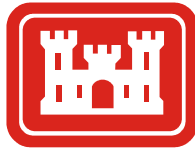


**FINAL PROGRAMMATIC ENVIRONMENTAL ASSESSMENT
SECTION 408 NEPA COMPLIANCE
Fort Worth District, Texas**



**Prepared by
U.S. Army Corps of Engineers
Fort Worth District
Regional Planning and Environmental Center**

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1.0 PURPOSE AND NEED

1.1 INTRODUCTION

There are numerous United States Army Corps of Engineers (USACE) federally authorized Civil Works projects (USACE projects) within the boundaries of the Southwestern Division, Fort Worth District. These USACE projects include flood risk management, emergency streambank protection, ecosystem restoration, recreation, and multi-purpose lakes. Many of the USACE projects have been turned over to non-federal sponsors to operate and maintain. USACE operates and maintains 25 multi-purpose lakes within the Fort Worth District. The Fort Worth District Civil Works boundaries include approximately two thirds of the state of Texas and a small part of western Louisiana (Figure 1).

Each year the Fort Worth District receives numerous requests from private or public entities (“requesters”) to alter USACE federally authorized Civil Works projects. Most of these requests are to alter USACE projects located within large multi-purpose Civil Works projects within the cities of Dallas, Fort Worth, and San Antonio. A small number of requests are to alter either USACE projects located in smaller cities and in rural areas within the state of Texas, or requests to alter multi-purpose lakes that USACE operates and maintains.

When the Fort Worth District receives a request to alter a USACE project, the district implements a process outlined in the 2018 Engineer Circular (EC) 1165-2-220, *Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408* (USACE 2018). These requests vary in complexity, scope, impacts to the USACE project, and environmental impacts. Many requests to alter a USACE project received by the Fort Worth District are similar in nature and have similar impacts to the USACE project and environment.

EC 1165-2-220 encourages USACE districts to develop new programmatic National Environmental Policy Act (NEPA) documents to provide a way to efficiently conduct environmental compliance for categories of activities that have similar environmental effects. In order to address the potential environmental effects of future proposed requests which are similar in nature and that have similar impacts, as required under NEPA of 1969, as amended [42 United States Code (U.S.C.) 4321 *et seq.*], the Fort Worth District has prepared this Programmatic Environmental Assessment (PEA) following the Council on Environmental Quality (CEQ), NEPA Regulations [40 Code of Federal Regulations (CFR) 1500-1508], USACE Engineer Regulation (ER) 200-2-2 (33 CFR 230), and CEQ guidance on the *Effective Use of Programmatic NEPA Reviews* (CEQ 2014).

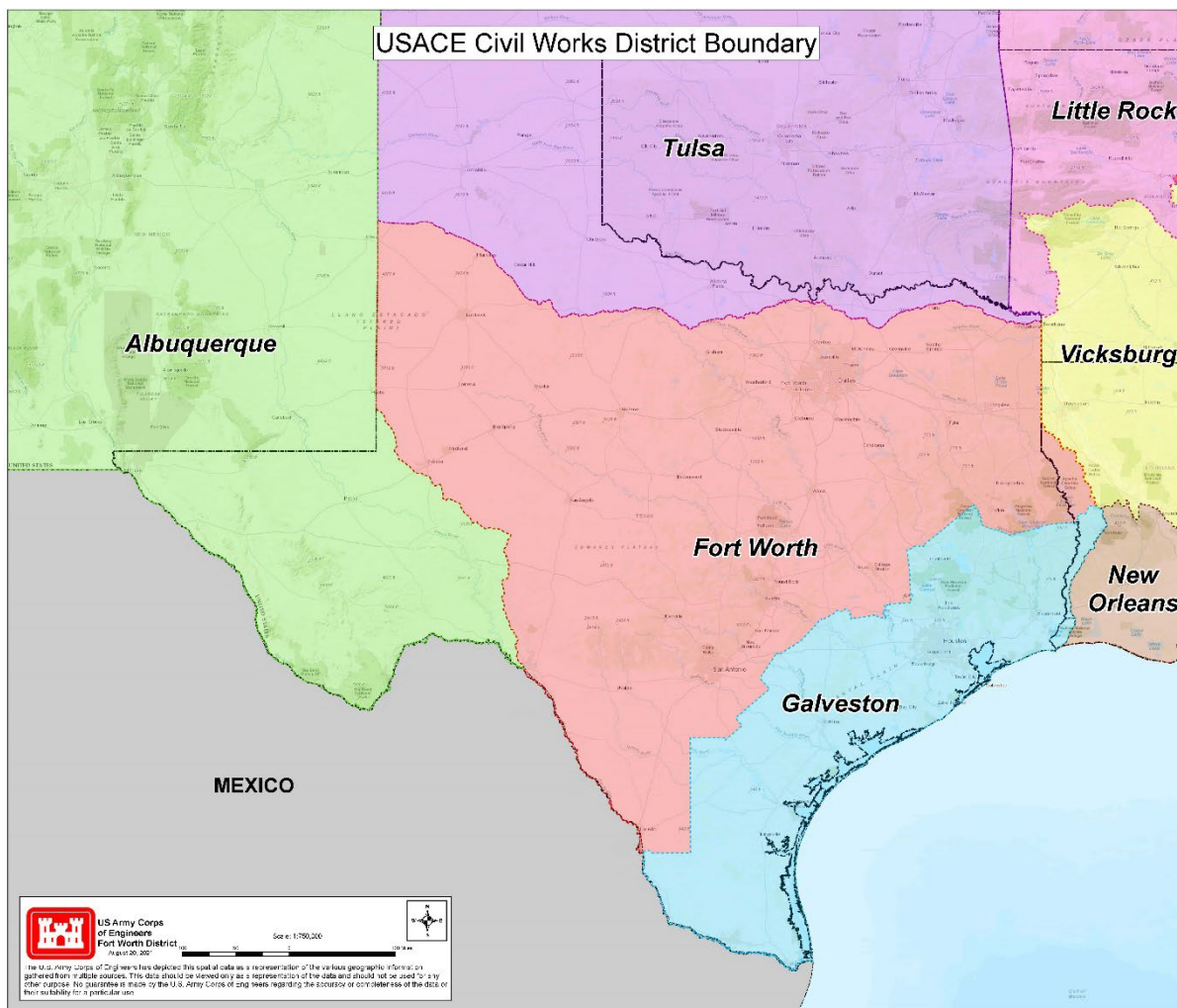


Figure 1. Fort Worth District Civil Work Boundaries

1.2 33 U.S.C. SECTION 408 AUTHORITY AND GUIDANCE

The authority to grant permission for temporary or permanent use, occupation, or alteration of any USACE federally authorized Civil Works project is contained in Section 14 of the Rivers and Harbors Appropriation Act of 1899, as amended, codified at 33 U.S.C. 408 (Section 408). Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers, to grant permission for the alteration or occupation or use of a USACE project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. An alteration is defined as “any action by any entity other than USACE that builds upon, alters, improves, moves, obstructs, or occupies an existing USACE project.” Section 408 authority applies to alterations proposed within the lands and real property interests identified and acquired for the USACE project and to lands available for USACE projects under the navigation servitude (USACE 2018).

1.3 SECTION 408 PROCESS

USACE has issued policy and procedural guidance for processing Section 408 requests in EC 1165-2-220. EC 1165-2-220 outlines the overall USACE review process in four main steps. EC 1165-2-220 states that a decision on a Section 408 request is a federal action and is therefore subject to NEPA and other federal environmental laws, regulations, policies, and executive orders. The Secretary of Army's authority under Section 408 has been delegated to the USACE Chief of Engineers. The USACE Chief of Engineers has further delegated the authority to the USACE Directorate of Civil Works, Division and District Engineers, and Supervisory Division Chiefs depending upon the nature of the activity (USACE 2018).

The Fort Worth District Section 408 Review Team (Review Team) reviews Section 408 requests and determines if the proposed alteration would impair the usefulness of the USACE project, be injurious to the public interest, and if the proposed alteration meets all legal and policy requirements. All Section 408 requests are required to be reviewed in conjunction with a Review Plan. The Fort Worth District currently has a Programmatic Procedural Review Plan (2022) covering most low impact alterations. Alteration-specific Review Plans are required for certain types of alterations, for example alterations requiring a Safety Assurance Review. Guidance on review requirements and Review Plans for Section 408 is found in EC 1165-2-220 and in *Engineer Regulation 1165-2-217, Civil Works Review Policy* (USACE 2021).

The Review Team determines if the proposed alteration would limit the ability of the USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. The decision whether to approve an alteration is determined by the consideration of whether benefits are commensurate with risks. The Review Team determines if the proposed alteration would be injurious to the public interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each case. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The SWF Office of Counsel, part of the Review Team, makes the determination whether the proposed Section 408 meets all legal and policy requirements.

Following the technical review, the Review Team develops a Summary of Findings (content and format scalable to the alteration) to summarize the district rationale and conclusions for recommending approval or denial to the Fort Worth District deciding official, who ultimately makes the Section 408 decision.

On September 21, 2020, the USACE Director of Civil Works extended the EC 1165-2-220 authority while USACE is developing a draft Section 408 regulation. As of August 2022, Headquarters USACE is conducting the rule making process to draft a new rule to codify the Section 408 guidance into the Code of Federal Regulations. The proposed rule would be located at 33 CFR Chapter II, Part 350. Information about the SWF

Section 408 program is available on the SWF Section 408 webpage at <https://www.swf.usace.army.mil/Missions/Section-408/>.

1.4 OTHER PROCEDURES

According to EC 1165-2-220, some activities, if reviewed under other procedures, do not require a separate Section 408 review and decision. Some of these activities fall outside Section 408 jurisdiction and include some maintenance and repair activities conducted by non-federal sponsors (33 CFR 208.10 procedures). Some activities are considered alterations under Section 408, and if reviewed under other procedures, may meet the intent or requirements for Section 408. These activities include some real estate out grants (Report and Determination of Availability procedures under ER 405-1-12, Real Estate Handbook, and ER 1130-2-550, Recreation Operations and Maintenance Policies procedures), some shoreline use permits (Part 327 of 36 CFR), construction of a water resources development project by a non-federal sponsor, some permits under Section 10 of the Rivers Harbors Act of 1899, and some actions conducted under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA procedures).

1.5 FORT WORTH DISTRICT SECTION 408 NEPA COMPLIANCE

The Fort Worth District receives numerous Section 408 requests and inquiries each year (67 in 2020 and 49 in 2021). Some of these requests and inquiries are referred to other procedures that meet the intent of Section 408 (e.g., real estate out grant process at USACE lake projects), and some are determined not to require authorization under Section 408 for other reasons and are withdrawn (e.g., outside of USACE project real property, constitute maintenance and repairs conducted by non-federal sponsors). Some of these Section 408 requests are determined to need authorization under Section 408 and are processed using the current USACE procedures in EC 1165-2-220 (future procedures may be promulgated under 33 CFR Chapter II, Part 350, and/or other guidance). Most of the Section 408 requests that require authorization under Section 408 are for relatively minor alterations to flood risk management projects such as installation of storm, sewer, and telecommunication lines; roads and bridges; recreational features, including trails, trailheads, and amenities; and commercial projects, including housing, parking, associated utilities, and amenities. Many of the proposed alterations are similar and the effects tend to be minor or negligible. However, each Section 408 request requires compliance with NEPA. EC 1165-2-220 states some of the categorical exclusions at 33 CFR 230.9(b) and (i) may have applicability to smaller scale alterations that may be in a Section 408 request, including real estate grants for rights-of-way (granted by either USACE or the non-federal sponsor) as referenced in 33 CFR 230.9(i). However, these are limited to activities which carry out the authorized project purpose [33 CFR 230.9(b)] and minor disturbances to earth, air, or water [33 CFR 230.9(i)] for a limited category of activities. Section 408 requests which do not fit under these categorical exclusions may require an environmental assessment, or if there are significant impacts, an environmental impact statement.

1.6 PURPOSE AND NEED STATEMENT

The purpose of this PEA is to efficiently conduct NEPA compliance for future proposed Section 408 requests which are similar in nature and that have similar impacts. The need for this PEA is to establish a Programmatic NEPA document which will reduce the administrative burden on both requesters and USACE and increase the timeliness of processing future Section 408 requests. There also is a need to replace the previous 2011 PEA.

1.7 PREVIOUS 2011 PEA

The Fort Worth District prepared a PEA dated April 11, 2011, with a signed Finding of No Significant Impact (FONSI) dated April 15, 2011 (USACE 2011). This current PEA replaces and supersedes the previous 2011 PEA once the new PEA is finalized.

2.0 ALTERNATIVES

2.1 SUMMARY

This chapter both describes the proposed alternatives and compares them in terms of their environmental effects. Under CEQ NEPA guidance, only reasonable alternatives should be discussed in detail (40 CFR §1502.14). Additionally, EC 1165-2-220 clarifies that for Section 408, reasonable alternatives should focus on two scenarios: 1) no action and 2) action.

2.2 NO ACTION ALTERNATIVE

Under the No Action Alternative, the Fort Worth District will continue to review all Section 408 requests individually for NEPA compliance and evaluate each for compliance with either a categorical exclusion, environmental assessment, or environmental impact statement. Currently, the Fort Worth District reviews all Section 408 requests following single-phased procedures outlined in EC 1165-2-220. USACE Southwestern Division review is not required for alterations that can be approved at the USACE District level.

2.3 PREFERRED ALTERNATIVE

Under the Preferred Alternative, this PEA would be utilized for NEPA compliance for future Section 408 requests if those future proposed projects would result in minimal environmental effects and meet the engineering and environmental conditions as described in this PEA. This PEA does not evaluate or authorize a particular Section 408 request. Each future Section 408 request would be validated for compliance with this PEA and individually evaluated for compliance with other environmental laws, regulations, and executive orders. USACE reserves discretion for requiring an environmental assessment or environmental impact statement for future Section 408 requests if the effects were determined not minimal, if proposed mitigation was

determined insufficient, if controversial issues were involved, or for other project-specific reasons.

2.4 SCOPE OF THE PROGRAMMATIC ENVIRONMENTAL ASSESSMENT

The geographic scope of this PEA is limited to USACE Fort Worth District federally authorized Civil Works projects operated and maintained by non-federal sponsors and those portions of alterations under Section 408 outside the USACE project where the USACE has adequate control and responsibility over (Table 1). These USACE projects are located throughout the Fort Worth District (Figure 2) and predominantly located in the Dallas/Fort Worth metropolitan area (Figure 3), and San Antonio (Figure 4). This PEA applies to USACE federally authorized Civil Works projects that are constructed, under construction, or not yet constructed if a Project Partnership Agreement is signed, and a non-federal sponsor has provided real property for the USACE project, in accordance with to EC 1165-2-220, paragraph 9a. This PEA does not apply to other USACE districts. This PEA does not apply to USACE Fort Worth District dams and lake projects. The temporal scope is five years. After five years the PEA will be reevaluated and may be renewed if appropriate.

Examples of common types of alterations this PEA may cover are listed below. This list was developed from the experience of the Fort Worth District processing Section 408 and 33 CFR 208.10 requests to alter federal Civil Works projects for many years and represents the most common types of alterations. There may be other types of alterations not listed - this PEA may cover these alterations if it is determined that the alteration would result in minimal environmental effects and meet the engineering and environmental conditions as described in this PEA.

