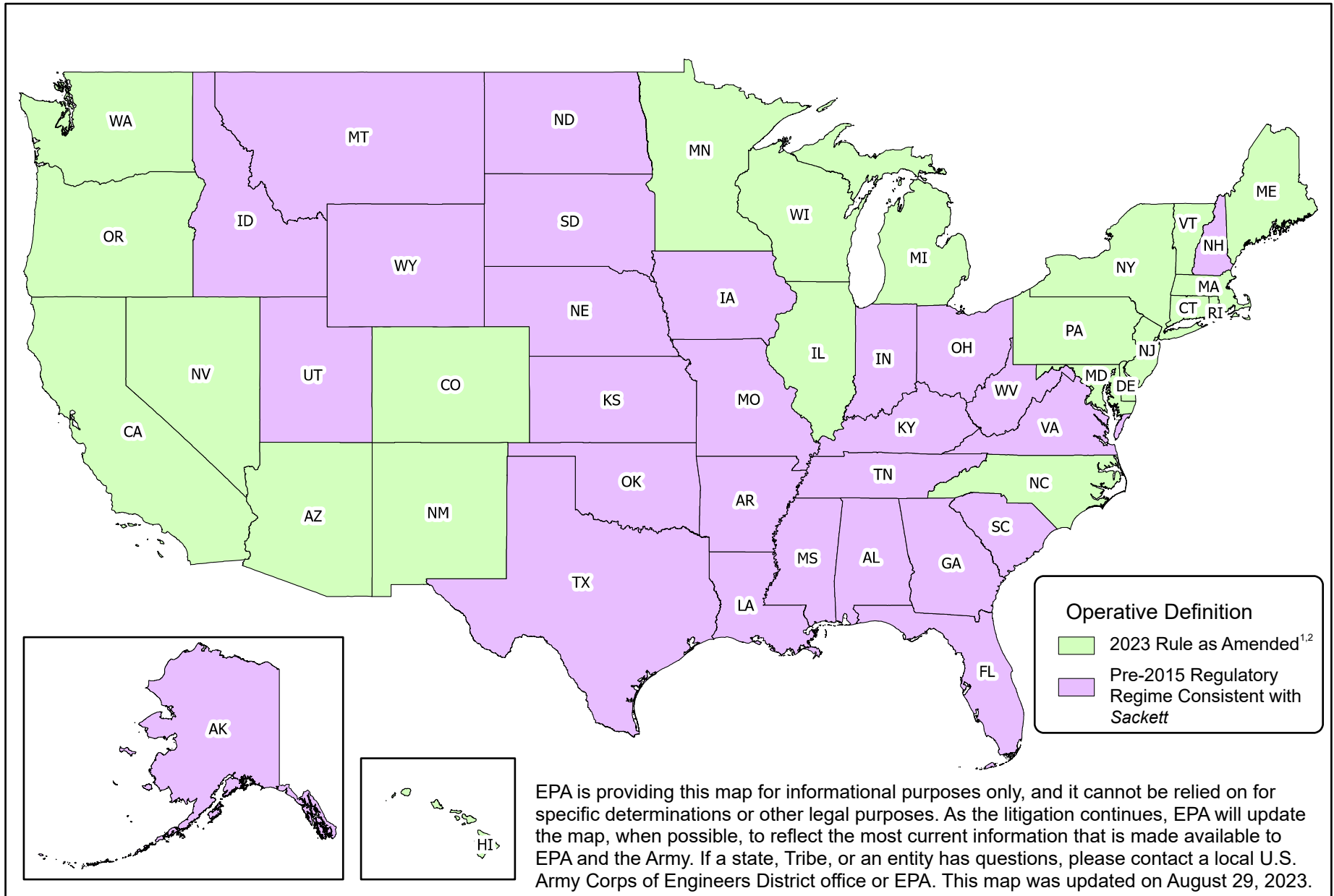
- **Prior converted cropland**, adopting USDA’s definition and generally excluding wetlands that were converted to cropland prior to December 23, 1985.
- **Waste treatment systems**, including treatment ponds or lagoons that are designed to meet the requirements of the Clean Water Act.
- **Ditches** (including roadside ditches), excavated wholly in and draining only dry land, and that do not carry a relatively permanent flow of water.
- **Artificially irrigated areas**, that would revert to dry land if the irrigation ceased.
- **Artificial lakes or ponds**, created by excavating or diking dry land that are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- **Artificial reflecting pools or swimming pools**, and other small ornamental bodies of water created by excavating or diking dry land.
- **Waterfilled depressions**, created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction operation is abandoned and the resulting body of water meets the definition of “waters of the United States.”
- **Swales and erosional features** (*e.g.*, gullies, small washes), that are characterized by low volume, infrequent, or short duration flow.

Additionally, the agencies’ amended definition of “waters of the United States” does not affect the longstanding activity-based permitting exemptions provided to the agricultural community by the Clean Water Act.

## For More Information

Additional information is available on [EPA’s Waters of the United States website](#).

# Operative Definition of "Waters of the United States"



<sup>1</sup>Also operative in the U.S. territories and the District of Columbia

<sup>2</sup>The pre-2015 regulatory regime implemented consistent with *Sackett* is operative for the Commonwealth of Kentucky and Plaintiff-Appellants in *Kentucky Chamber of Commerce, et al. v. EPA* (No. 23-5345) and their members (Kentucky Chamber of Commerce, U.S. Chamber of Commerce, Associated General Contractors of Kentucky, Home Builders Association of Kentucky, Portland Cement Association, and Georgia Chamber of Commerce).

U.S. Army Corps of Engineers (USACE)  
**REQUEST FOR JURISDICTIONAL DETERMINATION (JD)**

For use of this form, see Sec 404 CWA, Sec 10 RHA, Sec 103 MPRSA; the proponent agency is CECW-COR.

*Form Approved -  
OMB No. 0710-0024  
Expires 2024-04-30*

**DATA REQUIRED BY THE PRIVACY ACT OF 1974**

- Authority** Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332.
- Principal Purpose** The information that you provide will be used in evaluating your request to determine whether there are any aquatic resources within the review area that are or that may be subject to federal jurisdiction under the regulatory authorities referenced above.
- Routine Uses** This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public, and may be made available as part of a public notice or FOIA request as required by federal law. Your name and property location where federal jurisdiction is to be determined will be included in any approved jurisdictional determination (AJD), which will be made available to the public on the District's website and on the Headquarters USACE website.
- Disclosure** Submission of requested information is voluntary, however, if the information is not provided there may be some delay in processing your request. Failure to provide this information will not result in an adverse action.  
System of Record Notice (SORN): The information received is entered into our permit tracking database and a SORN has been completed (SORN #A1145b) and may be accessed at the following website:  
<http://dpclid.defense.gov/Privacy/SORNSIndex/DOD-wide-SORN-Article-View/Article/570115/a1145b-ce.aspx>

**The Agency Disclosure Notice (ADN)**

The Public reporting burden for this collection of information, 0710-0024, is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at [whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil](mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

1. To (District Name): \_\_\_\_\_

2. I am requesting a JD on property located at (Street Address): \_\_\_\_\_

City/Township/Parish: \_\_\_\_\_ County: \_\_\_\_\_ State: Alabama

Acreage of Parcel/Review Area for JD: \_\_\_\_\_

Section: \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

Latitude (decimal degrees): \_\_\_\_\_ Longitude (decimal degrees): \_\_\_\_\_

(For linear projects, please include the center point of the proposed alignment.)

3. Please attach a survey/plat map and vicinity map identifying location and review area for the JD.

4.  I currently own this property.  I plan to purchase this property.

I am an agent/consultant acting on behalf of the requester.

Other (please explain): \_\_\_\_\_

5. Reason for request: (check as many as applicable)

- I intend to construct/develop a project or perform activities on this parcel which would be designed to avoid all aquatic resources.
- I intend to construct/develop a project or perform activities on this parcel which would be designed to avoid all jurisdictional aquatic resources under Corps authority.
- I intend to construct/develop a project or perform activities on this parcel which may require authorization from the Corps, and the JD would be used to avoid and minimize impacts to jurisdictional aquatic resources and as an initial step in a future permitting process.
- I intend to construct/develop a project or perform activities on this parcel which may require authorization from the Corps; this request is accompanied by my permit application and the JD is to be used in the permitting process.
- I intend to construct/develop a project or perform activities in a navigable water of the U.S. which is included on the district Section 10 list and/or is subject to the ebb and flow of the tide.
- A Corps JD is required in order to obtain my local/state authorization.
- I intend to contest jurisdiction over a particular aquatic resource and request the Corps confirm that jurisdiction does/does not exist over the aquatic resource on the parcel.
- I believe that the site may be comprised entirely of dry land.
- Other:

6. Type of determination being requested:

- I am requesting an approved JD.
- I am requesting a preliminary JD.
- I am requesting a "no permit required" letter as I believe my proposed activity is not regulated.
- I am unclear as to which JD I would like to request and require additional information to inform my decision.

7. Typed or Printed Name: \_\_\_\_\_ Daytime Phone No.: \_\_\_\_\_  
Company Name: \_\_\_\_\_ Email Address: \_\_\_\_\_  
Address: \_\_\_\_\_

By signing below, you are indicating that you have the authority, or are acting as the duly authorized agent of a person or entity with such authority, to and do hereby grant Corps personnel right of entry to legally access the site if needed to perform the JD. Your signature shall be an affirmation that you possess the requisite property rights to request a JD on the subject property.

Signature: _____	Date: _____
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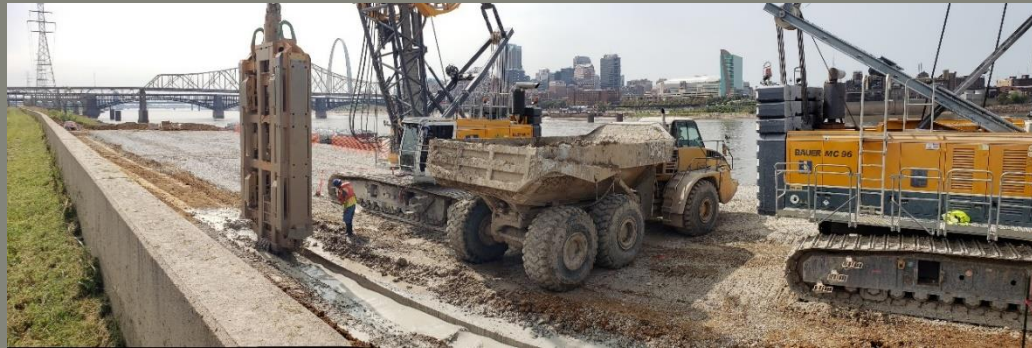
# East St. Louis Deep Cutoff Wall



**Eric Piel, P.E.**

Chief – Contract  
Admin Section

27 July 2023



US Army Corps  
of Engineers.





# East St. Louis Deep Trench Cutoff Wall

## ■ Outline

- Project Location
- Design and Construction
- Historical Uniqueness
- Levee Safety and Risk Based Decisions
- Panel Excavation
- Excavation Equipment
- Jet Grouting

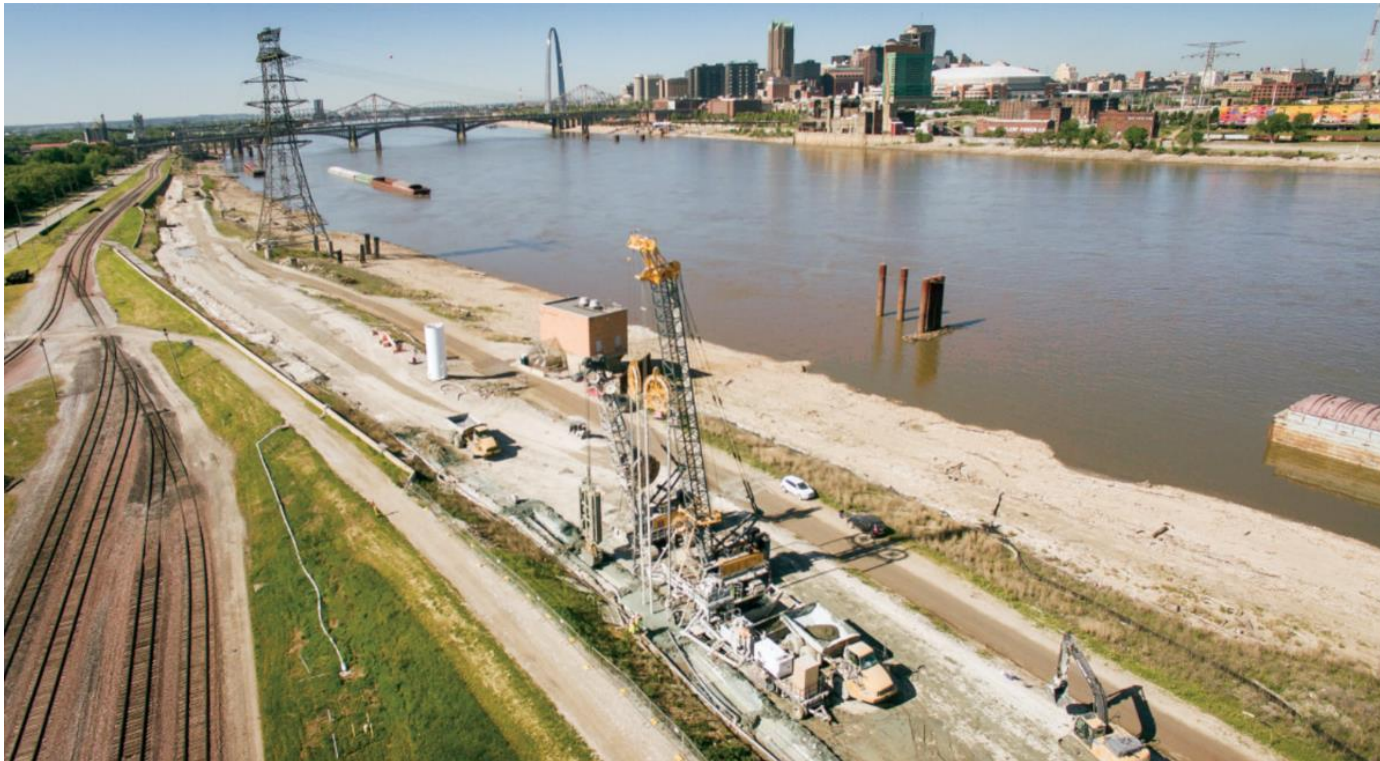


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# East St. Louis Deep Trench Cutoff Wall

- Metropolitan East Sanitary District
  - 23.0 Miles of Levee
  - >250,000 Residents
  - >\$4.5 billion in economic value



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# East St. Louis Deep Trench Cutoff Wall

## ■ Cutoff Wall

- Awarded in fall 2019
- Original completion Jan 2022,  
Physically complete in September 2022
- Awarded Cost: \$32,300,404.00
- Final cost: \$42,578,715.21