Common alteration types:

- Abandonment of utilities
- Borings, levee explorations, and instrumentation
- Bridges and roads
- Buildings and structures
- Fences, gates, signs
- Horizontal Directional Drilling (HDD)
- Maintenance access facilities (roads)
- Parking lots
- Pipelines (gas and petroleum)
- Real estate disposal and exchanges
- Recreational features (benches, docks, pavilions, ramps, trails)
- Utilities (sanitary, storm, telecommunication, water)
- Utility poles and transmission towers

Table 1. USACE Fort Worth District federally authorized civil works projects Constructed or Under Construction (operated by non-federal sponsors), or with a Signed Project Partnership Agreement

<u>Project Name</u>	<u>Project Type</u>	<u>Authority</u>	<u>Location</u>
Atacosa River at Pleasanton	Flood Risk Management	Section 205	Pleasanton, Texas
Beals Creek	Flood Risk Management	Section 205	Big Spring, Texas
Bear Creek	Emergency Streambank Protection	Section 14	Collin County, Texas
Big Cypress Bayou 1135	Project Modifications for Improvement of the Environment	Section 1135	Jefferson, Texas
Big Fossil Creek Floodway	Flood Risk Management	Specifically authorized by Congress	Richland Hills, Texas
Boggy Creek	Flood Risk Management	Specifically authorized by Congress	Austin, Texas
Brazos River at Waco Wastewater Treatment Plant	Emergency Streambank Protection	Section 14	Waco, Texas
Calloway Branch Channel Improvement	Flood Risk Management	Section 205	Hurst, Texas
Calloway Branch Airline Drive Park	Flood Risk Management	Section 205	Richland Hills, Texas
Cat Claw Creek	Emergency Streambank Protection	Section 14	Abilene, Texas
Central City	Flood Risk Management, Ecosystem Restoration, Recreation	Specifically authorized by Congress	Fort Worth, Texas
Colorado River at Caldwell Lane	Emergency Streambank Protection	Section 14	Travis County
Colorado River at Water Treatment Plant	Emergency Streambank Protection	Section 14	Smithville, Texas
Cooper Lake and Channels	Flood Risk Management	Specifically authorized by Congress	Sulphur River basin
Cottonwood Creek	Emergency Streambank Protection	Section 14	Richardson, Texas
Dallas Floodway	Flood Risk Management	Specifically authorized by Congress	Dallas, Texas
Dallas Floodway (Modified Dallas Floodway Project)	Flood Risk Management, Ecosystem Restoration, Recreation	Specifically authorized by Congress	Dallas, Texas
Dallas Floodway Extension	Flood Risk Management, Ecosystem Restoration, Recreation	Specifically authorized by Congress	Dallas, Texas
Delaware Creek	Flood Risk Management	Section 205	Irving, Texas
Denton County Wildlife Habitat at Lewisville Lake 1135	Project Modifications for Improvement of the Environment	Section 1135	Denton County, Texas
Dry Branch	Flood Risk Management	Section 205	Grand Prairie, Texas
Duck Creek	Flood Risk Management	Section 205	Garland, Texas
Eagleland 1135	Project Modifications for Improvement of the Environment	Section 1135	San Antonio, Texas
East Fork Floodway	Flood Risk Management	Specifically authorized by Congress	Kaufman County, Texas
Farmers Branch	Flood Risk Management	Section 205	White Settlement, Texas
Fort Worth Floodway	Flood Risk Management	Specifically authorized by Congress	Fort Worth, Texas
Frisco at Lewisville Lake 1135	Project Modifications for Improvement of the Environment	Section 1135	Frisco, Texas
Furneaux Creek	Emergency Streambank Protection	Section 14	Carrollton, Texas
Hutton Branch	Emergency Streambank Protection	Section 14	Carrollton, Texas
Indian Creek	Emergency Streambank Protection	Section 14	Westover Hills, Texas
Irving Flood Control District Section 1 Levee	Flood Risk Management	Specifically authorized by Congress	Irving, Texas
Johnson Creek, Arlington	Flood Risk Management, Ecosystem Restoration, Recreation	Specifically authorized by Congress	Arlington, Texas
Johnson Creek, Grand Prairie	Flood Risk Management	Section 205	Grand Prairie, Texas
Lake O' the Pines 1135 Waterfowl Habitat	Project Modifications for Improvement of the Environment	Section 1135	Marion County, Texas
Laredo Riverbend Ecosystem Restoration	Aquatic Ecosystem Restoration	Section 206	Laredo, Texas
Little Fossil Creek	Flood Risk Management	Section 205	Haltom City, Texas
Long Branch	Flood Risk Management	Specifically authorized by Congress	Greenville, Texas

Project Name	Project Type	Authority	Location
Lorean Branch	Flood Risk Management	Section 205	Hurst, Texas
Mary's Creek at Ridglea Country Club Road	Emergency Streambank Protection	Section 14	Fort Worth, Texas
Mission Reach (part of SACIP)	Ecosystem Restoration	Specifically authorized by Congress	San Antonio, Texas
Munday Channel Improvement Project	Flood Risk Management	Section 205	Munday, Texas
O.C. Fisher 1135	Project Modifications for Improvement of the Environment	Section 1135	San Angelo, Texas
Old Leon River at Proctor Lake 1135	Project Modifications for Improvement of the Environment	Section 1135	Comanche County, Texas
Olmos Creek	Aquatic Ecosystem Restoration	Section 206	San Antonio, Texas
Onion Creek: Timber Creek	Flood Risk Management, Ecosystem Restoration, Recreation	Specifically authorized by Congress	Austin, Texas
Onion Creek: Yarrabee Bend	Flood Risk Management, Ecosystem Restoration, Recreation	Specifically authorized by Congress	Austin, Texas
Park Row Bridge, Johnson Creek	Emergency Streambank Protection	Section 14	Arlington, Texas
Pecan Creek	Flood Risk Management	Section 205	Gainesville, Texas
Poteet Channel Improvement - Rutledge Hollow Creek	Flood Risk Management	Section 205	Poteet, Texas
River Oaks Water Treatment Plant	Emergency Streambank Protection	Section 14	River Oaks, Texas
Rush Creek	Flood Risk Management	Section 205	Arlington, Texas
San Antonio Channel Improvement Project (SACIP)	Flood Risk Management	Specifically authorized by Congress	San Antonio, Texas
San Marcos	Aquatic Ecosystem Restoration	Section 206	San Marcos, Texas
Seguin Water Treatment Plant	Emergency Streambank Protection	Section 14	Seguin, Texas
Singing Hills Creek	Flood Risk Management	Section 205	Watauga, Texas
Somerville Lake Flag Pond 1135	Project Modifications for Improvement of the Environment	Section 1135	Lee County, Texas
Spring Lake	Aquatic Ecosystem Restoration	Section 206	San Marcos, Texas
Sulphur Branch	Flood Risk Management	Section 205	Eules, Texas
Ten Mile Creek	Flood Risk Management	Section 205	DeSoto, Texas
Ten Mile Creek at Nokomis Bridge	Emergency Streambank Protection	Section 14	Lancaster, Texas
TPWD Aquatic Plant Colonies/Habitat at Lewisville Lake 1135	Project Modifications for Improvement of the Environment	Section 1135	Denton County, Texas
Walnut Branch Aquatic Ecosystem Restoration	Aquatic Ecosystem Restoration	Section 206	Seguin, Texas
Walnut Branch Channel Improvement	Flood Risk Management	Section 205	Seguin, Texas
West Fork Trinity River at Arlington Landfill	Emergency Streambank Protection	Section 14	Arlington, Texas
West Fork Trinity River at Grand Prairie Landfill	Emergency Streambank Protection	Section 14	Grand Prairie, Texas
West Fork Trinity River at Meyers Road	Emergency Streambank Protection	Section 14	Grand Prairie, Texas
Wheeler Creek	Flood Risk Management	Section 205	Gainesville, Texas
Zacate Creek	Flood Risk Management	Section 205	Laredo, Texas

[Under Construction](#)

[Signed Project Partnership Agreement](#)

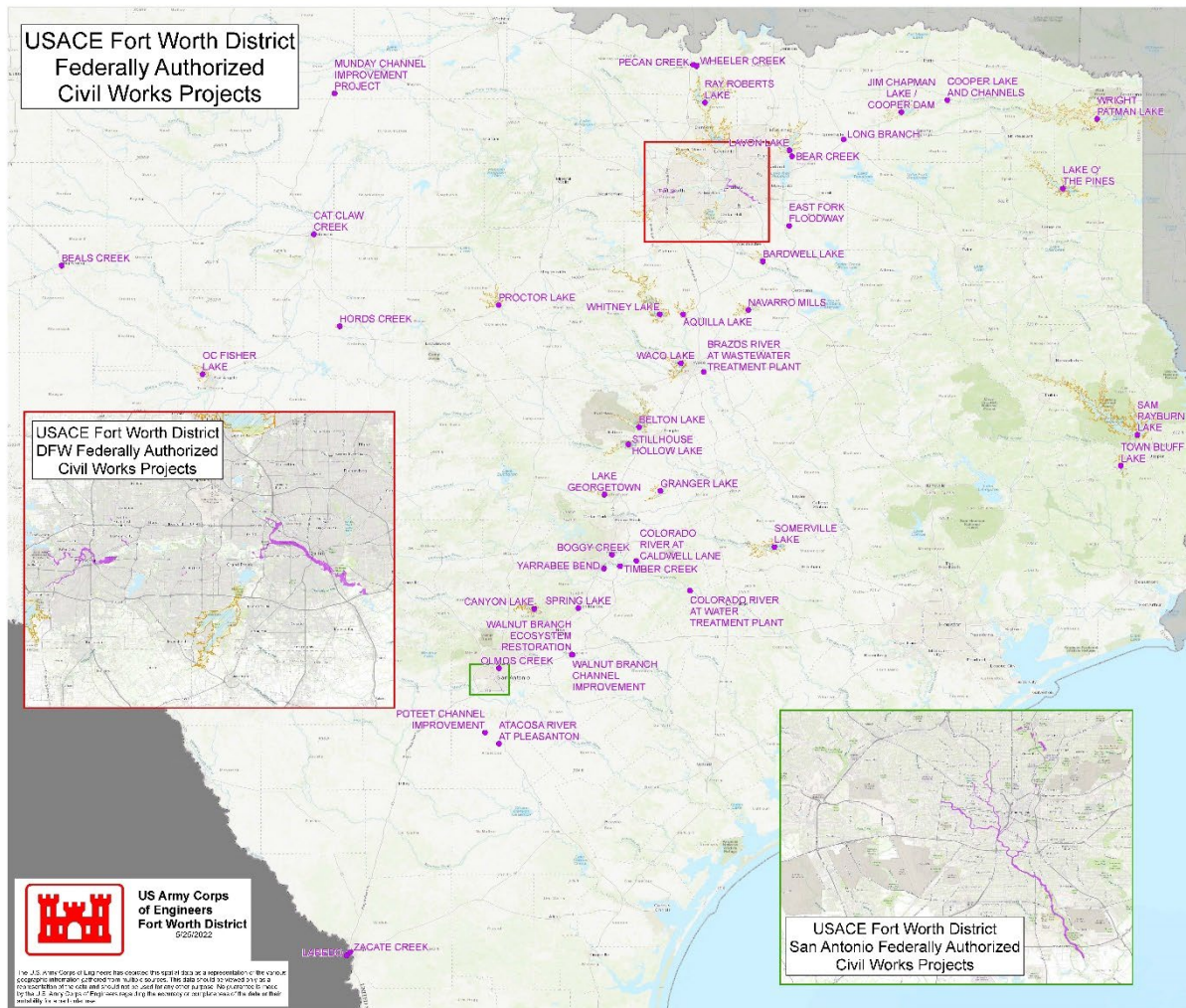


Figure 2. Fort Worth District USACE federally authorized Civil Works projects (boundaries are approximate and not intended for Section 408 jurisdictional determinations)

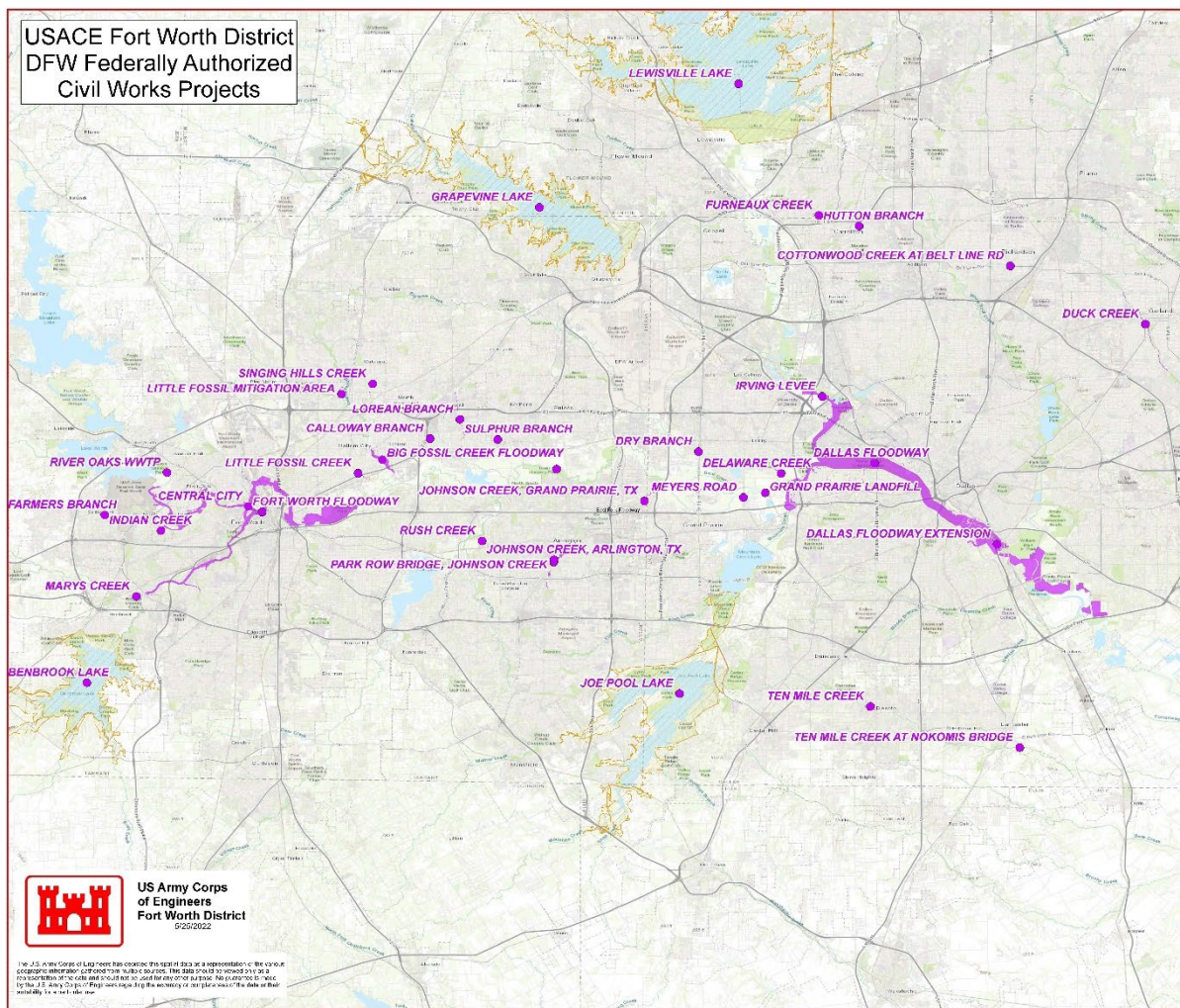


Figure 3. Fort Worth District USACE federally authorized Civil Works projects in the Dallas/Fort Worth metropolitan area (boundaries are approximate and not intended for Section 408 jurisdictional determinations)

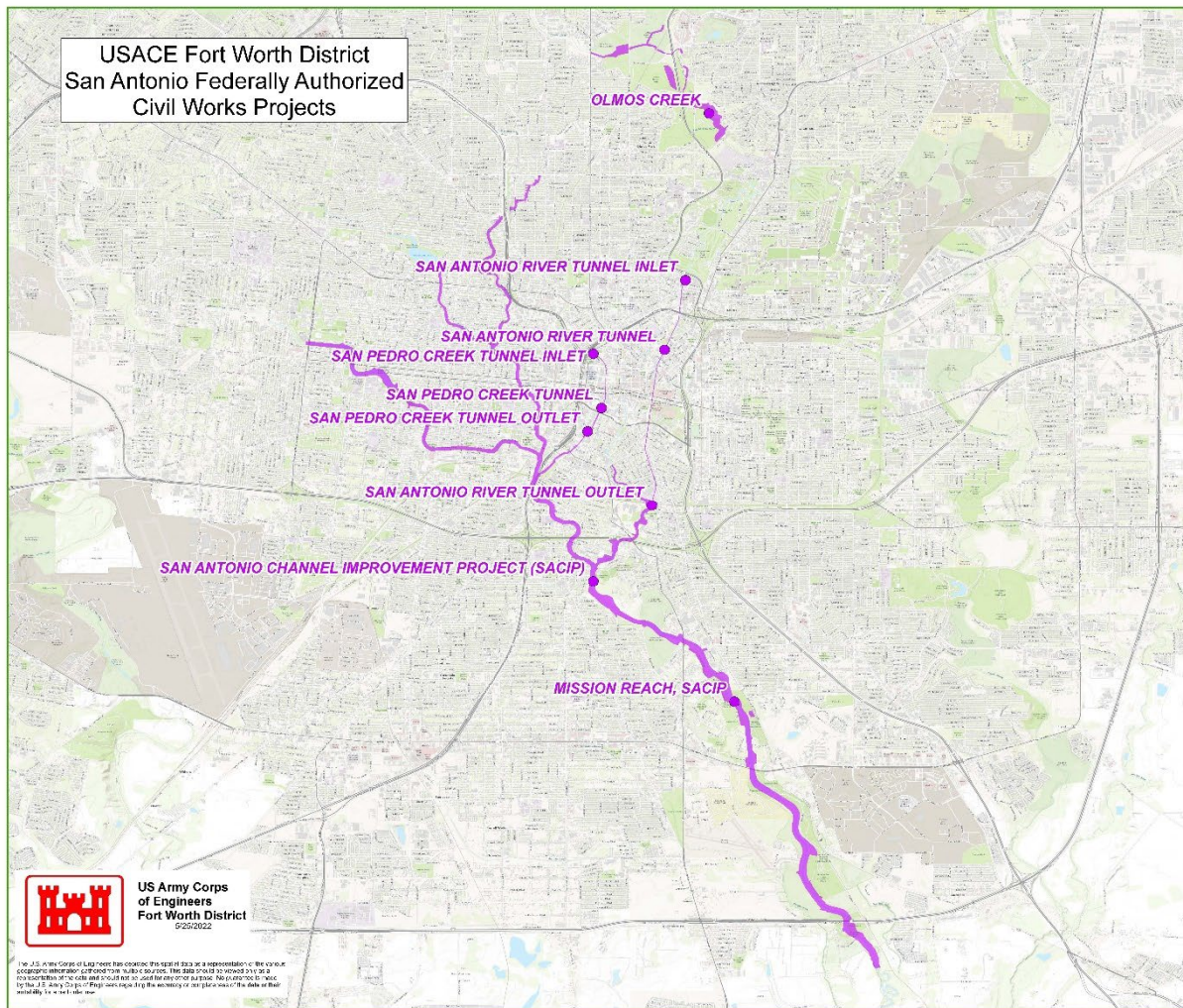


Figure 4. Fort Worth District USACE federally authorized Civil Works projects in the San Antonio Area (boundaries are approximate and not intended for Section 408 jurisdictional determinations)

2.5 CONDITIONS

The following engineering and environmental conditions must be met to qualify for this PEA. Future proposed Section 408 alterations that do not meet these conditions will be evaluated under a categorical exclusion, environmental assessment, or environmental impact statement. USACE may impose project specific special conditions in addition to the conditions below. This list of engineering and environmental conditions and the Standard Terms and Conditions from Appendix K in EC 1165-2-220 will be included in all Section 408 authorizations covered under this PEA.

2.6 ENGINEERING CONDITIONS

1. Work must comply with *SWFP 1150-2-1, Criteria for Design and Construction Within the Limits of Existing Federal Projects, (USACE 2013)*, or applicable future update or replacement document.
2. The requester shall include the following in construction plans: *General Notes for Project Construction Plans Altering a Federal Civil Works Project (Appendix C.)*.
3. The alteration must not adversely impact the Civil Works project hydraulic capacity, integrity, easement access, and operation and maintenance, inspection, and flood fighting procedures.
4. No temporary staging, stockpiles of materials, temporary buildings, or equipment can remain within the project during construction unless approved in writing by the non-federal sponsor.
5. Construction or other work must be coordinated with other work in the area.
6. All structures, facilities, equipment, and other appurtenances must be properly anchored to prevent flotation in the event of high water.
7. All companies/agencies whose existing utilities are located in the intended construction area(s) must be contacted to determine whether those utilities need to be relocated or modified to accommodate the proposed alteration, or whether they would pose any hazards to alteration construction workers or equipment.
8. Appropriate property rights must be acquired as needed for construction, operation, and maintenance of the alteration.
9. Areas disturbed during construction or other work associated with an alteration must be restored to pre-construction conditions once the work is complete.
10. Damage caused by removal or modification of an alteration must be repaired as part of the removal or modification activity.

11. Excavations and drilling must meet federal, state, and local criteria, USACE standards, and Office of Safety and Occupational Health standards.
12. The requester is responsible for removal and disposal of trees or brush cleared during construction to areas outside the limits of the federal project easement.
13. The requester is responsible for protecting levees from damage by construction vehicles, equipment, construction activities, and storage of materials.
14. The requester shall avoid and minimize, to the maximum extent practicable, impacts to recreational facilities - if trails, or public access points, parking lots, or other recreational facilities are blocked to accommodate construction, the requester shall, to the maximum extent practicable, provide for temporary access. Permanent impacts to recreational facilities must comply with Chapter 26 of the Texas Parks and Wildlife Code (PWC) and the Land and Water Conservation Fund Act.

2.7 ENVIRONMENTAL CONDITIONS

1. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to federally listed threatened or endangered species including their critical habitat, proposed threatened and endangered species, candidate species, and proposed critical habitat in accordance with the Endangered Species Act (ESA). The requester will provide an Official Species List from the U.S. Fish and Wildlife Service online Information for Planning and Consultation website <https://ecos.fws.gov/ipac/> for each Section 408 request. Additionally, if suitable habitat is likely in the area, the USACE may require the requester to prepare an assessment of potential impacts to listed species or habitat. USACE will review the Official Species List, and assessment report prepared by the requester if necessary, to assist in making a Section 7 of the ESA effects determination for each individual Section 408 request.
2. Proposed alterations must avoid and minimize, to the maximum extent practicable, the “take” of migratory birds as defined by the Migratory Bird Treaty Act. The requester is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The requester is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
3. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to aquatic resources. Proposed alterations requiring a Section 404 of the Clean Water Act and or Section 10 of the Rivers and Harbors Act of 1899 permit must be covered under applicable Nationwide or Regional

General Permits, or Individual Permits. The requester is required to comply with all general, regional, and special conditions. The requester is required to follow all compensatory mitigation requirements.

4. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to fish and wildlife habitat, including bottomland hardwood habitat. Proposed alterations must not result in a net loss of significant fish and wildlife habitat. If appropriate mitigation to offset losses is required, the requester will be responsible for providing documentation regarding acquisition of the real estate interest necessary for the mitigation and reports on the progress and fulfillment of the required mitigation. USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the quality and nature of potential fish and wildlife habitat present and the suitability of compensatory mitigation sites.
5. Proposed alterations must avoid, minimize or mitigate any significant impacts to cultural resources, to include any adverse effects to historic properties under Section 106 of the National Historic Preservation Act. Additionally, the USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the presence of historic properties or the project's effects to historic properties.
6. Proposed alterations must minimize, to the maximum extent practicable, emissions of criteria pollutants for areas subject to General Conformity within the State of Texas as regulated under the Clean Air Act, reference 40 CFR, Part 93, Subpart B. USACE may require requesters to provide emission projections to USACE, to aid in determining if the alteration is expected to meet or exceed de minimis thresholds.
7. Proposed alterations must be designed to minimize the introduction of exotic species (both plant and animal). Seed mixes used in site restoration must consist only of native species. Use of grass or vegetation species applicable for turfing or sodding requirements for flood risk management projects is acceptable for use on levees and embankments. Preference will be given to utilization of native species in seed mixes. For activities within streams or waterbodies, an Aquatic Invasive Species transfer prevention plan will be required which outlines Best Management Practices (BMPs) for preventing inadvertent transfer of aquatic invasive plants and animals on equipment and materials.
8. Proposed alterations must incorporate BMPs to control storm water runoff, erosion, and contaminant spills (e.g., diesel fuel spills).
9. Upland areas may be temporarily cleared for staging of equipment and materials during construction. Site restoration, including use of seed mixes for applicable USACE project purposes, is required.

10. Vegetation may be removed during construction, however, the alteration should be designed to minimize the amount of woody vegetation removal. Site restoration, including use of seed mixes for applicable USACE project purposes, is required.
11. Excess material from construction must be removed from the project and disposed in an area outside the federal project easement.
12. In the event of an environmental spill, the requester must notify the USACE, the non-federal sponsor and the appropriate state agency immediately. Cleanup and repair are the requester's responsibility. If fish and wildlife resources are impacted by the spill, contact the Texas Parks and Wildlife Department (TPWD) Kills and Spills Team (KAST) immediately, KAST 24 Hour Hotline 512-389-4848.
13. If human remains, archaeological sites, or other cultural resources are encountered during construction, the requester shall immediately stop work and notify the non-federal sponsor.
14. Proposed alterations will be reviewed for compliance with the 1988 Regional Environmental Impact Statement Trinity River and Tributaries Record of Decision Criteria. These criteria apply to a geographic area within the Dallas/Fort Worth metropolitan area. These criteria require USACE to review development within the floodplain.
15. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to federal mitigation areas, including mitigation areas associated with USACE projects, and Permittee Responsible Mitigation areas and Mitigation Banks associated with the USACE Regulatory Program. Only minimal impacts to mitigation areas associated with USACE projects will be allowed. Some mitigation areas associated with USACE projects may have existing easements or rights of way (e.g., utility or transportation) within the real property acquired for the mitigation areas, and in these cases, proposed alterations within these existing easements or rights of way will need to minimize impacts to the mitigation area. Proposed alterations to Permittee Responsible Mitigation areas or Mitigation Banks shall be the responsibility of the requester to contact the Fort Worth District Regulatory Division. The Fort Worth District Regulatory Division shall make determinations and decisions regarding impacts to Permittee Responsible Mitigation areas. Mitigation may be required to offset long-term or permanent adverse effects.
16. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to USACE Ecosystem Restoration Projects, or Ecosystem Restoration features of multi-purpose USACE projects which may include Ecosystem Restoration as an authorized project purpose. Some USACE Ecosystem Restoration Projects may have existing easements or rights of way (e.g., utility or transportation) within the real property acquired for the USACE

Ecosystem Restoration Project, and in these cases, proposed alterations within these existing easements or rights of way will need to minimize impacts to the USACE Ecosystem Restoration Project. Mitigation may be required to offset long-term or permanent adverse effects.

17. Requesters and non-federal sponsors will identify the presence of Hazardous, Toxic, and Radioactive Waste (HTRW) located within the portion of the USACE project where the proposed alteration would occur, and all adjacent properties from which HTRW could migrate onto the USACE project as result of disturbance from the proposed alteration. Non-federal sponsors will notify USACE regarding remediation or response actions in accordance with ER 1165-2-132.

18. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to State of Texas Species of Greatest Conservation Need (SGCN) and State of Texas designated threatened or endangered species. The requester is responsible for compliance with State Law, the Texas Administrative Code, and TPWD regulations. The requester is responsible for contacting the TPWD for compliance. The requester is responsible for preparation of any surveys, reports, and other investigations, which may be required to comply with State of Texas Laws. More information may be found at

https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/nongame/tcap/sgcn.phtml

and

https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/nongame/listed-species/

19. State agencies and political subdivisions must notify the Texas Historical Commission of ground disturbing projects in accordance with the Antiquities Code of Texas (Texas Natural Resources Code, Title 9, Chapter 191). Chapter 26 of the Texas Administrative Code provides guidance on the process in addition to a list of categorical exclusions. The requester is responsible for ensuring compliance with the Antiquities Code of Texas, which may include but is not limited to, obtaining an Antiquities Code Permit, conducting cultural resources investigations and reports, and reporting any archaeological sites discovered during construction.
20. Proposed alterations must comply with State of Texas laws regarding protection of aquatic resources. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to native fish and freshwater mussel species. If construction occurs during times when water is present and dewatering, trampling, dredging, trenching, or filling activities are involved, then relocating native aquatic resources, including fish and mussels, shall be in conjunction with a Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters, and an Aquatic Resource Relocation Plan (ARRP). These are administered by the TPWD. The ARRP should be approved by the TPWD 30 days

prior to activities within project waters or resource relocation and submitted with an application for a no-cost permit. ARRP's can be submitted to the appropriate Regional KAST member whose contact information is found on the TPWD KAST webpage. Copies of the Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters and ARRP shall be provided to USACE for USACE to confirm the requester is complying with state law and is coordinating with TPWD. Requesters shall complete the appropriate mussel sampling protocol as determined by the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset and must coordinate with the TPWD KAST for appropriate authorization when a project involves dewatering or other harmful actions that may impact aquatic species, in waters identified as Group 1 through Group 5 streams, as defined by TPWD. The requester is responsible for preparation of any surveys, reports, and other investigations, which may be required to comply with State of Texas Laws. More information may be found at

https://tpwd.texas.gov/landwater/water/environconcerns/kills_and_spills/

21. Proposed alterations must utilize as applicable, the following TPWD Recommended Beneficial Management Practices.

a. TPWD recommends utilizing the TPWD RTEST and known occurrence data from the Texas Natural Diversity Database (TXNDD) to identify species of SGCN, including state and federal listed SGCN, that may occur in a project area. RTEST provides SGCN lists and general habitat descriptions for each species potentially occurring in each county of Texas. The TXNDD provides known occurrences from a database of individual records for SGCN. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Please note that absence of information in the database does not imply that a species is absent from that area. The data from the TXNDD do not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and cannot be used as presence/absence data. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records. For questions regarding a TXNDD record or to obtain digital data, please visit the TXNDD webpage for guidance.

b. A permit under PWC chapter 86 may be required for disturbance of marl, sand, gravel, shell, or mudshell within streams of the state, where applicable. Information regarding such permits can be found on the TPWD website. The Section 408 requester should contact Tom Heger, TPWD – Inland Fisheries at Tom.Heger@tpwd.texas.gov to determine potential applicability of the TPWD permit to the proposed project and for permit application forms and additional information.

c. It is recommended that Section 408 requesters inform their employees and contractors of the potential for federal and state listed species and other SGCN to occur in the project area and to avoid impacts to all wildlife that are encountered. Wildlife observed during construction, operation, and maintenance should be allowed to safely leave the site. Wildlife in danger from project activities that will not readily leave the site, can be translocated to a nearby area with similar habitat. TPWD recommends that any translocations of reptiles be the minimum distance possible no greater than one mile, preferably within 100-200 yards from the initial encounter location. For purposes of relocation, surveys, monitoring, and research, terrestrial state listed species may only be handled by persons with the appropriate authorization obtained through the TPWD Wildlife Permits Program. For more information on obtaining this authorization, please contact the Wildlife Permits Office at (512) 389-4647.

d. Sky glow because of light pollution can have negative impacts on wildlife and ecosystems by disrupting natural diurnal and nocturnal behaviors such as migration, reproduction, nourishment, rest, and cover from predators. TPWD recommends utilizing the minimum amount of night-time lighting needed for safety and security for on ground facilities and lighted structures. TPWD recommends minimizing the project's contribution to skyglow by focusing light downward, with cutoff luminaires to avoid light emitting above the horizontal, and to use dark-sky friendly lighting that is illuminated only when needed, fully shielded, as bright as needed, and minimizes blue light emissions. Appropriate lighting technologies, BMP, and other dark sky resources can be found at the International Dark-Sky Association and McDonald Observatory websites.

e. Waterways, floodplains, riparian corridors, lakes, and wetlands provide valuable wildlife habitat, and TPWD recommends protecting them to the maximum extent possible. TPWD recommends avoiding unnecessary temporary or permanent access roads or culverts within creeks, boring under streams for utilities, retaining riparian and stream bank vegetation, and establishing disturbance-free buffers contiguous to wetlands or aquatic systems to preserve wildlife cover, food sources, and travel corridors. TPWD recommends avoiding disturbance to inert microhabitats in waterways such as snags, brush piles, fallen logs, creek banks, pools, and gravel stream bottoms, as these provide habitat for a variety of fish and wildlife species and their food sources. Erosion control measures should be installed prior to construction and maintained until disturbed areas are permanently revegetated using site-specific native vegetation.

f. Where trenching or other excavation is involved in construction, TPWD recommends that contractors keep trenching, excavation, and backfilling crews close together to minimize the number of trenches or excavation areas left open at any given time during construction. Any trenches or holes left open for more than two daylight hours should be inspected for the presence of trapped wildlife prior to backfilling. TPWD recommends that any open trenches or excavation areas be covered overnight and inspected every morning to ensure no wildlife

species have been trapped. If trenches and excavation areas cannot be backfilled the day of initial excavation or covered overnight, then escape ramps should be installed, if feasible, at least every 90 meters (approximately 295 feet). Escape ramps consist of short lateral trenches made of soil or wooden planks sloping to the surface at an angle less than 45 degrees (1:1).

g. For soil stabilization and revegetation of disturbed areas within the project area, TPWD recommends erosion control and seed and mulch stabilization materials that avoid entanglement hazards to snakes and other wildlife species. Because the mesh found in many erosion control blankets or mats pose an entanglement hazard to wildlife, TPWD recommends the use of no-till drilling, hydromulching, or hydroseeding rather than erosion control blankets or mats due to a reduced risk to wildlife. If erosion control blankets or mats will be used, the product should contain no netting or contain loosely woven, natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic mesh matting and hydromulch containing microplastics should be avoided.

h. Reductions in native floral resources has led to widespread concern about significant declines in the population of migrating monarch butterflies and other native insect pollinator species. To support pollinators and migrating monarchs, TPWD encourages the establishment of native wildflower habitats on private and public lands. TPWD encourages projects to restore or revegetate impacted areas with vegetation that provides habitat for monarch butterflies and other pollinator species. Species appropriate for establishment within the project area can be found by accessing the Lady Bird Johnson Wildflower Center, working with TPWD biologists to develop an appropriate list of species, or utilizing resources found at the Monarch Watch website or the Xerces Society's Guidelines webpage. For areas of the site that already exhibit floral resources and for areas that are planted with floral resources, TPWD recommends incorporating pollinator conservation into maintenance plans for the project area to promote and sustain the availability of flowering species throughout the growing season. TPWD recommends scheduling vegetation maintenance to occur once the seed from pollinator plants has been released and avoiding herbicides that affect floral resources.

i. To aid in the scientific knowledge of a species' status and current range, TPWD encourages reporting encounters of SGCN to the TXNDD according to the data submittal instructions found at the *TPWD Texas Natural Diversity Database: Submit Data* webpage,

https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/txndd/submit.phtml.

An additional method for reporting observations of species is the iNaturalist community app in which plant and animal observations are uploaded from a smartphone. The observer adds the observation to specific TPWD Texas Nature

Tracker Projects appropriate for the taxa observed, including Herps of Texas, Birds of Texas, Texas Eagle Nests, Texas Whooper Watch, Mammals of Texas, Rare Plants of Texas, Bees & Wasps of Texas, Terrestrial Mollusks of Texas, Texas Freshwater Mussels, Fishes of Texas, and Texas Milkweeds for Monarchs.