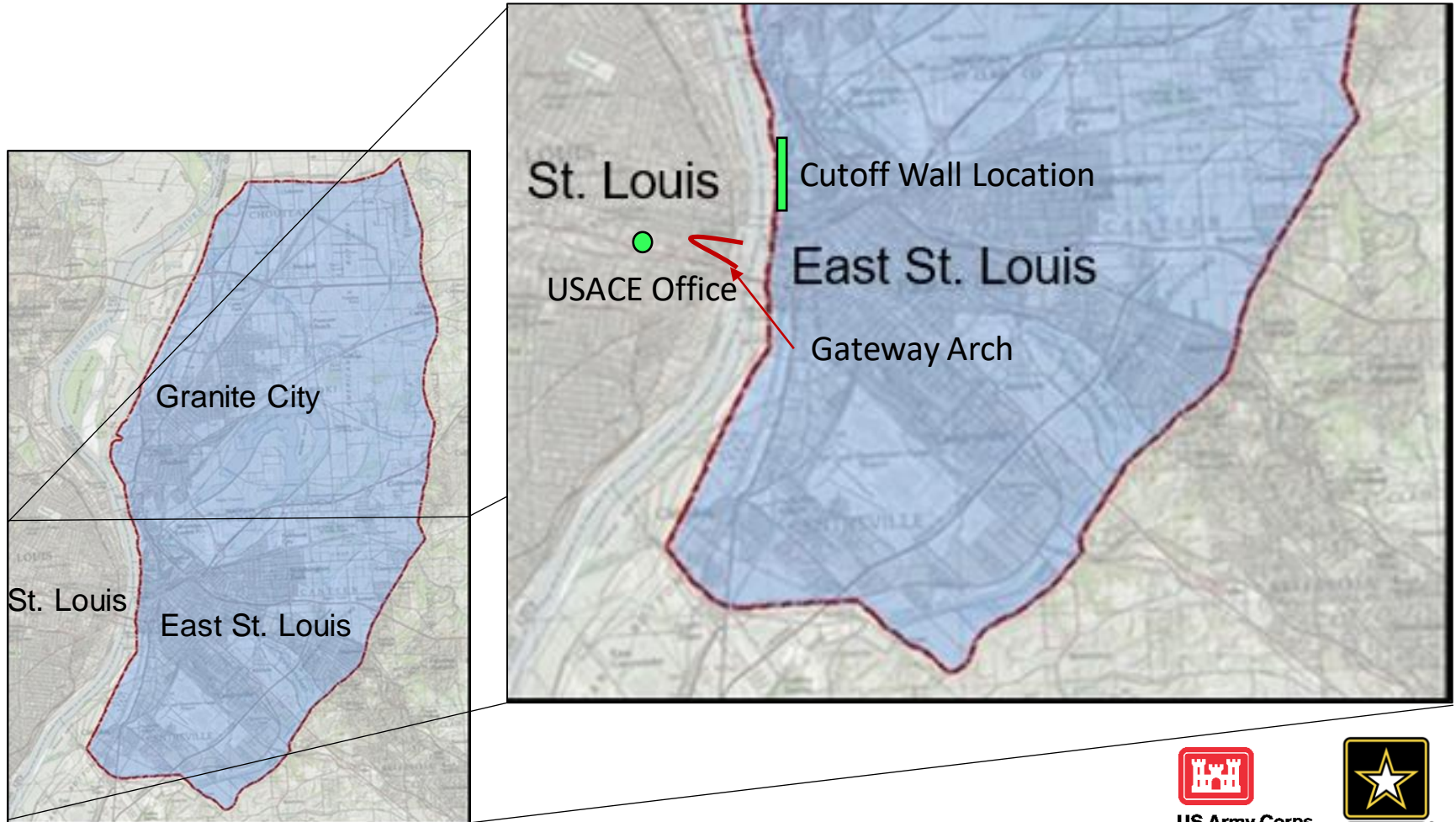
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# East St. Louis Deep Trench Cutoff Wall

- Project Location



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# East St. Louis Deep Trench Cutoff Wall

## ■ Cutoff Wall Design

- 4,440 linear feet long
- Up to 140 feet deep
- Highly permeable geology
- Hard limestone bedrock

## ■ Challenges

- COVID-19 spring 2020, most skilled workers from foreign countries
- Differing Site Conditions
- Existing Infrastructure



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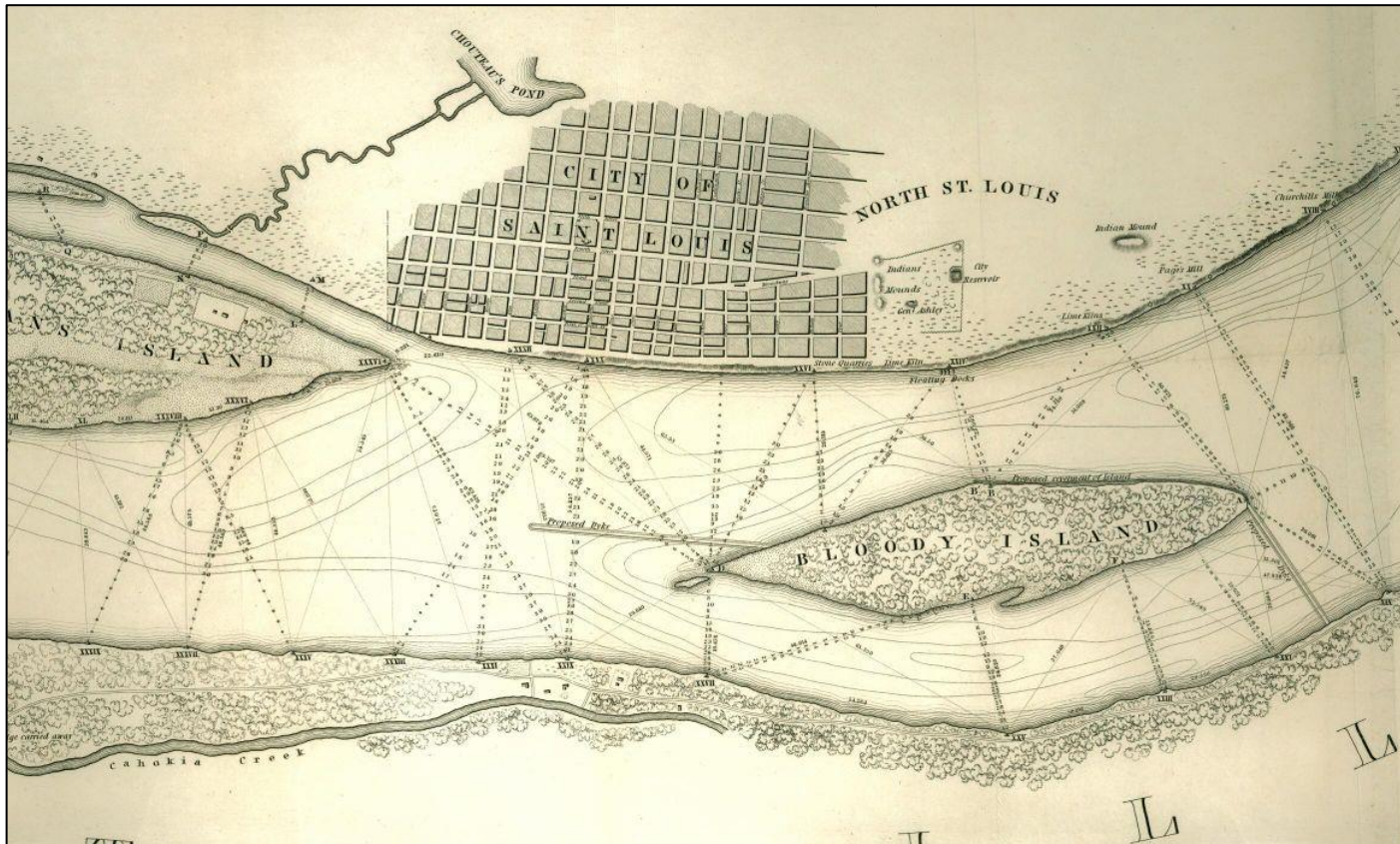