2.8 PEA IMPLEMENTATION

This PEA does not evaluate or authorize a particular Section 408 request. Each future Section 408 request would be validated for compliance with this PEA and individually evaluated for compliance with other applicable environmental laws, regulations, and executive orders. If a future Section 408 request was within the scope of this PEA and was determined it would result in minimal environmental effects and meet the engineering and environmental conditions as described in this PEA, it would be validated and documented in the Summary of Findings decision document. Future Section 408 Summary of Findings would at a minimum include the following paragraphs: a paragraph documenting compliance with the PEA, applicable categorical exclusion, or other NEPA document; Section 7 of the Endangered Species Act; Section 106 of the National Historic Preservation Act; and USACE Regulatory Program (Section 404 of the Clean Water Act and or Section 10 of the Rivers and Harbors Act of 1899). No separate FONSI would be required for future Section 408 requests that are covered by this PEA.

If a future Section 408 request did not meet these criteria, it would be evaluated under another NEPA document. USACE reserves discretion for requiring an environmental assessment or environmental impact statement for future Section 408 requests if the effects were determined not minimal, if proposed mitigation was determined insufficient, if controversial issues were involved, or for other project-specific reasons.

3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

3.1 SUMMARY

This chapter describes the affected environment for the USACE projects and the environmental consequences of the alternatives. Because of the broad geographical scope of this document, it is not practical to describe the detailed affected environment and environmental consequences for each specific USACE project. For programmatic NEPA documents, CEQ guidance states that a broad regional or landscape description may suffice for describing the affected environment and directs agencies to focus reviews on the broad environmental consequences that are relevant at the programmatic level (CEQ 2014). This chapter begins with a general description of the authorization, history, location, and existing conditions for the largest non-federal sponsor operated USACE projects. These projects, which are specifically authorized by Congress include: San Antonio Channel Improvement Project (SACIP), Dallas Floodway Project, Dallas Floodway Extension Project, Fort Worth Floodway, and Modified Central City Project. Historically, most Section 408 requests in the Fort Worth

District have occurred within these USACE projects. Next, other Specifically Authorized Projects and the Continuing Authorities Program (CAP) projects are generally described. Finally, this chapter describes the regional environmental resources and the environmental consequences that would be affected by the alternatives.

3.1.1 San Antonio Channel Improvement Project (SACIP)

Project purpose: Flood Risk Management, Ecosystem Restoration, and Recreation.

Authorization and History: The SACIP was authorized by Section 203 of The Flood Control Act of 1954 for Flood Risk Management. The SACIP was modified by Section 103 of the Water Resources Development Act (WRDA) of 1976, and further modified by Section 335 of WRDA 2000 to add Ecosystem Restoration and Recreation as authorized project purposes. The project consists of channel improvements, flood diversion tunnels, and other flood risk management features. Construction began in 1957 and was completed in 1998. The Mission Reach Ecosystem Restoration Project is located at the southern part of the SACIP and was constructed from 2010-2014. The Eagleland Section 1135 Project Modifications for Improvement of the Environment Project is located upstream of the Mission Reach area and was constructed around 2009. The San Antonio River Authority (SARA) is the non-federal sponsor. SARA and the City of San Antonio have a local agreement for shared maintenance of the SACIP.

Location: The projects are located on the San Antonio River and its tributaries in San Antonio, Bexar County, Texas.

Existing Conditions: The SACIP includes channel improvements, installation, and modification of drainage structures, clearing, widening, straightening, deepening, modification of highway and railroad bridges, road relocations, and sodding and seeding of embankment and channel slopes on the San Antonio River, Alazan Creek, Apache Creek, Martinez Creek, San Pedro Creek, and Six Mile Creek, which equates to approximately 34.9 miles of flood risk management improvements. Additional project features include the construction of concrete and steel piling floodwalls and culverts and two deep tunnel systems beneath the downtown San Antonio area. The tunnels allow bypass diversion of water during high flow events. The tunnels are located under San Pedro Creek and under the San Antonio River.

The SACIP is primarily grasslands bounded by dense residential, industrial, recreational, and commercial development with some portions bound completely by concrete and development. Limited areas of bottomland hardwood forests exist intermittently along the project primarily to the northwest and within recreational properties. The SACIP vicinity consists of densely populated residential, commercial, and transportation developments within the City of San Antonio. Aquatic resources within the project area include the San Antonio River, Alazan Creek, Apache Creek, Martinez Creek, San Pedro Creek, and Six Mile Creek, tributaries meeting their confluence within the project area, and potential emergent and forested wetlands located adjacent to the channel. The project area is located in the Carrizo-Wilcox

aquifer (TWDB 2021) and located in the San Antonio River Basin and Upper San Antonio River sub-basin (TWDB 2021).

3.1.2 Eagleland Ecosystem Restoration

This CAP Section 1135 Project for Modifications for Improvement of the Environment/Ecosystem Restoration project was constructed in 2009 on a portion of the existing SACIP footprint for approximately one mile along the San Antonio River, which begins at Alamo Street and continues south to Lone Star Boulevard. It encompasses approximately 17 acres of lands surrounding the river that was planted with native vegetation.

3.1.3 Mission Reach Ecosystem Restoration

This Ecosystem Restoration project also was constructed within the footprint of the existing SACIP boundary from 2010-2014. It begins at the southern terminus of the Eagleland project and extends for approximately eight miles south to Loop 410 on the San Antonio River. The Mission Reach project includes a mix of terrestrial and aquatic habitat restoration. The Mission Reach project is described in the *September 2004 General Re-evaluation Report and Integrated Environmental Assessment with a signed FONSI dated September 2004* (USACE 2004).

3.1.4 West Side Creeks (WSC) Ecosystem Restoration

The WSC is an approved Ecosystem Restoration project as described in the *January 2014 General Re-evaluation Report and Integrated Environmental Assessment, with a signed FONSI dated June 2014* (USACE 2014a). The WSC recommended plan would implement ecosystem restoration and recreation features along portions of Alazan Creek, Apache Creek, Martinez Creek, and San Pedro Creek. SARA is the non-federal sponsor for the WSC project. At the time of this PEA, a signed Project Partnership Agreement had not been executed. This PEA would be applicable to the future WSC project if it were constructed. Existing conditions are similar to rest of the SACIP. Proposed ecosystem restoration features include restoring degraded riparian and aquatic habitat and preserving and restoring approximately 1,492 acres of riverine and upland habitat and approximately 20 miles of the creeks. Restoration of the WSC system will provide benefits for diverse communities of aquatic organisms and wildlife. Proposed ecosystem restoration features are similar to those already constructed within the Mission Reach.

3.1.5 Dallas Floodway

Project purpose: Flood Risk Management, Ecosystem Restoration, and Recreation.

Authorization and History: The original authorization for the Dallas Floodway Project was approved in 1945 and was modified by Section 5141 of the WRDA of 2007, and further modified by Section 4013 of the Water Resources Reform and Development Act

of 2014. Flood risk management features were constructed beginning in the 1920s by local interests including relocation of the Trinity River, construction of levees, and other interior drainage features. Federal construction began in the 1950s including strengthening of levees, river deepening, and interior drainage improvements. The Dallas Floodway Project is located adjacent to the Stemmons Business Corridor and the Central Business District. The flood risk management separable element of the recommended plan for the Modified Dallas Floodway Project consists of restoring the floodway capacity to accommodate the water surface elevation corresponding to a 277,000 cubic feet per second flow; modifying the existing levee side slopes to 4:1; modifying the Atchison, Topeka, and Santa Fe (AT&SF) Bridge to increase conveyance efficiency; constructing and/or renovating five interior drainage pump stations (one constructed by non-federal sponsor for credit). The levee raise, AT&SF bridge modification, and the pump stations received \$222,900,000 under the Supplemental Appropriations in the 2018 Bipartisan Budget Act (BBA). The feasibility report and NEPA documents for Dallas Floodway Project are the *2014 Final Feasibility Report* (USACE 2014b) and separate *2014 Final Environmental Impact Statement*, with a signed Record of Decision in April 2015 (USACE 2014c). The Dallas Floodway is currently under construction at the time of this PEA. The non-federal sponsor is the City of Dallas.

Location: The project is located along the Trinity River and Elm Fork Trinity River and its tributaries in Dallas, Dallas County, Texas.

Existing Conditions: The project includes channel improvements, clearing of the floodway, strengthening of 22.6 miles of levees, installation and modification of drainage structures, construction of pressure sewers, diversions, gravity outlets, alteration of railroad bridges, construction and installation of pump stations, construction and modification of sump areas, and sodding and seeding of embankment slopes adjacent to areas along the above described portion of the Trinity River and tributaries.

The Dallas Floodway includes grasslands, wetlands, and riparian bottomland hardwoods, which are located primarily along the river channels, located throughout the project area. The majority of the floodway between the levees, levee slopes, and interior drainage sumps are dominated by grass and forb vegetation. The levee slopes, portions of the floodway, and portions of the interior drainage sumps are mowed for maintenance purposes. The project area includes significant disturbances by past residential, commercial, and industrial development, as well as the federal project construction. The project levees are bounded by extensive urban development. Along the Elm Fork Trinity River upstream of the confluence with the West Fork Trinity River, the east side of the floodway is mowed and cleared, and the west side remains forested. The aquatic resources within the project area include the Trinity River, West Fork Trinity River, Elm Fork Trinity River, numerous tributaries meeting their confluence with the rivers, ponds, and potential emergent and forested wetlands located throughout the site. The project area is located within the Trinity Aquifer (TWDB 2021).

3.1.6 Dallas Floodway Extension

Project purpose: Flood Risk Management, Ecosystem Restoration, and Recreation

Authorization and History: The Dallas Floodway Extension authorization is contained in Section 301 of the River and Harbor Act of 1965 (for flood control), modified by Section 351 of WRDA 1996 (authorizing inclusion of non-federal levees into the project), and further modified to add ecosystem restoration and recreation as project purposes by Section 356 of WRDA 1999. The Dallas Floodway Extension will increase the level of protection to the existing Dallas Floodway, providing an additional \$6.7 million in average annual benefits to approximately 10,000 structures. Completion of the Dallas Floodway Extension will reduce the water surface elevations within the existing Dallas Floodway, thereby reducing the risk to life and safety for those protected by the existing levees. Major flood risk management features of the Dallas Floodway Extension include the Lamar Levee, Cadillac Heights Levee, Chain of Wetlands, one non-federal levee (Rochester Park Levee), and one levee in the federal system (Central Wastewater Treatment Plant (CWWTP Levee). The Lamar Levee will tie into Rochester Park Levee and Cadillac Heights Levee will tie into the CWWTP Levee. Recreation features include trails, trailhead access areas, bridges, and associated facilities. Ecosystem restoration features are integrated into the Chain of Wetlands. The Dallas Floodway Extension also includes extensive on-site mitigation areas. The Lamar and Cadillac Heights Levees received \$135,000,000 under the 2018 BBA. Construction of additional recreation features are planned and cost-shared. The feasibility report and NEPA documents for the Dallas Floodway Extension are the *1999 General Re-evaluation Report and Integrated EIS*, with a signed Record of Decision in December 1999 (USACE 1999), and *2003 Supplement Number One to the EIS* (USACE 2003). The Dallas Floodway Extension is currently under construction at the time of this PEA. The non-federal sponsor is the City of Dallas.

Location: The project is located along the Trinity River and its tributaries in Dallas, Dallas County, Texas.

Existing Conditions: The Dallas Floodway Extension includes several completed and future features. Completed projects within the Dallas Floodway Extension include the Chain of Wetlands, realignment of the Trinity River at Interstate Highway 45, and recreation features. The Dallas Floodway Extension features that are currently funded under the Supplemental Appropriations in the 2018 BBA include the future Lamar and Cadillac Heights Levees. The CWWTP Levee consists of an approximately three-mile ring levee around the City of Dallas wastewater treatment plant east of Interstate 45 and west of Cedar Crest Boulevard on the right bank of the Trinity River. The Upper and Lower Chain of Wetlands are a series of connected wetland cells supplied year round by reclaimed water from the CWWTP. During flood events, the Chain of Wetlands reduces flood risk by holding and slowly dispersing flood water at the same time providing wildlife habitat and recreation. The combined Upper and Lower Chain of Wetlands are approximately 217 acres, including 123 acres of emergent wetlands, 45 acres of open water, and 102 acres of grasslands. Mitigation lands for the Dallas Floodway Extension are located downstream and total approximately 1,179 acres.

The Dallas Floodway Extension includes wetlands, and riparian bottomland hardwoods, and limited grasslands which are located primarily in the overbanks, located throughout the project area. The forested lands along the Trinity River are known as the Great Trinity Forest. The project area includes significant disturbances by past residential, commercial, sand and gravel mining, and industrial development, as well as the federal project construction. The project levees, located along the majority of the project, are bounded by extensive urban development. Aquatic resources within the project area include the Trinity River, numerous tributaries meeting their confluence with the rivers, ponds, and potential emergent and forested wetlands located throughout the site. The project area is located within the Trinity Aquifer (TWDB 2021).

3.1.7 Fort Worth Floodway and Modified Central City

Project purpose: Flood Risk Management, Ecosystem Restoration, and Recreation.

Project Authorization and History: The Fort Worth Floodway was authorized by the River and Harbor Act of 1945, Section 2 of Public Law 79-14, March 2, 1945. The Fort Worth Floodway was modified by two separate authorizations for extension of the project on the West Fork and Clear Fork of the Trinity River. The extension on the West Fork Trinity River was authorized by the Flood Control Act of 1960, Public Law 86-645, July 14, 1960. The extension on the Clear Fork Trinity River was authorized by the Flood Control Act of 1962, Public Law 87-874, October 23, 1962. The project consists of channel improvements, levees, interior drainage structures, and other flood control features on the West Fork and Clear Fork of the Trinity River located in Fort Worth, Tarrant County, Texas. Construction of the Fort Worth Floodway began in 1950 and was completed in 1970. The Central City Project for flood control, ecosystem restoration, and recreation, authorized by the River and Harbor Act of 1965, Public Law 89-298; as modified by Section 116 of the Energy and Water Development Appropriations Act of 2005, Division C, Public Law 108-447; and as further modified by Section 1401 (9) of the Water Infrastructure Improvements for the Nation Act of 2016, Public Law 114-332, authorized the Secretary to undertake the Central City River Project as generally described in the Trinity River Master Plan, dated April, 2003, as amended. The Modified Central City Project is located within the vicinity of the downtown area of Fort Worth, Texas, along the West Fork and Clear Fork of the Trinity River and consists of a bypass channel, levee system, and associated improvements to divert flood flows around a segment of the existing floodway system. Included in the federal portion of the project is valley storage and related environmental and cultural resource mitigation requirements. The feasibility report and NEPA documents for the Modified Central City Project are the *FEIS dated January 2006* with a signed Record of Decision dated April 2006 (USACE 2006). A Final Supplement No. 1 to the *Final Environmental Impact Statement and Final Modified Project Report*, are both dated March 2008, with a signed Record of Decision dated May 2008 (USACE 2008). The Modified Central City Project is currently under construction at the time of this PEA. The non-federal sponsor for both the Fort Worth Floodway and the Modified Central City Project is the Tarrant Regional Water District.

Location: The Fort Worth Floodway and Modified Central City Project are located on the Clear Fork and West Fork of the Trinity River in Fort Worth, Tarrant County, Texas.

Existing Conditions: The Fort Worth Floodway spans between river mile 551.45 and 570.40 on the West Fork Trinity River and river mile 0.00 and 7.57 on the Clear Fork Trinity River. Channel improvements along the West Fork Trinity River include cleaning; excavation of a realigned channel; construction of new levees; sodding and seeding of all new slopes; alteration or construction of bridges, railroad, and highway; alteration or construction of drainage structures. Channel improvements on the Clear Fork Trinity River include cleaning, excavation, and realignment; sodding and seeding of all new slopes; alteration or construction of bridges; and construction of emergency control structures.

The Fort Worth Floodway Project includes numerous vegetation types, consisting of primarily grasslands located throughout the project area, some shrublands, and limited bottomland hardwood forests. All portions of the project area are bound by residential, commercial, and industrial developments. Aquatic resources within the project area include the Clear Fork Trinity River, West Fork Trinity River, numerous streams, which meet their confluence with the rivers, and potential forested and emergent wetlands. The project area is located within the Trinity Aquifer (TWDB 2021).

3.1.8 Other Specifically Authorized Projects

The Fort Worth District has other Specifically Authorized Projects that are constructed and subject to Section 408, see Table 1. and Figures 2, 3, and 4 for a list of these other Specifically Authorized Projects and locations.

3.1.9 Continuing Authorities Program (CAP)

The USACE Continuing Authorities Program is a group of nine legislative authorities under which the USACE can implement certain types of water resources projects without additional specific Congressional authorization. The Fort Worth District has numerous CAP projects that are constructed, under construction, or with a signed Project Partnership Agreement—all of which are subject to Section 408. Refer to Table 1 and Figures 2, 3, and 4 for a list of these CAP projects and locations. A general description of the authorization and description for the Fort Worth District CAP projects is described below. All of the CAP projects in the Fort Worth District are operated by non-federal sponsors.

3.1.10 Section 14

Project purpose: Streambank Erosion Protection.

Project Authorization and description: The Flood Control Act of 1946, as amended. Provides the authority for emergency streambank erosion protection to prevent damage to public, non-profit or historic facilities endangered by floods or storms. Typical Section

14 Streambank Erosion Protection projects in the Fort Worth District are comprised of sections of streambanks, riverbanks, and stream channels which are armored with rock rip rap, concrete, or other slope protection materials. These projects prevent erosion to specific public infrastructure including water treatment plants, bridges, and roads. The Fort Worth District has seventeen constructed Section 14 projects which are operated by non-federal sponsors.