# East St. Louis Deep Trench Cutoff Wall

## ■ Historical Uniqueness

### - Bloody Island

- Formed around 1800 as a sandbar
- Area not owned by either state, thus governed by maritime law



1837 Map of St. Louis

Photo credit: St Louis Post Dispatch

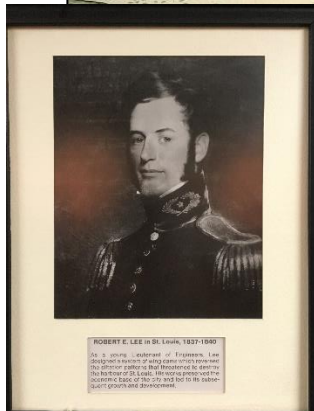


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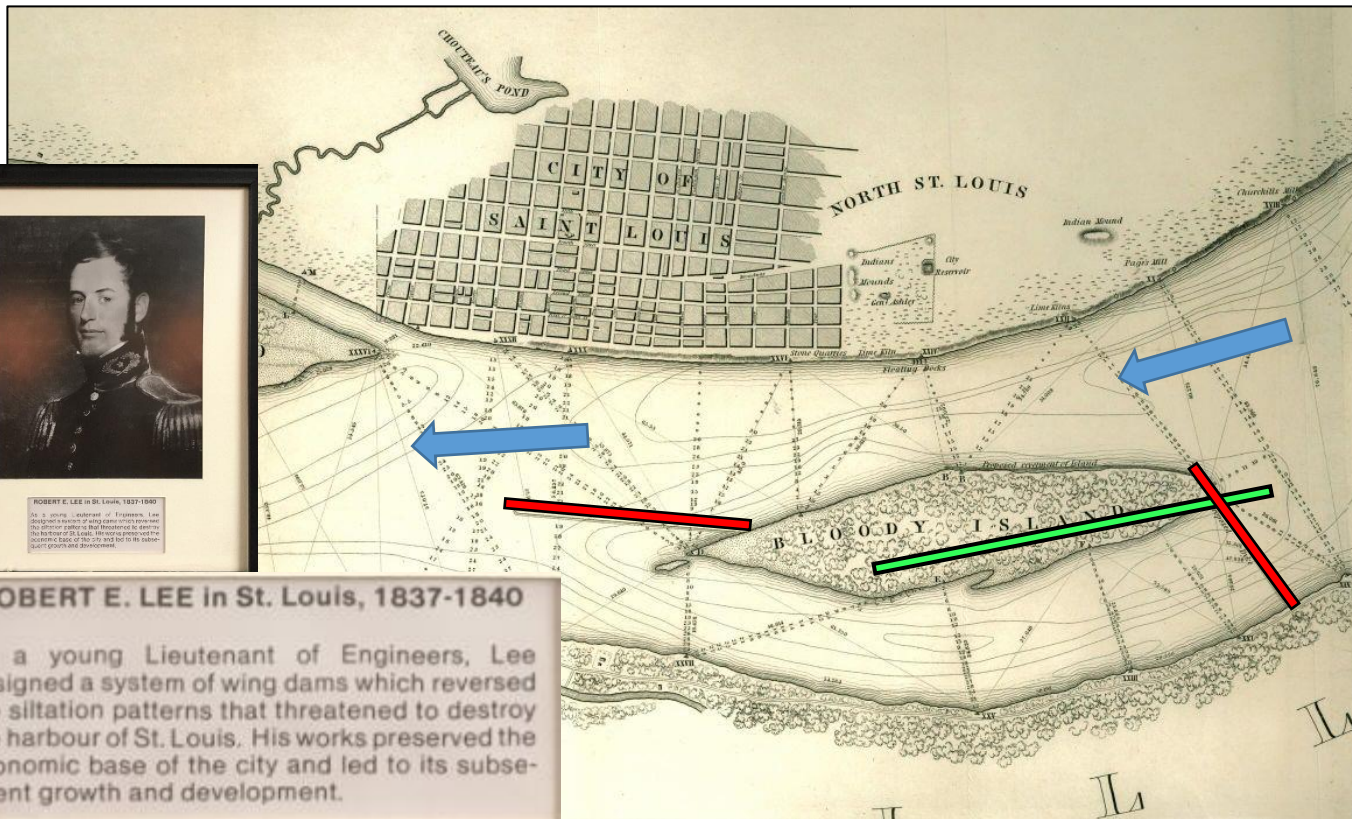
# East St. Louis Deep Trench Cutoff Wall

- Around 1830 St. Louis Harbor was threatened by siltation
- 1836 Congress authorized a “pier to give direction to the current of the river near St. Louis”.
- Robert E. Lee, as an Army engineer, supervised the construction of two dikes preventing St. Louis harbor from filling in.



ROBERT E. LEE in St. Louis, 1837-1840

As a young Lieutenant of Engineers, Lee designed a system of wing dams which reversed the siltation patterns that threatened to destroy the harbour of St. Louis. His works preserved the economic base of the city and led to its subsequent growth and development.



1837 Map of St. Louis

- ← River Flow
- Dikes
- Cutoff Wall



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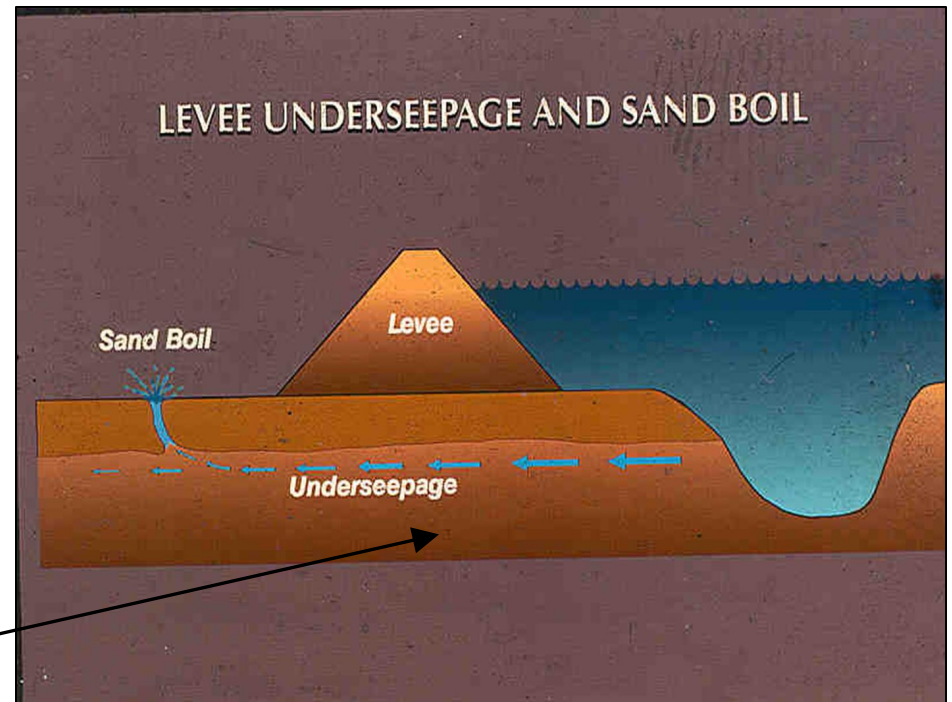