3.1.11 Section 205

Project purpose: Local Flood Damage Reduction.

Project Authorization and History: The Flood Control Act of 1948, as amended. Provides for local protection from flooding by the construction or improvement of flood control works. The majority of the Section 205 projects within the Fort Worth District are comprised of channel improvements, including deepening, straightening, armoring, and drainage improvements. Some Section 205 projects include mitigation lands to compensate for impacts to fish and wildlife habitat. These mitigation lands may be contiguous to or adjacent to the flood control projects, or the mitigation may be located off site. The Fort Worth District has twenty-one constructed Section 205 projects which are operated by non-federal sponsors.

3.1.12 Section 206

Project purpose: Aquatic Ecosystem Restoration.

Project Authorization and History: Water Resources Development Act of 1996. Provides authority to the USACE for aquatic ecosystem restoration and protection if the project will improve the quality of the environment, is in the public interest, and is cost effective. The Fort Worth District has three constructed Section 206 projects: Laredo Riverbend Ecosystem Restoration, Spring Lake, and Walnut Branch Aquatic Ecosystem Restoration. The San Marcos Section 206 is currently under construction. The Olmos Creek Section 206 has a signed Project Partnership Agreement and is currently not under construction.

3.1.13 Section 1135

Project purpose: Project Modifications for Improvement of the Environment.

Project Authorization and History: Water Resources Development Act of 1986. Provides authority to the USACE to review and modify water resources structures and operations constructed by the USACE for the purpose of improving the quality of the environment. The Fort Worth District has eight constructed Section 1135 projects.

3.2 REGIONAL RESOURCES AND ENVIRONMENTAL CONSEQUENCES

This section describes the regional environmental resources and environmental

consequences encompassing USACE federally authorized Civil Works projects subject to Section 408 within the geographic scope of this PEA. This section is organized by resource group. First are physical resources, followed by biological resources, then social resources. This chapter will only discuss relevant resources (those resources that would be affected by the alternatives). This PEA only applies to USACE projects operated and maintained by non-federal sponsors and does not apply to lake projects operated by USACE. The majority of USACE projects that meet the scope of this PEA and are operated by non-federal sponsors are concentrated near the cities of Dallas, Fort Worth, and San Antonio; therefore, the descriptions of the environmental resources and environmental consequences are focused on these areas, with adequate consideration for other USACE projects' environmental resources and consequences outside of these urban areas. The environmental consequences will be described in terms of direct, indirect, and cumulative effects. The CEQ defines direct effects as those effects caused by the action and occurring at the same time and place (40 CFR 1508.8). The CEQ defines indirect effects as those effects which are caused by the action but are later in time or farther removed in distance but are still reasonably foreseeable (40 CFR 1508.8). The CEQ defines cumulative effects as those which result from the "incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions" (40 CFR 1508.7). Reasonably foreseeable future actions are actions that are planned and likely to occur. The cumulative effects analysis and the evaluation of indirect effects in this PEA was constrained to be broad and general because no particular (individual) Section 408 requests were evaluated. Future Section 408 requests will be individually evaluated for direct, indirect, and cumulative effects. If those effects were determined not minimal, an environmental assessment or environmental impact statement will be required. Each future Section 408 request also will be individually evaluated for the probable impacts, including cumulative impacts, on the public interest, in accordance with the Section 408 "Injurious to the Public Interest determination" statutory requirements and current USACE Section 408 policy and procedural guidance.

3.2.1 Cumulative Effects Summary

The cumulative effects analysis in this document will consider past, present, and reasonably foreseeable future actions that influence the geographic areas where USACE projects are located. Based on CEQ guidance, the geographic scope for cumulative effects analysis in this document may vary by resource. The temporal scope of analysis for all resources extends five years into the future (the proposed initial length of the PEA before it is reevaluated) and fifty years into the past. In accordance with CEQ guidance, the cumulative effects analysis in this PEA will focus on major broad and general impacts and will be qualitative in nature. Past actions include the original USACE project construction; public infrastructure construction; commercial, industrial, and residential development adjacent to the USACE project; recreation; operation and maintenance of the USACE project; and construction of alterations under Section 408. Present actions include public infrastructure construction; commercial, industrial, and residential development adjacent to the USACE project; recreation; operation and

maintenance of the USACE project; federally authorized modifications of the USACE project; and construction of alterations under Section 408. Reasonably foreseeable future actions include public infrastructure construction; commercial, industrial, and residential development adjacent to the USACE project; recreation; operation and maintenance of the USACE project; federally authorized modifications of the USACE project; and construction of alterations under Section 408. Effects on physical, biological, and social resources from past, present, and reasonably foreseeable future actions are summarized in Table 2.

Table 2. Cumulative Effects Summary. This table includes past, present, and reasonably foreseeable future actions and the cumulative effects on physical, biological, and social resources

Past, Present, and Reasonably Foreseeable Future Actions	General Effects on Physical Resources	General Effects on Biological Resources	General Effects on Social Resources
Original USACE project construction (Past Actions)	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased dust - Increased noise - Water contamination - Loss of wetland habitat 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Noise effects - Habitat loss - Habitat disturbance - Introduction of invasive species 	<ul style="list-style-type: none"> - Visual effects - Disturbance of cultural resources
Public infrastructure construction. Examples include: utilities, roads, bridges, and parks. (Past, Present, and Reasonably Foreseeable Future Actions)	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased dust - Increased noise - Water contamination - Loss of wetland habitat 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Noise effects - Habitat loss - Habitat disturbance - Introduction of invasive species 	<ul style="list-style-type: none"> - Visual effects - Disturbance of cultural resources - Increased vehicle traffic - Increased recreation

Past, Present, and Reasonably Foreseeable Future Actions	General Effects on Physical Resources	General Effects on Biological Resources	General Effects on Social Resources
<p>Commercial, industrial, and residential development adjacent to the USACE project. (Past, Present, and Reasonably Foreseeable Future Actions)</p>	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased noise - Increased turbidity - Water contamination - Generation of debris 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Noise effects - Habitat loss - Habitat disturbance - Introduction of invasive species 	<ul style="list-style-type: none"> - Visual effects - Disturbance of cultural resources - Increased vehicle traffic - Increased recreation
<p>Recreation (Past, Present, and Reasonably Foreseeable Future Actions)</p>	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased dust - Increased turbidity - Water contamination 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Noise effects - Habitat loss - Habitat disturbance - Introduction of invasive species 	<ul style="list-style-type: none"> - Disturbance of cultural resources - Increased recreation

Past, Present, and Reasonably Foreseeable Future Actions	General Effects on Physical Resources	General Effects on Biological Resources	General Effects on Social Resources
Operation and maintenance of the USACE project (Past, Present, and Reasonably Foreseeable Future Actions)	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased noise - Increased turbidity - Water contamination - Generation of debris 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Noise effects - Habitat loss - Habitat disturbance - Introduction and/or removal of invasive species 	<ul style="list-style-type: none"> - Visual effects - Disturbance of cultural resources - Effects on recreation - Decreased flooding
Federally authorized modifications of the USACE project (Present and Reasonably Foreseeable Future Actions)	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased noise - Increased turbidity - Water contamination - Generation of debris - Increased water quality - Increased wetland habitat 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Increase in habitat - Improvement of existing habitat - Habitat disturbance - Increase in native vegetation - Introduction and/or removal of invasive species 	<ul style="list-style-type: none"> - Visual effects - Disturbance of cultural resources - Improved recreational opportunities - Decreased flooding

Past, Present, and Reasonably Foreseeable Future Actions	General Effects on Physical Resources	General Effects on Biological Resources	General Effects on Social Resources
Construction of alterations under Section 408 (Past, Present, and Reasonably Foreseeable Future Actions)	<ul style="list-style-type: none"> - Generation of criteria pollutants - Increased noise - Increased turbidity - Water contamination - Generation of debris - Effects on water quality - Effects on wetland habitat 	<ul style="list-style-type: none"> - Direct mortality or injury - Behavioral disturbance - Habitat loss - Habitat disturbance - Introduction and/or removal of invasive species 	<ul style="list-style-type: none"> - Visual effects - Disturbance of cultural resources - Effects on recreation

Physical Resources

3.2.2 Wetlands and Other Waters

Affected Environment

Wetlands and other waters, including streams, rivers, ponds, lakes, reservoirs, etc. are located within and in proximity to USACE projects. Wetlands are characterized by three qualities: hydric soils, vegetation adapted to hydric soils, and a substrate saturated with or inundated by shallow water during the growing season. Wetlands are biologically diverse and serve a variety of ecologically and physical functions. Wetlands provide wildlife habitat, fish breeding and foraging, nutrient and sediment trapping and retention, storage and release of floodwaters, and recreation. Most wetlands within USACE projects are associated with riverine systems and occur as forested or emergent wetlands. Other common waters within USACE projects are rivers and streams, and many of these in the context of USACE projects and local flood control have been channelized, straightened, deepened, or realigned. Rivers and their tributary streams are diverse with many that have been impacted for flood control and other urban activities including industrial and residential development, transportation, and recreation. Some less disturbed river and stream habitat exist within USACE projects, and some rivers and streams have been subject to ecosystem restoration projects. Other open water habitats exist within and adjacent to USACE projects, including ponds, lakes, reservoirs, and interior drainage swales and sumps. These open water features provide important flood control, recreation, and fish and wildlife habitat. Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into waters of the United States, including wetlands. The USACE Regulatory Program administers the Section 404 of the Clean Water Act permit program within the Fort Worth District. Additionally, Section 401 of the Clean Water Act requires that applicants for federal permits provide certification from the state that discharges will comply with the Act and state-established water quality standards. The USACE Regulatory Program also administers Section 10 of the Rivers and Harbors Act of 1899 within the Fort Worth District, which applies to obstructions within navigable waters.

Direct and Indirect Effects

3.2.2.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.2.2 Preferred Alternative

Direct effects to wetlands and other waters, including streams, rivers, ponds, lakes, reservoirs may include discharges of dredged or fill material resulting in a loss of aquatic habitat, clearing of vegetation, and herbicide application. Compensatory mitigation may be required, depending on the Regulatory requirements. Some activities or impacts within wetlands and other waters, associated with alterations under Section 408, may not be regulated under Section 404 of the Clean Water Act. The definition of waters of the U.S. has varied based on legislative and court decisions. The definition of waters of the U.S., and therefore those wetlands and waters which are regulated by the USACE Regulatory Program may change in the future. Regardless of whether wetlands and other waters are regulated under Section 404 Clean Water Act, effects to wetlands and other waters will be evaluated individually for each future Section 408 request. Indirect effects may include sedimentation into wetlands, streams, and ponds, and succession of wetland vegetation may occur as sediments are deposited over time. Direct and indirect beneficial effects may occur because of bank stabilization, native plant establishment, and streambank and wetland restoration projects. The effects of the Preferred Alternative to wetlands and other waters would be minimal because effects would be individually evaluated during the Section 408 review and effects would be minimized by compliance with PEA Engineering Conditions #6 and #9, and Environmental Conditions #3, #4, #7, #8, #10, #12, #15, and #16. USACE may also require project specific special conditions to minimize effects to these aquatic resources.

3.2.3 Water Quality

Affected Environment

Individual states have jurisdiction for managing water quality within their boundaries. The Clean Water Act, Section 303(d) requires states to identify waters where existing required pollution controls are not stringent enough to meet state water quality standards. The United States Environmental Protection Agency (USEPA) requires states to establish total maximum daily loads (TMDLs) for these waters (40 CFR 130.7). Every two years, states are required to submit a list of impaired waters to the USEPA. Information about the TMDL Program, administered by the Texas Commission on Environmental Quality (TCEQ) can be found at <https://www.tceq.texas.gov/waterquality/tmdl/index.html>. A list of the water bodies on the State of Texas 303(d) list can be found at the website above, under 'All Impaired Waters'. Each water body listed has detailed location information on specific water bodies and stream reaches and the listed impairment(s). Many water bodies within USACE projects in the Fort Worth District are found on the list of impaired waters.

Direct and Indirect Effects

3.2.3.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.3.2 Preferred Alternative

There may future Section 408 requests that would not result in impacts to water quality because work would not occur within or in proximity to water bodies. Many future Section 408 requests could have effects on water quality because they would involve work within or in proximity to water bodies. Effects on water quality from these future alterations carried out under Section 408 could have both negative and positive effects. Examples of negative effects on water quality that could be carried out under a project authorized under Section 408 are construction or other activities that cause spills or a release of fuels, lubricants, or other substances; increased erosion; increased water turbidity; and increased sedimentation. Beneficial effects on water quality could be construction or other activities and include erosion prevention; bank stabilization, reduction of sedimentation; reduction in nutrient runoff; and ecosystem restoration or cleanup projects. Future Section 408 requests would not be granted Section 408 authorization until Section 401 of the Clean Water Act (Water Quality Certification) has been obtained or waived, as provided for by statute. Future Section 408 requests that involve a discharge regulated under Section 401, would be coordinated between the Fort Worth District Section 408 Review Team and Fort Worth District Regulatory Division. TCEQ has certified that activities conducted under the Nationwide and Regional General Permits within the Fort Worth District would not result in a violation of established Texas Water Quality Standards provided the standard provisions general permit conditions are followed. Water Quality Certifications for Nationwide and Regional General Permits contain specific conditions that would be followed to comply with those certifications. The Preferred Alternative would have minimal effects on water quality because of compliance with applicable Nationwide and Regional General Permits, along with adherence to the standard provisions and general permit conditions, and Water Quality Certification conditions. Additionally, effects to water quality would be minimized by compliance with PEA Environmental Conditions #3, #8, #11, and #12.

3.2.4 Cultural Resources

Affected Environment

Cultural resources are comprised of items, features, and landmarks representative of the ideology, beliefs, lifestyles, and customs of a particular culture. Multiple federal laws have been enacted in order to protect significant cultural resources, which include but are not limited to sacred sites, historic architecture, archaeological sites, Traditional Cultural Properties, and trails. Section 106 of the National Historic Preservation Act (NHPA) requires Federal Agencies to identify cultural resources eligible for inclusion on

the National Register of Historic Places (NRHP) within the area of potential effect (APE) of an undertaking. In addition, the law requires that federal agencies assess the effects a project may have on historic properties and consult with appropriate state and local officials, federally recognized Native American tribes, and members of the public regarding these determinations. The process mandated by Section 106 is outlined in the Code of Federal Regulations 36 CFR Part 800, as amended August 5, 2004. Furthermore, 36 CFR 800.8 entails the coordination of Section 106 with NEPA. As stated in 36 CFR 800.8(a)(1), "A finding of adverse effect on a historic property does not necessarily require an EIS under NEPA."

Several USACE projects within the Fort Worth District have been determined eligible for the NRHP under Criterion A or C, including the Dallas Floodway Control Project. For the Dallas Floodway Flood Control Project, Section 405 (a) of the FY2010 Supplemental Disaster Relief and Summer Jobs Act (Public Law 111-212) states, "The Secretary of the Army shall not be required to make a determination under the National Historical Preservation Act of 1966 (16 U.S.C. 470, et seq.) for the project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled 'An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes', approved March 2, 1945 [59 Stat. 18], as modified by section 5141 of the Water Resources Development Act of 2007 [121 Stat. 1253]." Thus, as interpreted by the 19 October 2010 Implementation Guidance for Section 405(a) of the FY2010 Supplemental Disaster Relief and Summer Jobs Act (Public Law 111-212) Memorandum (Appendix B, no determinations will be made by USACE under the NHPA within the Dallas Floodway; however, impacts to cultural resources will still be assessed under NEPA.

The presence of significant cultural resources and/or historic properties is dependent upon the project location. As such, each Section 408 request must be reviewed accordingly.

Direct and Indirect Effects

3.2.4.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative. Section 408 requests outside of the Dallas Floodway shall be evaluated in accordance with Section 106 of the NHPA. Any proposed action within the Dallas Floodway, will be evaluated in accordance with NEPA.

3.2.4.2 Preferred Alternative

For any action included in this PEA, a records search will be conducted initially to

determine the potential for significant cultural resources within the project area. Depending on the results of the records review, a cultural resources survey may be required. Any proposed action outside of the Dallas Floodway will be evaluated in accordance with Section 106 of the NHPA. If historic properties are present, the effects of the undertaking on historic properties will be determined and consultation with the appropriate consultation parties as defined by 36 CFR 800 will be conducted to ascertain appropriate mitigation measures (PEA Environmental Condition #5). Adverse effects to historic properties are not anticipated for most Section 408 requests as many requests occur within areas heavily impacted by the construction of the USACE project.