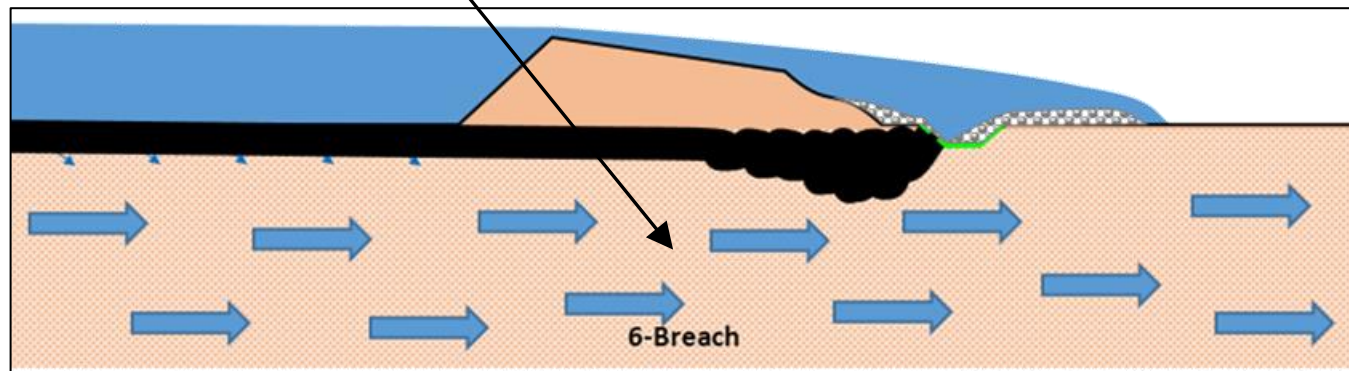
# East St. Louis Deep Trench Cutoff Wall

## Levee Safety

- 3 risks to levee performance
  - Overtopping
  - Through Seepage
  - Underseepage



Sandy Deposits from Mississippi River

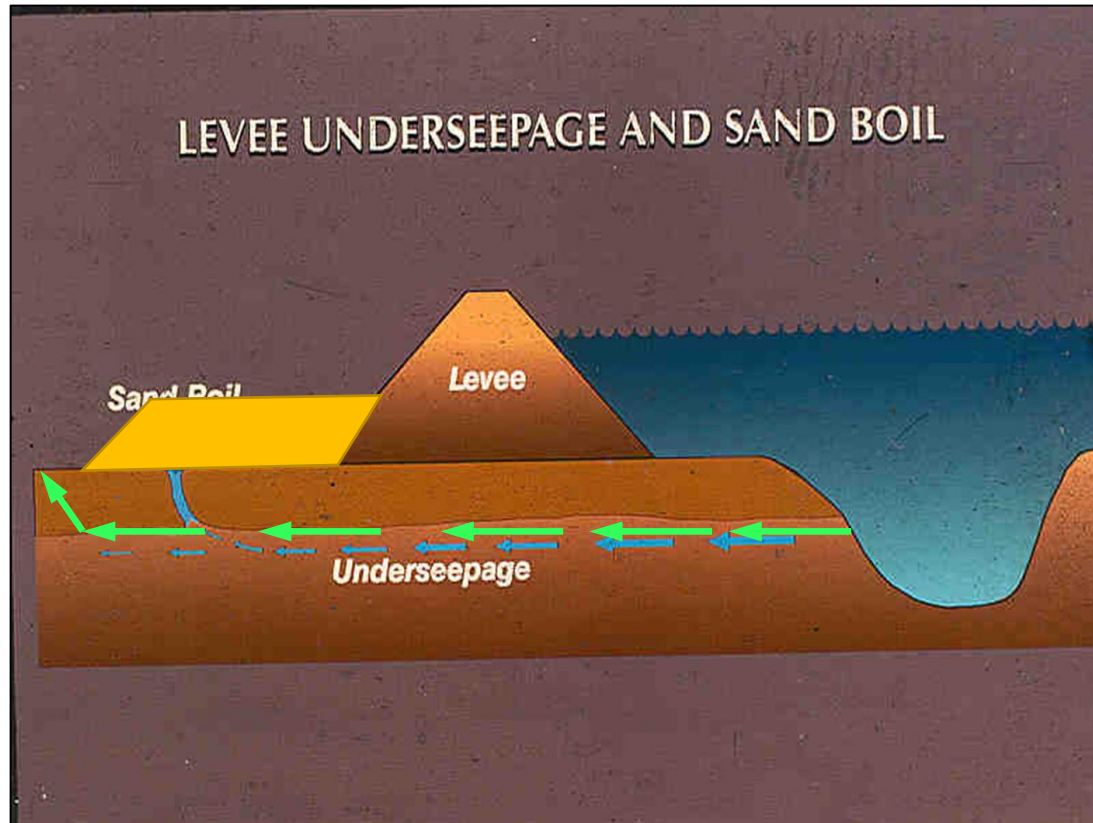


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# East St. Louis Deep Trench Cutoff Wall

- Risk Based Decision
  - 3 solutions to limit risk of underseepage issues
    - *Seepage Berms*
    - Relief Wells
    - Cutoff Walls

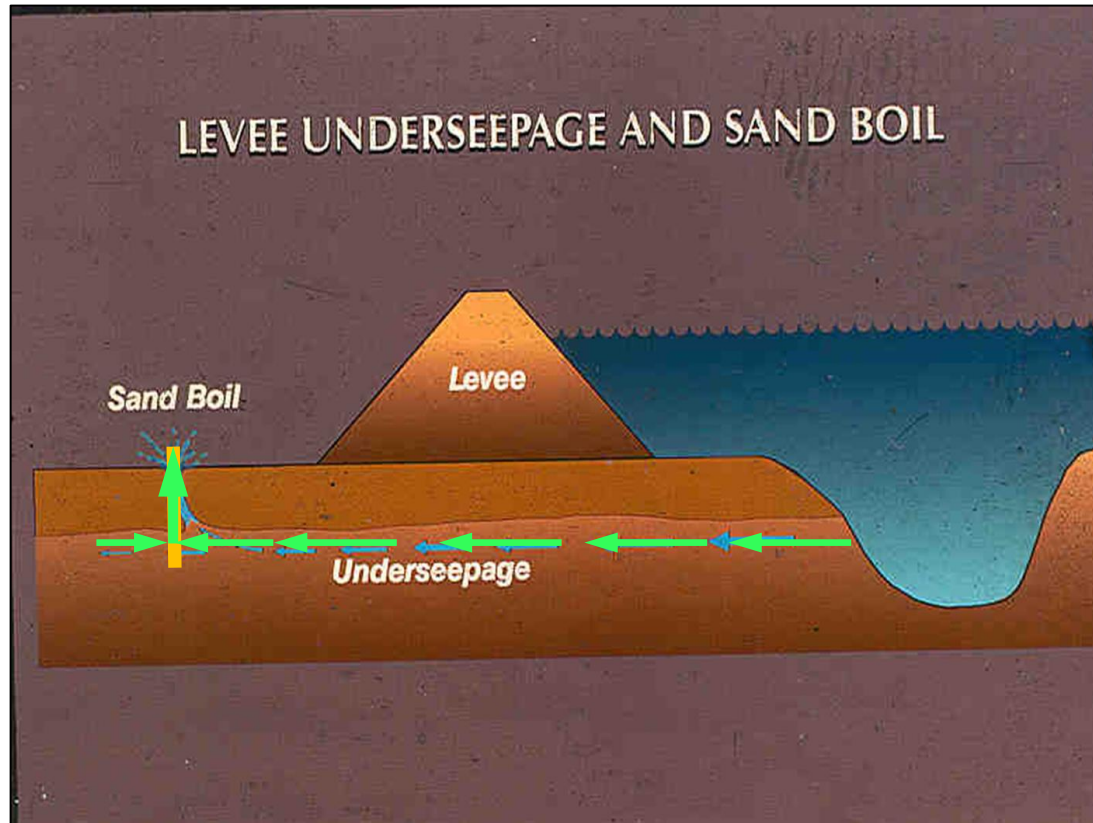


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# East St. Louis Deep Trench Cutoff Wall

- Risk Based Decision
  - 3 solutions to limit risk of underseepage issues
    - Seepage Berms
    - *Relief Wells*
    - Cutoff Walls



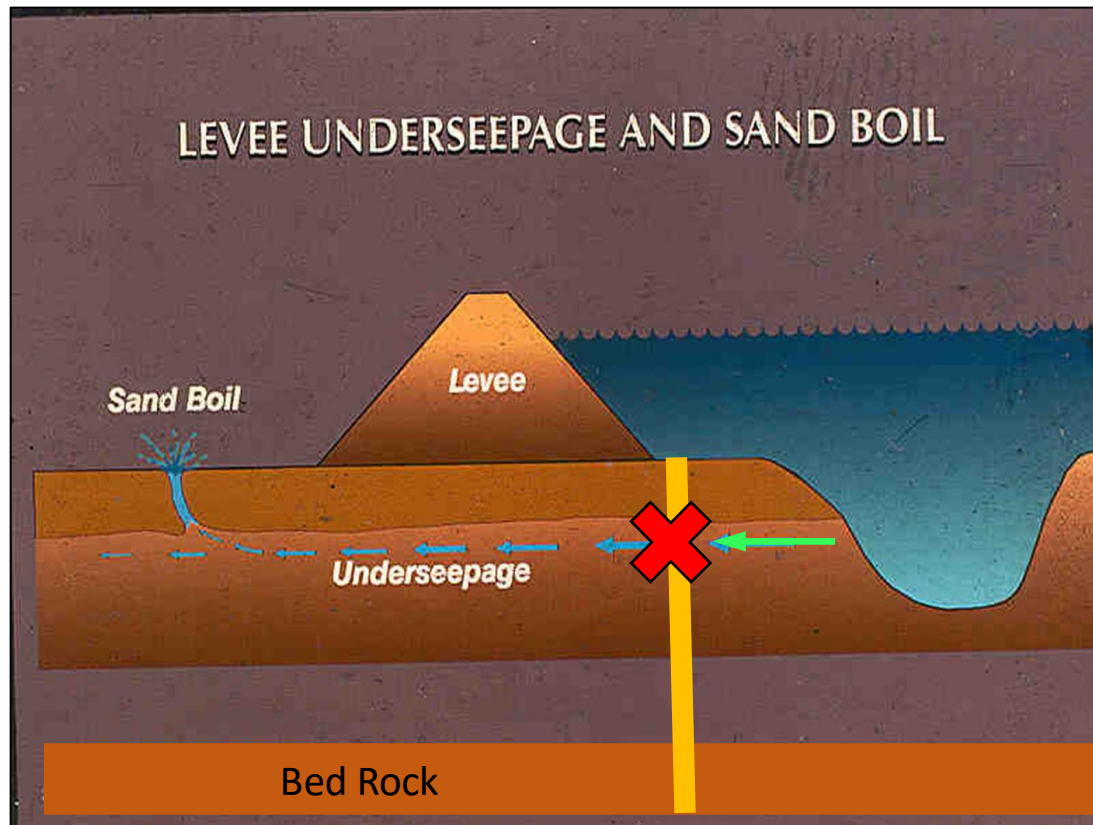
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# East St. Louis Deep Trench Cutoff Wall

- Risk Based Decision
  - 3 solutions to limit risk of underseepage issues
    - Seepage Berms
    - Relief Wells
    - **Cutoff Walls**

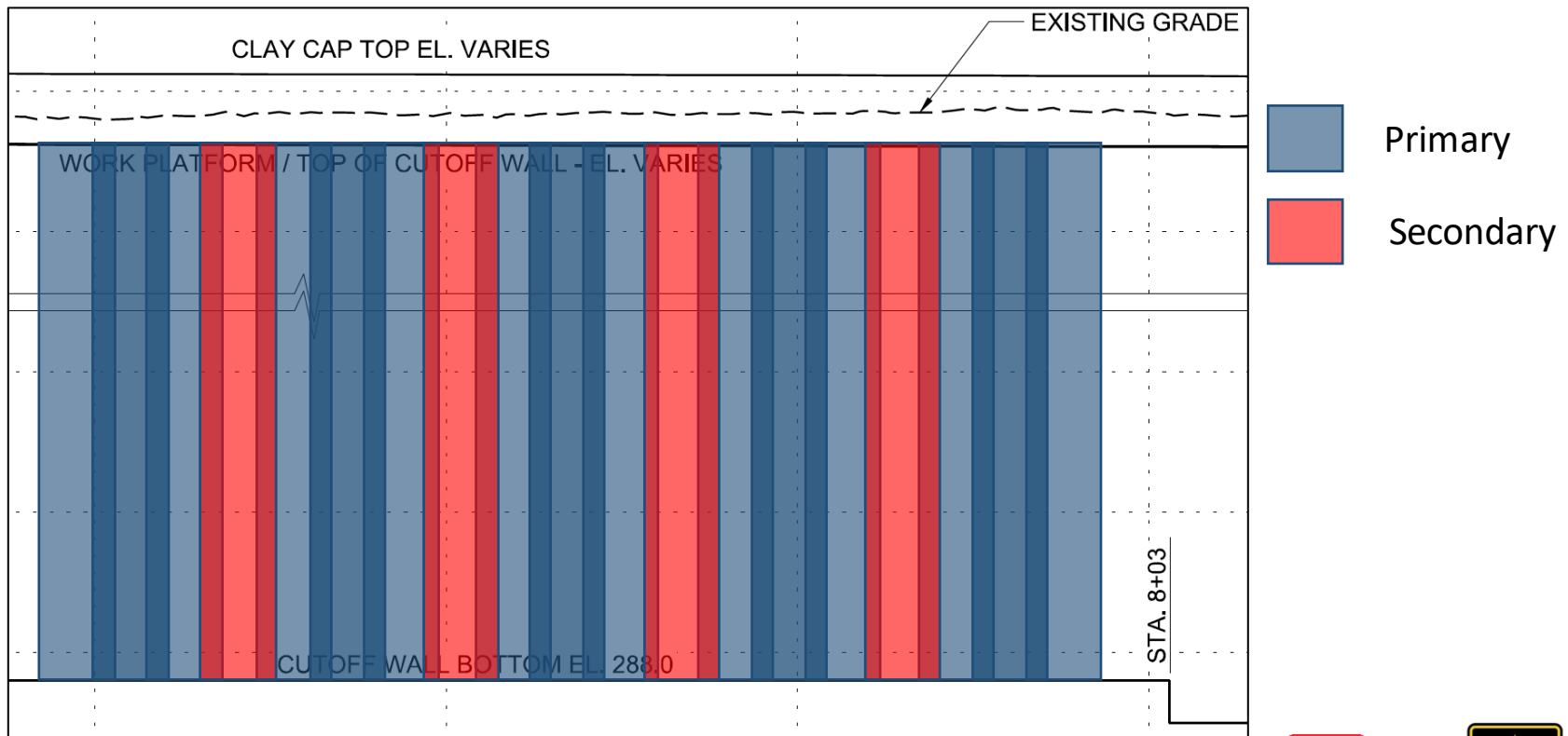


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# East St. Louis Deep Trench Cutoff Wall