3.2.5 Air Quality

Affected Environment

USEPA is primarily responsible for regulating nationwide air quality. The Clean Air Act (CAA) (42 U.S.C. 7401 *et seq.*) as amended, authorized USEPA to set National Ambient Air Quality Standards (NAAQS) to protect the public health and welfare and regulate emissions of hazardous air pollutants (USEPA Laws & Regulations). Additionally, the General Conformity Rule was promulgated by USEPA and mandates that the federal government does not engage in, support, or provide financial assistance for licensing or permitting, or approve any activity not conforming to an approved State Implementation Plan (SIP). In Texas, the applicable plan is the Texas SIP, see <https://www.tceq.texas.gov/airquality/sip>, a USEPA-approved plan for the regulation and enforcement of the NAAQS in each air quality region within the state. The NAAQS for the six criteria pollutants include carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), particulate matter less than 10 microns (PM₁₀), particulate matter less than 2.5 microns (PM_{2.5}), sulfur dioxide (SO₂) and lead (Pb). If the concentration of one or more criteria pollutant in a geographic area is found to exceed the regulated “threshold” level for one or more of the NAAQS, the area may be classified as a nonattainment area. Areas with concentrations of criteria pollutants that are below the levels established by the NAAQS are considered either attainment or unclassifiable areas. The General Conformity Rule is applicable only to nonattainment and maintenance areas.

The USACE projects in the Dallas/Fort Worth (DFW) and San Antonio Air Quality Control Regions (AQCR) are in areas currently in nonattainment for ozone. The DFW AQCR is currently in marginal nonattainment for the 2015 standard of 0.070 parts per million (ppm) for ozone, and serious nonattainment for the 2008 standard of 0.075 ppm for ozone. The DFW AQCR is currently in attainment (maintenance) for lead in a portion of Collin County. The San Antonio AQCR is currently in marginal nonattainment for the 2015 standard of 0.070 ppm for ozone. Other USACE projects under the scope of this PEA are currently in areas that are in attainment, therefore, these areas are not currently subject to the General Conformity Rule. Specific concentrations for attainment may be found at <https://www.tceq.texas.gov/airquality/mobilesource/gc.html>.

For USACE projects under the scope of this PEA and subject to the General Conformity Rule, the following de minimis levels currently apply. In the DFW AQCR, the de minimis

threshold for ozone is 50 tons per year of either nitrogen oxides (NO_x) or volatile organic compounds (VOC). In the DFW AQCR (for Collin County) the de minimis threshold for lead is 25 tons per year. In the San Antonio AQCR (for Bexar County), the de minimis threshold for ozone is 100 tons per year of either NO_x or VOC. Visit <https://www.tceq.texas.gov/airquality/mobilesource/gc.html> for more information on General Conformity in Texas and de minimis thresholds (TCEQ 2022).

Direct and Indirect Effects

3.2.5.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.5.2 Preferred Alternative

The Preferred Alternative would have minimal effects on Air Quality because of compliance with PEA Environmental Condition #6. Most future Section 408 requests within areas subject to General Conformity within the State of Texas are not expected to exceed de minimis thresholds. USACE would require requesters to provide emission projections if emissions from an alteration were determined at risk of exceeding de minimis thresholds. If emissions were equal to or exceeded minimis thresholds, USACE would make a determination of General Conformity compliance.

3.2.6 Hazardous Toxic, and Radioactive Waste (HTRW)

Affected Environment

In accordance with ER 1165-2-132, HTRW includes any material listed as a "hazardous substance" under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq* (CERCLA). Hazardous substances regulated under CERCLA include "hazardous wastes" regulated under Sec. 3001 of the Resource conservation and Recovery Act, 42 U.S.C. 6921 *et seq*; "hazardous substances" identified under Section 311 of the Clean Air Act, 33 U.S.C. 1321, "toxic pollutants" designated under Section 307 of the Clean Water Act, 33 U.S.C. 1317, "hazardous air pollutants" designated under Section 112 of the Clean Air Act, 42 U.S.C. 7412; and "imminently hazardous chemical substances or mixtures" on which the USEPA has taken action under Section 7 of the Toxic Substance Control Act, 15 U.S.C. 2606; these do not include petroleum or natural gas unless already included in the above categories. Dredged material and sediments beneath navigable waters proposed for dredging qualify as HTRW only if they are within the boundaries of a site designated by the USEPA or a state for a response action under CERCLA, or if they are a part of a

National Priority List site under CERCLA. According to EC 1165-2-220, paragraph 9a, Section 408 applies to USACE federally authorized Civil Works projects that are constructed, under construction, or not yet constructed if a Project Partnership Agreement is signed, and a non-federal sponsor has provided real property for the USACE project. ER 1165-2-132 provides guidance on HTRW procedures for different phases of the Civil Works lifecycle. Most Section 408 actions occur during the operation, maintenance, repair, replacement, and rehabilitation (OMRRR) phase of the Civil Works lifecycle. During OMRRR, the non-federal sponsor is responsible for remediation of HTRW. There are numerous structures and properties within the District boundaries that have the potential to contain HTRW. Newer USACE projects generally have been screened for HTRW during the feasibility phase and so the likelihood of encountering HTRW within newer USACE projects is low. Older USACE projects may not have been thoroughly screened or screened following modern USACE planning guidance. Some older USACE projects pre-date many environmental laws, including NEPA and CERCLA. According to EC 1165-2-220, paragraph 9h, certain removal or remedial actions conducted under CERCLA may not be subject to the procedural requirements in EC 1165-2-220, and therefore may not require Section 408 NEPA compliance.

Direct and Indirect Effects

3.2.6.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.6.2 Preferred Alternative

The Preferred Alternative would minimize the potential release of HTRW because requesters and non-federal sponsors would identify the presence of any HTRW located within the portion of the USACE project where the proposed alteration would occur, and all adjacent properties from which HTRW could migrate onto the USACE project as result of disturbance from the proposed alteration (PEA Environmental Condition #17).

3.2.7 Noise

Affected Environment

The Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*) established a national policy to promote an environment for all Americans free from noise that jeopardizes their health or welfare. Background noise levels at USACE projects within the Fort Worth District are dependent on project location. Noise levels at USACE

projects originates from operation and maintenance activities, recreational activities, light to moderate traffic on local roads, and moderate to heavy traffic on nearby interstates and high-volume highways. In addition, some projects are located near airports, which may have elevated noise levels due to air traffic. Locations where people live, or where the presence of elevated noise levels could significantly affect the use of the land, are considered to be noise sensitive areas. Noise sensitive receptors can include residents near the federal project, schools, hospitals, nursing homes or assisted living facilities, parks, and businesses, among others.

Direct and Indirect Effects

3.2.7.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.7.2 Preferred Alternative

The Preferred Alternative may result in some level of noise during construction that would rise above the existing conditions. Elevated noise levels could have various impacts based on the location of the proposed alteration. Proposed alterations located near a sensitive receptor, which are common in urban and suburban settings, could impact those receptors. The effects of noise associated with alterations could range from non-noticeable from existing conditions to noticeable. Proposed alterations would be subject to local noise ordinances which may restrict the days of the week and/or times of day during which construction may take place.

3.2.8 Fish and Wildlife Species

Affected Environment

Wildlife within the USACE project areas include a wide variety of year-around resident and migratory land and shore birds as well as mammals, reptiles, amphibians, and invertebrates adapted to urban environments throughout the State of Texas. Aquatic species vary more depending on where the USACE project is located within the state and available aquatic habitat, but generally include a mix of native and exotic fish species. USACE project areas may also be within known ranges of a variety of Species listed by the State of Texas as threatened, endangered, or species of greatest conservation need. Presence of these species and their preferred habitats vary depending on project location.

Some examples of the most common state listed species known to occur within a majority of the USACE projects in the Dallas, San Antonio, and Austin area include bird species such as wood stork (*Mycteria americana*) and bald eagle (*Haliaeetus leucocephalus*); fish including the Guadalupe darter (*Percina apristis*) and the Texas shiner (*Notropis amabilis*); and numerous bat species including the southeastern myotis bat (*Myotis austroriparius*) and eastern red bat (*Lasiurus borealis*).

A complete list of state listed threatened, endangered, and species of most conservation concern can be accessed via the TPWD Rare, Threatened, and Endangered Species of Texas (RTEST) application at <https://tpwd.texas.gov/gis/rtest/>.

Direct and Indirect Effects

3.2.8.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.8.2 Preferred Alternative

The Preferred Alternative would have minimal effects on fish and wildlife habitat because of compliance with PEA Environmental Condition #3 (fit under Nationwide or Regional General Permits) and PEA Environmental Condition #4 (no net loss of significant fish and wildlife habitat). The Preferred Alternative would have minimal effects on migratory birds as well as state and federally listed threatened, endangered, or species of greatest conservation need because of compliance with Environmental Conditions #1, #2, #4, #7, #12, #18, #20, and #21.

3.2.9 Threatened and Endangered Species

Affected Environment

The Endangered Species Act of 1973 was enacted to provide a program for the preservation of endangered and threatened species and to provide protection for the ecosystems upon which these species depend for their survival. USFWS is the primary agency responsible for implementing the Endangered Species Act. An endangered species is a species officially recognized by USFWS as being in danger of extinction throughout all or a significant portion of its range. A threatened species is a species likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Proposed species are those that have been formally submitted to Congress for official listing as threatened or endangered. In addition, USFWS has identified species that are candidates for listing as a result of identified threats to their

continued existence. The candidate designation includes those species for which USFWS has sufficient information to support proposals to list as endangered or threatened under the Endangered Species Act; however, proposed rules have not yet been issued because such actions are precluded at present by other listing activity. Various species listed as endangered and threatened under the Endangered Species Act and their habitats occur within USACE projects. Suitable habitat for these species is limited because of the disturbed and degraded conditions of USACE projects.

Direct and Indirect Effects

3.2.9.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.9.2 Preferred Alternative

For any action included in this PEA, each future Section 408 request would be evaluated to determine the potential to adversely affect all federally listed threatened and endangered species. The requester will provide an Official Species List from the U.S. Fish and Wildlife Service online Information from Planning and Consultation website <https://ecos.fws.gov/ipac/> for each Section 408 request. The USACE will review the Official Species List, and assessment report prepared by the requester, if necessary, to assist in making a Section 7 of the ESA effects determination for each individual Section 408 request. The Preferred Alternative would have minimal effects on Threatened and Endangered Species because of compliance with PEA Environmental Condition #1.

3.2.10 Invasive Species

Affected Environment

E.O. 13751 (Safeguarding the Nation from the Impacts of Invasive Species) states that it, "is the policy of the United States to prevent the introduction, Establishment, and spread of invasive species, and to eradicate and control populations of invasive species that are established." E.O. 13112 (Invasive Species) requires federal agencies to identify their actions that may affect the status of invasive species and, "not authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined and make public its determination the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in

conjunction with the actions.” In 2009, USACE issued a policy memorandum establishing a nationwide policy regarding invasive species, with the goal of preventing the “introduction and establishment of invasive species.”

Direct and Indirect Effects

3.2.10.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.10.2 Preferred Alternative

Under the Preferred Alternative proposed alterations would be designed to minimize the introduction of invasive species (PEA Environmental Condition #7).

3.2.11 Migratory Birds

Affected Environment

The Migratory Bird Treaty Act (MBTA) prohibits the taking of migratory birds which includes individual birds and their nests. A complete list of protected MBTA species is available from the USFWS. This list includes a wide range of species including waterfowl, shore birds, resident species, and more. The USACE projects are used by a variety of resident and migratory birds.

Direct and Indirect Effects

3.2.11.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.11.2 Preferred Alternative

The Preferred Alternative would have minimal effects on migratory birds because of compliance with PEA Environmental Conditions #1 and #2.

3.2.12 Vegetation

Affected Environment

The Fort Worth District includes multiple ecological regions within Texas. The Fort Worth Floodway and Central City Civil Works projects are located within the Cross Timbers ecological region. The Dallas Floodway and Dallas Floodway Extension are located within the Blackland Prairie ecological region. The San Antonio area includes a convergence of the Blackland Prairie, Edwards Plateau, and South Texas Brush ecological regions. The vast majority of USACE projects are located within riparian corridors and floodplains. Most USACE projects, including large multi-purpose Civil Works projects within the cities of Dallas, Fort Worth, and San Antonio have been subjected to past channelization and clearing, along with urbanization, which has significantly degraded the natural vegetation and habitats within the USACE projects. Today, these riparian corridors and floodplains include extensive maintained floodways, levees, interior drainage sumps, recreational facilities, and limited forest, wetland, and open water areas.

Grass and forb species are dominated by non-native species including Bermuda grass (*Cynodon dactylon*) and Johnson grass (*Sorghum halepense*). Bermuda grass was widely seeded and planted to cover levees and other cleared floodway areas. USACE operation and maintenance manuals include requirements for maintaining projects as cleared and many areas are subject to routine mowing to prevent trees, shrubs, and other woody species from growing. USACE operation and maintenance manuals also include requirements for maintaining turf-forming grasses, for which Bermuda grass is desirable.

Limited parts of USACE projects include emergent wetlands which typically include grasses, cattails (*Typha* spp.), rushes (*Schoenoplectus* spp. and *Scirpus* spp.), smartweeds (*Polygonum* spp.), sedges (*Carex* spp.), and spikerushes (*Eleocharis* spp.). USACE projects include forested areas which are limited and sparse in many cleared and maintained floodways. The exception is the Dallas Floodway Extension, which is designed to keep much of the Great Trinity Forest bottomland hardwood forest intact.

USACE projects also include mitigation areas which are usually bottomland hardwood forests which have been restored or supplemented with native trees and shrubs. Bottomland hardwood forests within USACE projects include bur oak (*Quercus macrocarpa*), Shumard oak (*Quercus shumardii*), sugar hackberry (*Celtis laevigata*), elms (*Ulmus* spp.), ashes (*Fraxinus* spp.), red mulberry (*Morus rubra*), eastern cottonwood (*Populus deltoides*), black willow (*Salix nigra*), and pecan (*Carya illinoensis*) (TPWD 2022 FHWA 2014).

Direct and Indirect Effects

3.2.12.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.12.2 Preferred Alternative

The Preferred Alternative would have minimal effects on vegetation because effects to vegetation would be minimized by compliance with PEA Environmental Conditions #4, #7, #9, #10, #11, #15, and #16.

3.2.13 Aesthetics

Affected Environment

When considering the aesthetic value of an area, it is important to consider the visual character and quality of that area, as well as the viewer response. Visual character is defined as the description of the visible attributes of a scene or object. Artistic terms, such as form, line, color, and texture, are typically used to describe visual character. Visual character can be influenced by many different resources, including atmospheric, geologic, hydrologic, botanical, wildlife, recreation, and urban features. Visual quality is defined as what viewers like and dislike about visual resources that compose the visual character of a particular scene. Different viewers may evaluate specific visual resources differently based on their unique, individual interests in natural harmony, cultural order, and project coherence. Additionally, the viewer's point of observation and viewing distance play an important role in how individuals evaluate visual resources. USACE projects within the Fort Worth District are located in a wide variety of settings and landscapes where the visual character and quality of projects is highly varied and site specific.

Direct and Indirect Effects

3.2.13.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.13.2 Preferred Alternative

The Preferred Alternative may affect aesthetics in a variety of ways. Construction of proposed alterations could temporarily adversely affect visual quality by degrading visual resources or obstructing or altering views. Additionally, many of the alterations could have long-term adverse effects on visual resources. Although adverse effects are possible, alterations could result in long-term beneficial effects on visual quality by either enhancing visual resources or by creating better views of those resources. Potential effects on aesthetics would be minimized by compliance with Engineering Conditions #1, #3, #5, #8, #9, #10, and #11.

3.2.14 Recreation

Affected Environment

The lands contained within USACE projects in the Fort Worth District is often used by the public for recreation. Many of the large USACE projects in urban settings have concrete, gravel, and natural surface recreational trails which traverse these projects and are used for bicycling, walking, running, wildlife viewing, and other non-motorized use. Many levees have trails on the top or crown, which are available for public recreation. Some maintenance access roads and paths are available for public recreational use. Many of the large USACE projects in urban settings have public parks which are adjacent or co-located within the USACE projects. These public parks and access points function as public gateways to public recreational use of the USACE projects. Segments of rivers and streams within many USACE projects are available to the public for small watercraft use. Ponds, lakes, and open water within USACE projects also are commonly used for recreation. Some USACE projects contain public boat ramps and dedicated public water access points. USACE projects function as green spaces beyond the administrative boundaries of the adjacent and co-located public parks. These green spaces and public parks are important public gathering spaces which are used for social events, public concerts, public fireworks celebrations, public athletic events, and other public events.

Direct and Indirect Effects

3.2.14.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.14.2 Preferred Alternative

The Preferred Alternative would have minimal effects on recreation because by compliance with PEA Engineering Conditions #1 and #14 USACE cannot approve Section 408 requests which impair the usefulness of the USACE project, when recreation is an authorized project purpose, nor can USACE approve Section 408 requests which are injurious to the public interest, for which recreation is one of the public interest review factors.

3.2.15 Transportation and Traffic

Affected Environment

USACE projects in the Fort Worth District are located in a wide variety of areas, ranging from urban to rural. USACE projects in urban areas have major highways bordering them, bridges crossing over them, and highways located on them. These USACE projects may see large volumes of traffic and may play a key role in local or regional transportation, particularly the projects that have a highway located near them.

Direct and Indirect Effects

3.2.15.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.15.2 Preferred Alternative

Construction of future Section 408 requests may have temporary effects on traffic during the duration of the construction. Construction of most alterations would require vehicles to transport equipment, material, and construction personnel. These vehicles would increase the amount of traffic in the vicinity of a proposed alteration. Some alterations may take place on or near roadways, potentially requiring temporary lane closures or traffic detours during construction. Bridge replacement projects have a particularly high potential to disrupt traffic during construction. However, some types of alterations could have long-term beneficial effects on transportation. For example, bridge replacement or widening projects may have temporary negative effects on traffic during construction, but generally improve transportation once construction is complete. Alterations that involve construction of bicycle or pedestrian trails may improve traffic by providing opportunities for alternative forms of transportation, decreasing the number of vehicles on nearby roads.