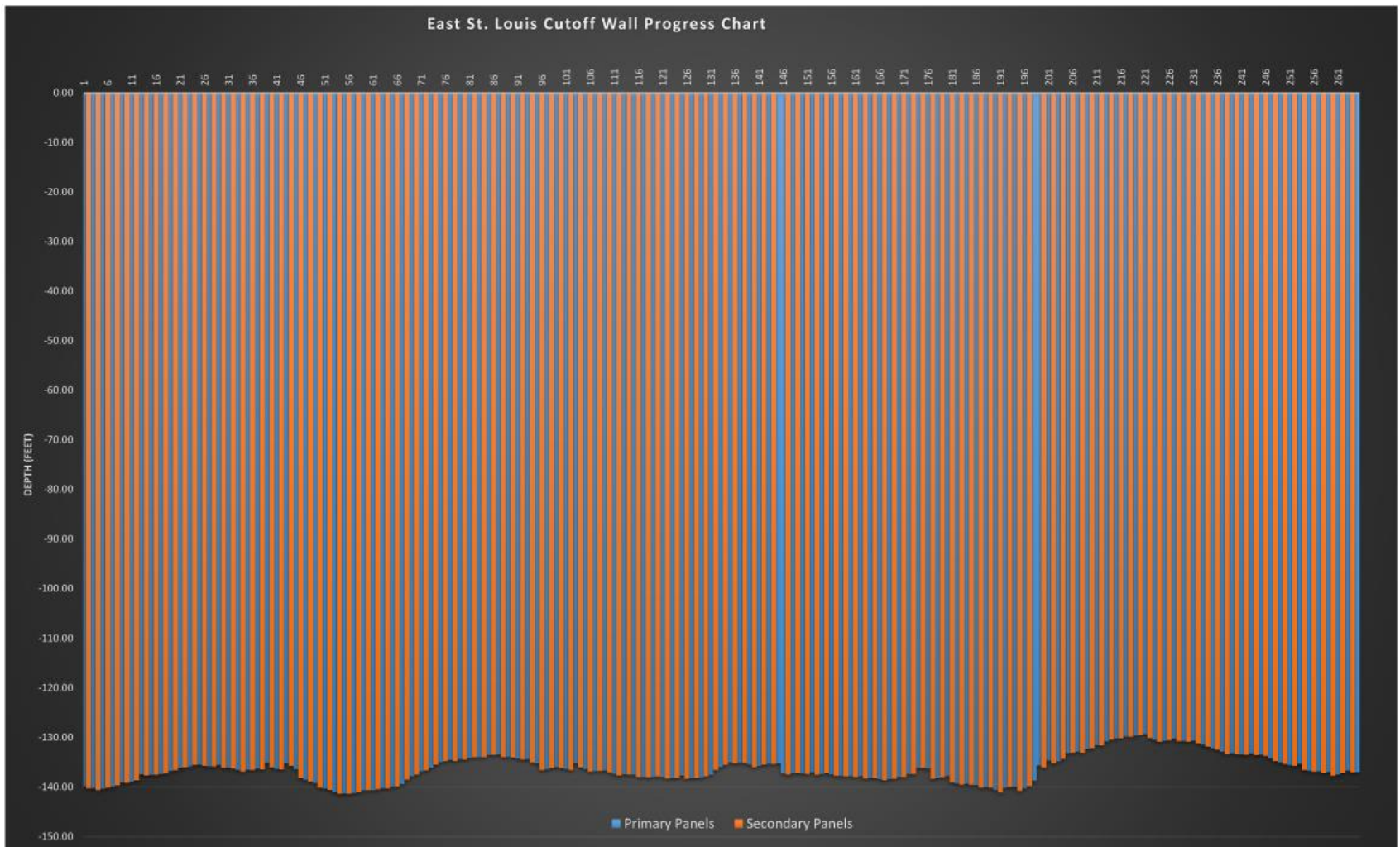
- Panel Excavation – self hardening slurry



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# East St. Louis Deep Trench Cutoff Wall



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment
  - Clamshell Excavator



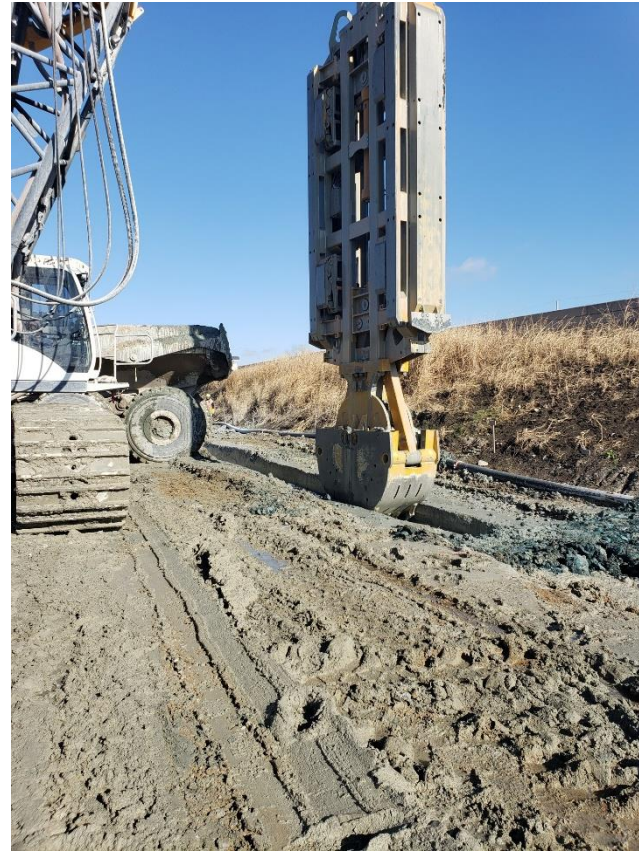
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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment
  - Clamshell Excavator



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment
  - Clamshell Excavator

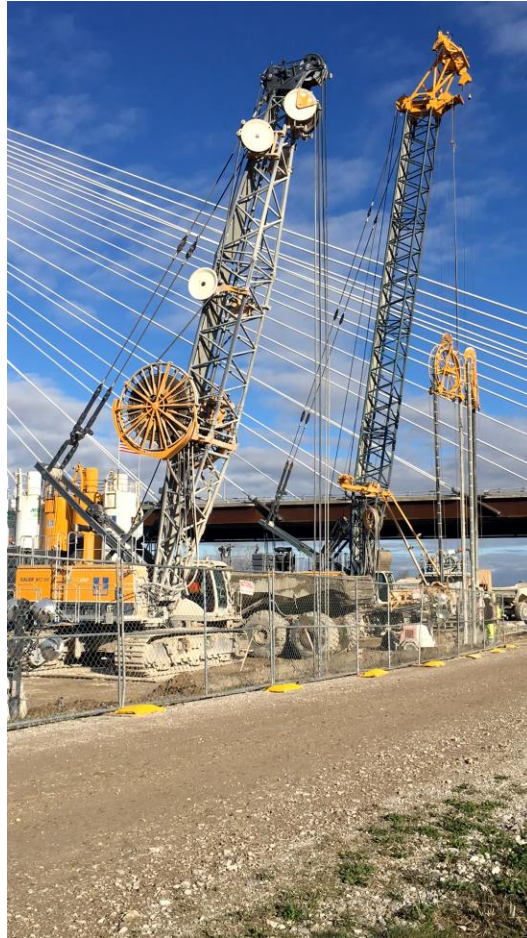


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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment
  - Hydromill



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment
  - Desanding Plant



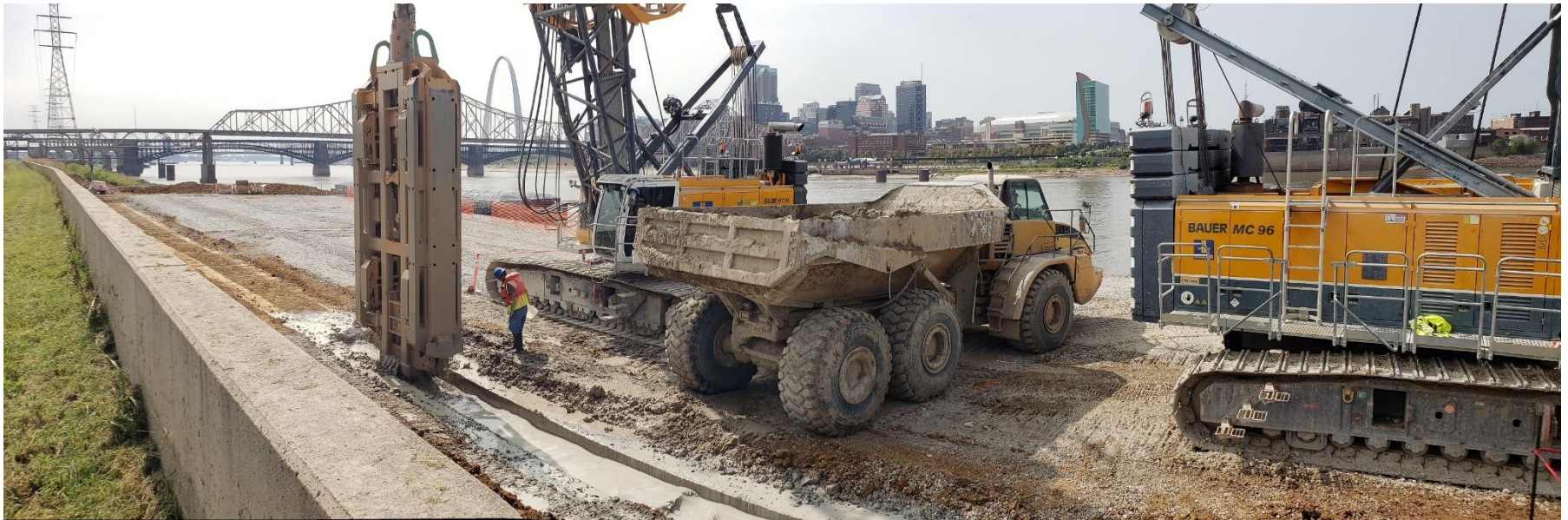
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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment



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# East St. Louis Deep Trench Cutoff Wall

- Construction Equipment



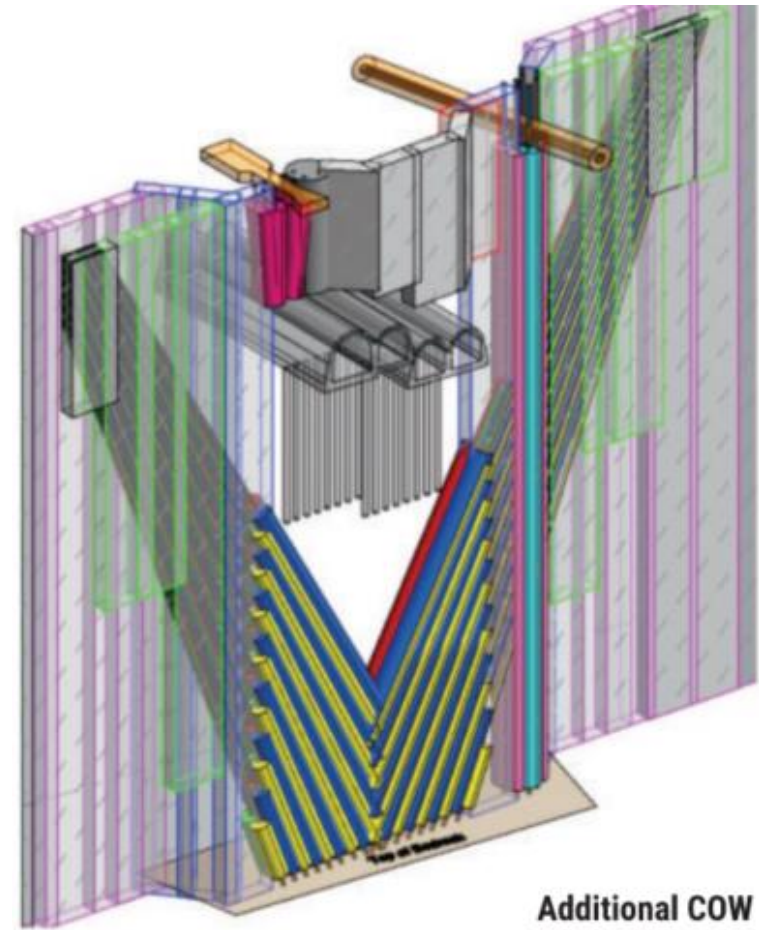
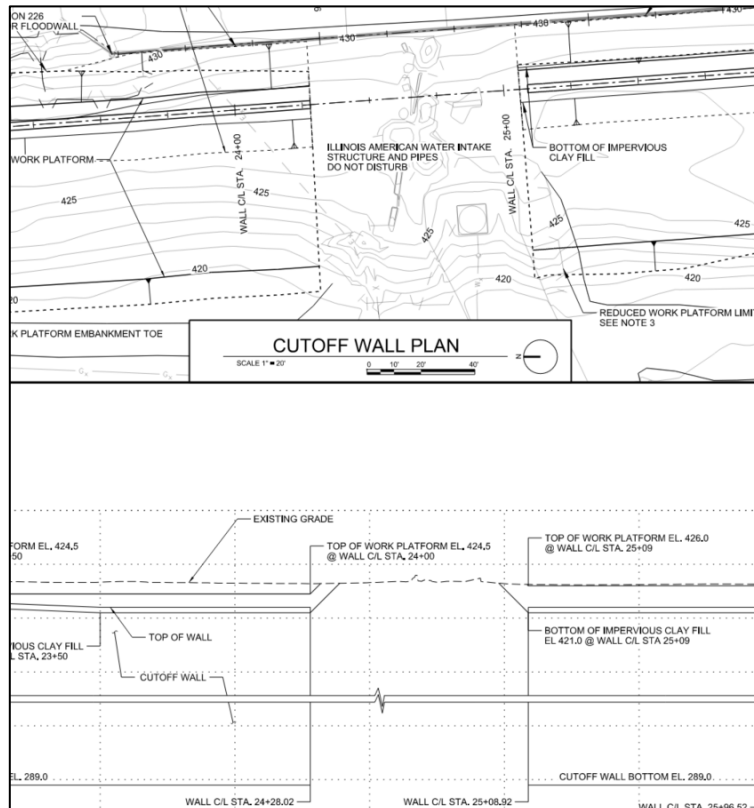
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# East St. Louis Deep Trench Cutoff Wall

- Jet Grouting



Additional COW and jet grouting columns design



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# East St. Louis Deep Trench Cutoff Wall

- Jet Grouting



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# East St. Louis Deep Trench Cutoff Wall

- Questions



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