Construction activities associated with the types of alterations covered by the Preferred Alternative are expected to affect transportation and traffic by increasing the number of

vehicles using nearby roads and potentially resulting in lane or entire road closures. However, once construction is complete, the types of alterations covered by the Preferred Alternative are expected to have either neutral or beneficial long-term effects on transportation and traffic. Following construction, alterations are not expected to have long-term negative effects.

3.2.16 Climate, Climate Change and Greenhouse Gases

Affected Environment

The Texas climate varies widely, from arid in the west to humid in the east. There are several distinct regions within the state which have varying climates. Generally, the eastern half of Texas is humid subtropical, while the western half is semi-arid (with some arid regions). Texas lies within both cool and warm parts of the Temperate Zone of the Northern Hemisphere. Texas has three major climatic types which are classified as Continental, Mountain, and Modified Marine (Larkin and Bomar 1983).

A Continental Steppe climate is prevalent in the Texas High Plains (Larkin and Bomar 1983). This climate type is typical of interiors of continents and is characterized by large variations in the magnitude of ranges of daily temperature extremes, low relative humidity, and irregularly spaced rainfall of moderate amounts. The main feature of this climate in Texas is semi-arid with mild winters. Most of the state, climatologically, has a Modified Marine climate which is classified and named "Subtropical" (Larkin and Bomar 1983). A marine climate is caused by the predominant onshore flow of tropical maritime air from the Gulf of Mexico. The onshore flow is modified by a decrease in moisture content from east to west and by intermittent seasonal intrusions of continental air. Typical conditions within the USACE Fort Worth District Civil Works boundary are as follows: the eastern third of Texas has a Subtropical Humid climate that is most noted for warm summers, the central third of Texas has a Subtropical Subhumid climate characterized by hot summers and dry winters, and the broad swath of Texas from the mid-Rio Grande Valley to the Pecos Valley has a Subtropical Steppe climate and is typified by semi-arid to arid conditions.

Executive Order 14008 places the climate crisis at the forefront of foreign policy and national security planning. It states that the United States will work with other countries and partners, both bilaterally and multilaterally, to put the world on a sustainable climate pathway and will move quickly to build resilience, both at home and abroad, against the impacts of climate change that have already manifested and will continue to intensify according to current trajectories.

Direct and Indirect Effects

3.2.16.1 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action

alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.16.2 Preferred Alternative

The Preferred Alternative would have minimal effects on climate. Future Section 408 requests may include construction projects which would most likely require the use of equipment that require gasoline or diesel. There will be short-term, minor adverse impacts from emissions due to the use of trucks for hauling materials and heavy machinery such as back hoes and bulldozers within the project. Increased emission of GHG can cause temperature increases, which in turn have an adverse impact on the project area. However, the adverse impacts caused by the Preferred Alternative will expire once a project have been completed. As described above, there will be short-term minor impacts from emissions under the Preferred Alternative.

3.2.17 Socioeconomic and Environmental Justice

Affected Environment

3.2.17.1 Population

Population estimates for the state of Texas and the area of interest (AOI): the metroplexes of Dallas-Fort Worth, Austin-Round Rock-Georgetown, and San Antonio-New Braunfels, are displayed in Table 3 below. Between 2019 and 2050 the DFW Metroplex is expected to experience 59% growth, Austin Metroplex 63%, and San Antonio Metroplex 56%. Texas is expected to grow up to 67.5% in population between 2019 and 2050. These metroplexes are growing about as quickly as Texas.

Table 3. Population Estimates between 2000-2050 in the Area of Interest

Geographical Area	2000 Population Estimate	2010 Population Estimate	2019 Population Estimate	2050 Population Projection
Texas	20,944,499	24,311,891	28,260,856	47,342,105
DFW Metro	4,168,00	6,366,542	7,573,136	12,000,000
Austin Metro	1,249,763	1,716,323	2,227,083	4,542,827
San Antonio Metro	1,719,262	2,142,508	2,550,960	4,500,000

Source: U.S. Census Bureau, ACS Demographic and Housing Estimates. 2000, 2010, 2019: ACS 5-Year Estimates.

Texas Demographics Center 2018 Population Projections Tool

3.2.17.2 Employment by Industry

The labor force by industry for the state and the area of interest is characterized in

Table 4. Most of the AOI is employed in the educational services, health care and social assistance sector. The metroplexes have the highest rates of employment in educational services, and health care and social assistance. Employment by Industry data for the Census Tracts were not found.

Table 4. Employment by Industry in the Area of Interest

Industry	Texas (%)	Austin Metro (%)	DFW Metro (%)	San Antonio Metro (%)
Agriculture, forestry, fishing and hunting, and mining	3.0	0.8	0.9	1.5
Construction	8.6	7.7	8.2	8.4
Manufacturing	8.5	7.9	9.0	5.9
Wholesale trade	2.9	2.1	3.1	2.4
Retail trade	11.4	10.4	11.3	11.9
Transportation and Warehousing, and utilities	5.9	4.1	6.7	5.0
Information	1.7	3.1	2.2	1.6
Finance and insurance, and real estate and rental and leasing:	6.7	7.1	9.0	8.4
Professional, scientific, and management, and administrative, and waste management services	11.5	16.9	13.4	11.5
Educational services, and health care and social assistance	21.6	20.3	19.6	22.8
Arts, entertainment, and recreation, and accommodation and food services	9.2	9.3	8.8	11.0
Other services, except public administration	5.2	4.7	5.0	4.9
Public administration	4.0	5.7	2.8	4.8

3.2.17.3 Income and Poverty

Median household and per capita incomes for the selected geographies are displayed in Table 5. The median household incomes are higher in the Austin and DFW Metroplexes when compared to the state of Texas.

Also displayed in Table 5 is the percentage of individuals and families whose incomes were below the poverty level in 2019. The percent of people with incomes below poverty level in the AOI is higher than the state of Texas.

Table 5. Income and Poverty in the Area of Interest

Geographical Area	Median Household Income (\$)	Families with Incomes Below Poverty Level (%)	Per Capita Income (\$)	People with Incomes Below Poverty Level (%)
Texas	61,874	11.3	31,277	14.7
Austin Metro	80,852	6.6	62,460	10.2
DFW Metro	72,882	8.2	32,463	11.1
San Antonio Metro	61,437	10.5	24,684	14.2

Source: U.S. Census Bureau, Comparative Economic Characteristics. 2019: ACS 5-Year Estimates Comparison Profiles.

3.2.17.4 Labor Force and Unemployment

Details on the labor force and unemployment rates for Texas and the AOI are displayed in Table 6 below. The 2019 annual average unemployment rate in Texas was 5.1%. The unemployment rates in the AOI ranged from 4.6% - 5.5%.

Table 6. Unemployment Rates in the Area of Interest

Geographic Area	Civilian Labor Force	Employed (%)	Unemployed (%)	Unemployment Rate (%)
Texas	13,962,458	61.0	3.3	5.1
Austin Metro	1,222,746	67.5	3.2	4.6
DFW Metro	3,953,180	65.7	3.2	4.6
San Antonio Metro	1,230,597	59.7	3.5	5.5

Source: U.S. Census Bureau, Comparative Economic Characteristics. 2019: ACS 5-Year Estimates Comparison Profiles.

3.2.17.5 Race and Ethnicity

Table 7 displays race and ethnicity for the comparative geographies. The Austin, DFW, and San Antonio Metroplexes have a higher percentage of ‘two or more race’ individuals as compared to Texas. The AOI has a lower percentage of Hispanic or Latino individuals as compared to Texas, whereas Titus County has a higher percentage of Hispanic or Latino individuals compared to Texas. Minorities account for approximately 56.6-67.5 percent of the population in the Austin, DFW, and San Antonio Metroplexes.

Table 7. Race and Ethnicity in the Area of Interest

Area	White (%)	Black (%)	Hispanic or Latino (%)	American Indian and Alaska Native alone (%)	Asian alone (%)	Native Hawaiian and Other Pacific Islander alone (%)	Some other race alone (%)	Two or more races (%)
Texas	74	12.1	39.3	1.2	5.5	0.2	6.4	2.7
Austin Metro	57.3	7.0	32.4	0.9	7.0	0	11.0	16.4
DFW Metro	48.8	15.9	28.9	0.9	7.9	0.1	12.1	13.9
San Antonio Metro	50.3	7.0	55.3	1.0	2.9	0.1	13.9	24.4

Source: U.S. Census Bureau, 2015-2019 American Community Survey 5-Year Estimates (2019 Estimate)

3.2.17.6 Age

The distribution of population by age group is displayed in table 8. The age distribution is similar between the AOI and the state of Texas. In terms of percentage of total population, the AOI have a larger population of ages of 25 to 34 when compared to Texas.

Table 8. Population by Age Group in the Area of Interest

Area	Age Group (%)												
	<5	5 to 9	10 to 14	15 to 19	20 to 24	25 to 34	35 to 44	45 to 54	55 to 59	60 to 64	65 to 74	75 to 84	85 and over
Texas	7.1	7.2	7.4	7.1	7.1	14.7	13.4	12.5	5.9	5.3	7.4	3.6	1.3
Austin	6.3	6.3	6.6	6.5	8.6	17.5	15.5	12.9	5.6	5.0	6.7	2.7	1.1
DFW	7.0	7.3	7.5	7.0	6.6	14.9	14.2	13.4	6.1	5.1	6.7	3.1	1.1
San Antonio	6.9	7.0	7.2	7.2	7.1	15.0	13.3	12.4	5.9	5.3	7.7	3.7	1.5

Direct and Indirect Effects

3.2.17.7 No Action

Under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. Under the No Action alternative, the time to process a future Section 408 request may be longer if an environmental assessment, or an environmental impact statement were required. The potential effects under the No Action Alternative are the same as the effects described for the Preferred Alternative.

3.2.17.8 Preferred Alternative

The Preferred Alternative would be in compliance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income

Populations. The AOI has fluctuating minority and majority populations, dependent on the specific area considered. The DFW metroplex has the highest percentage of minorities followed by San Antonio. Any potential impacts from future Section 408 requests would be unique to the specific area considered. Approximately 6.6 to 10.5 percent of the population in the AOI have incomes that fall below the poverty line. It is expected, due to this low proportion, that there would be little to no adverse effects on low-income populations resulting from future Section 408 requests. An additional consideration to low-income communities would be the potential beneficial effect of increased employment opportunities. The introduction of potential construction, retail, or any other employment opportunities could beneficially impact community cohesion. Other beneficial effects may include the addition of recreational opportunities, and green spaces, increasing walkability in these communities and offering more exercise opportunities. Future Section 408 requests may have potential adverse effects within minority and lower income areas such as gentrification and separation and fragmentation of communities. Future Section 408 requests may result in temporary construction impacts within minority and lower income areas such as construction access and staging, and short term increases in dust, noise, and emissions from construction equipment. The Preferred Alternative is consistent with Executive Orders 13045, 12898, and 13985 due to the considerations listed above.

4.0 REGULATORY SETTING

The following federal laws, regulations, and executive orders are relevant to the Preferred alternative. The Preferred Alternative would be in compliance with all laws, regulations, and executive orders, as described in the following sections.

4.1 FEDERAL LAWS

American Indian Religious Freedom Act of 1978, as amended (42 U.S.C. 1996 *et seq.*)

The American Indian Religious Freedom Act was created to protect and preserve the traditional religious rights, including the access of sacred sites, of American Indians, Eskimos, Aleuts, and Native Hawaiians. Under the Preferred Alternative, the Fort Worth District will consult with Native American tribes on proposed alterations that will have the potential to affect historic properties. This consultation process will provide tribes with the opportunity to identify sacred sites that may be affected by proposed alterations and raise concerns.

Archeological and Historic Preservation Act of 1974, as amended (54 U.S.C. 312501 *et seq.*)

The Archeological and Historic Preservation Act requires that a federal agency must notify the Secretary of the Interior if its actions may “cause irreparable loss or destruction of significant scientific, prehistoric, historical, or archeological data.” Under the Preferred Alternative, the Fort Worth District will evaluate each Section 408

request for its potential effects on cultural resources. The Fort Worth District will consult with the appropriate SHPO or THPO on any proposed alterations that will have the potential to affect historic properties. If a proposed alteration is found to have the potential to cause irreparable loss or destruction of significant scientific, prehistoric, historical, or archaeological data, the Fort Worth District would notify the Secretary of the Interior before proceeding.

Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470 *et seq.*)

The Archaeological Resources Protection Act (ARPA) is intended to secure the protection of archaeological resources and sites on federal and Indian lands. ARPA states that the excavation or removal, and any activities associated with such excavation or removal, of any archaeological resource located on federal or Indian lands requires a permit, issued by the federal land manager. Under the Preferred Alternative, the Fort Worth District would continue to individually evaluate each Section 408 request for compliance with ARPA and any proposed activity that would result in the excavation or removal of archaeological resources located on federal or Indian lands would be required to obtain a permit.

Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. 668 *et seq.*)

The Bald and Golden Eagle Protection Act prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" (take is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb") bald or golden eagles, including their parts, nests, or eggs. Under the Preferred Alternative, the requester is responsible for ensuring their action complies with the Bald and Golden Eagle Protection Act (PEA Environmental Condition #2).

Comprehensive Environmental Response, Compensation, and Liability Act, (42 U.S.C. 9601 *et seq.*)

The Comprehensive Environmental Response, Compensation, and Liability Act otherwise known as CERCLA or Superfund provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, USEPA was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup. (PEA Environmental Condition #17).

Clean Air Act of 1972, as amended, (42 U.S.C. 7401 *et seq.*)

The Clean Air Act regulates air emissions from stationary and mobile sources. Section 176(C) of the Clean Air Act, also known as the General Conformity Rule, prohibits federal agencies from carrying out, funding, or permitting any activity in a nonattainment

or maintenance area “which does not conform to an implementation plan after it has been approved or promulgated” (42 U.S.C. 7506). Under the Preferred Alternative, if emissions were equal to or exceeded minimis thresholds, USACE would make a determination of General Conformity compliance (also see PEA Environmental Condition #6).

Clean Water Act (33 U.S.C. 1344 et seq.)

Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into waters of the United States, including wetlands. The USEPA promulgates Section 404 regulations; however, the USACE Regulatory Program evaluates, and issues permits for proposed activities in waters of the United States. Section 401 of the Clean Water Act requires that applicants for federal permits or licenses provide certification from the state that any discharges will comply with state-established water quality standard requirements. Section 401 certification for the proposed action would be obtained before USACE would issue a Section 408 permission. Under the Preferred Alternative, proposed alterations requiring a Section 404 of the Clean Water Act and permit must be covered under applicable Nationwide or Regional General Permits (PEA Environmental Condition #3).

Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.)

The ESA requires federal agencies to consult with the USFWS and/or NOAA Fisheries when their actions may affect federally threatened or endangered species or their designated critical habitat. Under the Preferred Alternative, the Fort Worth District would continue to individually evaluate each Section 408 request for potential effects to threatened and endangered species (and their designated critical habitat) listed under the federal ESA and, as appropriate, conduct consultation under Section 7 of the ESA with the USFWS and/or NOAA Fisheries. Additionally, in the future, the Fort Worth District may complete programmatic consultation(s) with the USFWS and/or NMFS. Under the Preferred Alternative, proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to federally listed threatened or endangered species including their critical habitat in accordance with the Endangered Species Act (PEA Environmental Condition #1).

Farmland Protection Policy Act of 1984 (7 U.S.C. 4201 et seq.)

The FPPA was instituted in order to “minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.” Federal permitting for activities on private or non-federal lands is not considered to be a federal program under the FPPA (7 CFR 658.2).

Fish and Wildlife Coordination Act of 1958, as amended, (16 U.S.C. 661 et seq.)

The FWCA requires that federal agencies consult with the USFWS and the head of the agency exercising administration over the wildlife resources of the particular state, “whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever” (16 U.S.C. 662). Under the Preferred Alternative, the Fort Worth District would continue to individually evaluate each Section 408 request for the potential to impound, divert, deepen, control, or modify a stream or other body of water and, as appropriate, consult with the USFWS. Under the Preferred Alternative, if work would not occur within or in proximity to waters or streams, then coordination under the FWCA would not apply. Under the Preferred Alternative, if Section 408 requests were covered under applicable Nationwide or Regional General Permits, coordination under the FWCA would be triggered by agency coordination requirements associated with these permits.

Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240)

The Intermodal Surface Transportation Efficiency Act established the National Scenic Byways Program, implemented by the Federal Highway Administration (FHWA). The Intermodal Surface Transportation Efficiency Act does not have regulatory authority over federal actions affecting National Scenic Byways. Additionally, the types of alterations covered by the Preferred Alternative are not expected to affect the intrinsic values of the designated National Scenic Byways adjacent to or intersecting USACE projects within the Fort Worth District.

Land and Water Conservation Fund Act of 1965 (Public L. 88-578)

This act established a fund from which Congress can make appropriations for outdoor recreation. The Land and Water Conservation Fund Act has provided funds for recreation within several USACE projects, including the Fort Worth Floodway. Under the Preferred Alternative, proposed alterations would be reviewed for compliance with the Land and Water Conservation Fund Act.

Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801 *et seq.*)

The MSA is the primary law governing marine fisheries management in U.S. federal waters. It requires that fishery management councils identify as EFH those areas necessary for fish to perform their basic life functions. The MSA also requires that federal agencies consult with NOAA Fisheries when their actions may adversely impact EFH. There is no EFH within the Fort Worth District as of the date of this PEA.

Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 *et seq.*)

The Migratory Bird Treaty Act established “that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or

received any migratory bird, part, nest, egg or product, manufactured or not.” Under the Preferred Alternative, the Under the Preferred Alternative, the requester is responsible for ensuring their action complies with Migratory Bird Treaty Act (PEA Environmental Condition #2).

National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4321 *et seq.*)

NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to decision making. This PEA has been prepared following CEQ NEPA Regulations (40 CFR 1500-1508), the USACE ER 200-2-2 (33 CFR 230), and the CEQ guidance on the *Effective Use of Programmatic NEPA Reviews* (CEQ 2014) and satisfies the NEPA requirement. Under the Preferred Alternative, the applicability of this PEA to individual proposed alterations would be assessed. If a future proposed alteration was determined eligible, consistency with the PEA would be documented in the Summary of Findings decision documentation.

National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 *et seq.*)

Section 106 of the NHPA requires federal agencies to consider the effects of their actions on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such actions (54 U.S.C. 306108). Under the Preferred Alternative, the Fort Worth District would continue to individually evaluate each Section 408 request on a case-by-case basis for the potential to affect cultural resources and, when there is the potential to affect, conduct consultation with the appropriate SHPO or THPO and Native American tribes pursuant to Section 106 of the NHPA. Additionally, the Fort Worth District may develop programmatic agreements with the appropriate SHPO(s) and tribe(s). Under the Preferred Alternative, proposed alterations must not result in adverse effects to historic properties under Section 106 of the National Historic Preservation Act. Appropriate mitigation to offset adverse effects will be considered (PEA Environmental Condition #5).

Native American Graves and Repatriation Act of 1990 (25 U.S.C. 3001 *et seq.*)

The Native American Graves and Repatriation Act (NAGPRA) provides protection for Native American burial sites and control over the removal of Native American human remains, funerary objects, sacred objects, and items of cultural patrimony on federal and tribal lands. Under the Preferred Alternative, if proposed alterations are located on federal or tribal land, those would be reviewed on a case-by-case basis for compliance under the NAGPRA. A Plan of Action for inadvertent discoveries of Native American cultural items would be prepared for all proposed alterations located on federal or tribal land.

Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*)

The Noise Control Act established a national policy to promote an environment for

all Americans free from noise that jeopardizes their health or welfare. The Preferred Alternative would be in compliance with the Noise Control Act.

Plant Protection Act of 2000 (7 U.S.C. 7701 *et seq.*)

The Plant Protection Act states that “the detection, control, eradication, suppression, prevention, or retardation of the spread of plant pests or noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States.” Furthermore, the Act prohibits the import, entrance, export, or movement in interstate commerce of any plant pest, unless authorized by permit issued by the Secretary of Agriculture (7 U.S.C. 7711). The Preferred Alternative would not result in the import, entrance, export, or interstate movement of plant pests; additionally, under the Preferred Alternative, requesters would be required to use seed mixes containing only native plant species (PEA Environmental Condition #7).

Rivers and Harbors Appropriation Act of 1899 (22 U.S.C. 403 *et seq.*)

Section 10 of the Rivers and Harbors Appropriation Act (33 U.S.C. 403) requires that the construction of any structure in, over or under any navigable water in the United States receive a permit. This applies to all structures and any dredging or disposal of dredged materials, excavation, filling, re-channelization, or any other modification of a navigable water of the U.S. Additionally, Section 10 applies outside of navigable water if any structure or work will affect the course, location, or condition of a navigable water. The USACE Regulatory Program is responsible for the issuance of permits under Section 10. Under the Preferred Alternative, proposed alterations requiring a Section 10 of the Rivers and Harbors Act of 1899 permit must be covered under applicable Nationwide or Regional General Permits (PEA Environmental Condition #3).

Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1273 *et seq.*)

The Wild and Scenic Rivers Act is intended to preserve, in a free-flowing condition, certain rivers with outstanding natural, cultural, and recreational values. Specifically, the Act prohibits federal agencies from assisting in the construction of any water resources project that would have a direct and adverse effect on a designated river or congressionally authorized study river. Docks and/or associated access structures must not be installed in a component of the National Wild and Scenic River System, or a river officially designated by Congress as a study river for possible inclusion in the system while the river is in an official study status, unless the appropriate agency with direct management responsibility for such river has determined, in writing, that the proposed dock and/or associated access structure will not adversely affect the Wild and Scenic River designation or study status. Under the Preferred Alternative, the Fort Worth District would continue to individually evaluate each Section 408 request for applicability of Section 7 of the Wild and Scenic Rivers Act and would consult with the appropriate river-administering agency as appropriate. There are no designated rivers within the Fort Worth District as of the date of this PEA.

4.2 EXECUTIVE ORDERS (E.O.)

E.O. 11988, Floodplain Management

E.O. 11988 requires that each agency “avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The guidelines for implementing E.O. 11988 outline an eight- step process for complying with E.O. 11988 (FEMA 2015):

Step 1: Determine if the proposed action is in a floodplain.
Most federal projects located within the Fort Worth District are located within a floodplain.

Step 2: Provide public review.
Section 2 of E.O. 11988 requires federal agencies to provide opportunity for early public review prior to taking an action, provide public notice explaining a proposed action, and prepare and circulate a notice of findings and explanation prior to taking an action. The E.O. requirements for public participation are primarily being accomplished under existing USACE regulations.

Step 3: Identify and evaluate practicable alternatives to the proposed action or to locating the proposed action in the floodplain.

Step 4: Identify the effects of the proposed action.

Step 5: Develop measures to minimize impacts and restore and preserve the floodplain as appropriate if impacts cannot be avoided.

Step 6: Reevaluate alternatives.

Step 7: Issue findings and a public explanation.

Step 8: Implement the action.

E.O. 11990, Protection of Wetlands

E.O. 11990 directs federal agencies to “minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands.” Although E.O. 11990 does not apply to the issuance by federal agencies of permits to private parties for activities involving wetlands on non-federal property, it does apply to activities involving wetlands on federal property.

E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

In accordance with Title III of the Civil Rights Act of 1964 and Executive Order 12898, this PEA would neither directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities.

E.O. 13007, Indian Sacred Sites

E.O. 13007 requires that, when managing Federal lands, executive branch agencies shall “(1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites.” Under the Preferred Alternative, the Fort Worth District would continue to individually evaluate each Section 408 request on a case-by-case basis for the potential to affect cultural resources and, when there is the potential to affect Indian sacred sites, conduct consultation with the appropriate Native American tribes.

E.O. 13045, Protection of Children from Environmental Health Risks

E.O. 13045 “Protection of Children from Environmental Health Risks” dated April 21, 1997, requires Federal agencies to identify and address the potential to generate disproportionately high environmental health and safety risks to children. This E.O. was prompted by the recognition that children, still undergoing physiological growth and development, are more sensitive to adverse environmental health and safety risks than adults. Under the preferred alternative, the Fort Worth District would identify and address the environmental health and safety risks to children for each Section 408 request.

E.O. 13112, Invasive Species

E.O. 13112 requires that federal agencies identify their actions that may affect the status of invasive species and “not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.” Under the Preferred Alternative, the Fort Worth District would require requesters to use seed mixes containing only native plant seeds (PEA Environmental Condition #7).

E.O. 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians

E.O. 13175 requires that federal agencies seek “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” Under the Preferred Alternative, the Fort Worth District will coordinate with the appropriate Native American tribes when the Section 408 request has the potential to affect historic properties.

E.O. 13751, Safeguarding the Nation from the Impacts of Invasive Species

E.O. 13751 states that it “is the policy of the United States to prevent the introduction, establishment, and spread of invasive species, as well as to eradicate and control populations of invasive species that are established.” Under the Preferred Alternative, the Fort Worth District would require requesters to use seed mixes containing only native plant seeds (PEA Environmental Condition #7).

E.O. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

E.O. 13985 directs the Federal Government to pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Under the Preferred Alternative, the Fort Worth District would pursue an inclusive approach to minority communities during future Section 408 requests.

E.O. 14008, Tackling the Climate Crisis at Home and Abroad

E.O. 14008 places the climate crisis at the forefront of foreign policy and national security planning. It states that the United States will work with other countries and partners, both bilaterally and multilaterally, to put the world on a sustainable climate pathway and will move quickly to build resilience, both at home and abroad, against the impacts of climate change that have already manifested and will continue to intensify according to current trajectories. Under the Preferred Alternative, the Fort Worth District would prioritize sustainability and work to tackling the climate crisis.

5.0 PUBLIC INVOLVEMENT AND AGENCY COORDINATION

The USACE issued a public notice on the Fort Worth District website announcing availability of the draft PEA for public comment for 30 days, from September 15 through October 15, 2022. The USACE conducted consultation with Native American tribes in accordance with Section 106 of the NHPA, with letters submitted via email or postal mail September 15, 2022. The Texas State Historic Preservation Office was consulted via the Texas Historical Commission’s e-Trac System.

The USACE had a technical problem with an email address for submittal of public comments during the public comment period, and therefore, issued a second public notice announcing availability of the draft PEA for comment for 15 additional days, from October 28 through November 12, 2022. The public notices informed the public and interested parties and solicited comments. The draft PEA was available on the Fort Worth District website for public review and comment on the following webpage.

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

The USACE solicited comments from Native American tribes, non-federal sponsors, and state and federal agencies by letter and email, which included an attachment or link

for the public notice. The USACE received comments from the Texas Parks and Wildlife Department, and from two Native American Tribes. A copy of the public notices, pertinent emails, coordination letters, public comments, and USACE responses is included in Appendix A.

6.0 LIST OF PREPARERS

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7.0 REFERENCES

- Council on Environmental Quality (CEQ). 2014. Effective use of programmatic NEPA reviews. Executive Office of the President, Council on Environmental Quality, Memorandum for Heads of Federal Departments and Agencies, Washington, D.C.
- EPA. 2022. EPA United State Environmental Protections Agency. Retrieved from NAAQS Table: <https://www.epa.gov/criteria-air-pollutants/naaqs-table>
- EPA. 2022. Laws & Regulations. Summary of the Clean Air Act. <https://www.epa.gov/laws-regulations/summary-clean-air-act>
- Federal Emergency Management Agency (FEMA). 2015. Guidelines for implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input. 90 Federal Register 64008.
- Larkin, Thomas J. and George W. Bomar. December 1983. Climatic Atlas of Texas. Texas Department of Water Resources. P.O. Box 13087, Austin, Texas 78711.
- Texas Commission on Environmental Quality (TCEQ). 2021. Texas State Implementation Plan. Retrieved September 24, 2021. From <https://www.tceq.texas.gov/airquality/sip>
- Texas Commission on Environmental Quality (TCEQ). 2021. Understanding General Conformity in Texas. Retrieved September 24, 2021. From <https://www.tceq.texas.gov/airquality/mobilesource/gc.html>
- Texas Parks and Wildlife Department (TPWD). Revised April 2015. Annotated County Lists of Rare Species. Retrieved September 24, 2021. From http://www.tpwd.state.tx.us/landwater/land/maps/gis/ris/endangered_species/
- Texas Parks and Wildlife Department (TPWD). TPWD Wildlife Districts. Retrieved November 28, 2022. From <https://tpwd.texas.gov/landwater/land/habitats/>
- Texas Water Development Board (TWDB). Water Resources Planning. Retrieved September 24, 2021. From <https://www.twdb.texas.gov/waterplanning/index.asp>
- Texas Water Development Board (TWDB). Texas Major River Basins and Sub-Basins over DEM Map. Retrieved September 24, 2021. From https://www.twdb.texas.gov/surfacewater/rivers/river_basins/index.asp
- U.S. Army Corps of Engineers (USACE). 1999. Dallas Floodway Extension, General

- Re-evaluation Report and Integrated Environmental Impact Statement.
https://www.swf.usace.army.mil/Portals/47/docs/WaterSustainment/GRR-AND-EIS_VOL-1.pdf
- USACE. 2003. Dallas Floodway Extension, Supplement Number One to the Environmental Impact Statement
<https://www.swf.usace.army.mil/Missions/Water-Sustainment/Dallas-Floodway-Extension/>
- USACE. 2004. San Antonio River, San Antonio, Texas Channel Improvement Project Ecosystem Restoration and Recreation General Reevaluation Report and Integrated Environmental Assessment.
- USACE. 2006. Upper Trinity River, Central City, Fort Worth, Texas, Final Environmental Impact Statement.
<https://www.swf.usace.army.mil/Missions/Water-Sustainment/Trinity-River-Central-City/>
- USACE. 2008. Upper Trinity River, Central City, Fort Worth, Texas, Final Supplement Number One to the Final Environmental Impact Statement and Final Modified Project Report.
<https://www.swf.usace.army.mil/Missions/Water-Sustainment/Trinity-River-Central-City/>
- USACE. 2009. U.S. Army Corps of Engineers Invasive Species Policy. Department of the Army, U.S. Army Corps of Engineers, Memorandum, Washington, D.C.
- USACE. 2011. Final Programmatic Environmental Assessment Civil Works Minor Section 408 NEPA Compliance, United States Army Corps of Engineers Fort Worth District, Texas. April 11, 2011.
- USACE. 2013. Fort Worth District Pamphlet (SWFP) 1150-2-1, Criteria for Design and Construction Within the Limits of Existing Federal Projects. October 1, 2013.
- USACE. 2014a. San Antonio Channel Improvement Project, General Re-evaluation Report and Environmental Assessment, West Side Creeks Ecosystem Restoration, San Antonio, Texas.
- USACE. 2014b. Dallas Floodway, Dallas, Texas, Project Final Feasibility Report.
<https://www.swf.usace.army.mil/Missions/Civil-Works/Dallas-Floodway/>
- USACE. 2014c. Final Environmental Impact Statement for the Dallas Floodway Project.
https://www.swf.usace.army.mil/Portals/47/docs/Environmental/DF/DFP-Final-EIS_App-C_FRM-Figures.pdf

- USACE. 2018. Water resource policies and authorities, policy and procedural guidance for processing requests to alter US Army Corps of Engineers civil works projects pursuant to 33 USC 408. Department of the Army, U.S. Army Corps.
<https://www.usace.army.mil/Missions/Civil-Works/Section408/>
- USACE. 2021. Engineer Regulation 1165-2-217, Water resource policies and authorities, Civil Works Review Policy. May 1, 2021.
- U.S. Census Bureau. ACS Demographic and Housing Estimates. 2000, 2010, 2019: ACS 5-Year Estimates.
- U.S. Census Bureau. Employment by Industry. 2019: American Community Survey 5-Year Estimates.
- U.S. Census Bureau. Comparative Economic Characteristics. 2019: American Community Survey 5-Year Estimates.
- U.S. Census Bureau. 2015-2019 American Community Survey 5-Year Estimates. Texas Demographics Center 2018 Population Projections Tool.
- USEPA. 2022. U.S. Environmental Protection Agency. <https://www.epa.gov/>
- USFWS. 2022. U.S. Fish and Wildlife Service. <https://www.fws.gov/>
- United States Geological Survey (USGS). 2016. Multi-Resolution Land Characteristics Consortium, National Land Cover Database 2016 (NLCD2016). Retrieved September 24, 2021. From https://www.usgs.gov/centers/eros/science/national-land-cover-database?qt-science_center_objects=0#qt-science_center_objects

8.0 LIST OF ACRONYMS AND ABBREVIATIONS

ARPA	Archaeological Resources Protection Act
ASTM	American Society for Testing and Materials
BMPs	Best management practices
CAP	Continuing Authorities Program
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CLSM	Controlled low-strength material
E.O.	Executive Order
EA	Environmental assessment
EC	Engineer Circular
EFH	Essential fish habitat
EIS	Environmental impact statement
ER	Engineer Regulation
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
FHWA	Federal Highways Administration
FPPA	Farmland Protection Policy Act
FR	Federal Register
FWCA	Fish and Wildlife Coordination Act
HTRW	Hazardous Toxic, and Radioactive Waste
HDD	Horizontal directional drilling
HQUSACE	U.S. Army Corps of Engineers Headquarters
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NAAQS	National Ambient Air Quality Standards
NAGPRA	Native American Graves and Repatriation Act
NEPA	National Environmental Policy Act
NFS	Non-Federal Sponsor
NHPA	National Historic Preservation Act
NOAA	National Oceanic and Atmospheric Administration
O&M	Operations and Maintenance
PEA	Programmatic Environmental Assessment
PM	Particulate matter
SAR	Safety Assurance Review
SARA	San Antonio River Authority
SHPO	State Historic Preservation Officer
SIP	State Implementation Plan
SWD	U.S. Army Corps of Engineers Southwestern Division
SWF	U.S. Army Corps of Engineers Fort Worth District
TRWD	Tarrant Regional Water District
TCEQ	Texas Commission on Environmental Quality
TPWD	Texas Parks and Wildlife Department
THPO	Tribal Historic Preservation Officer

TIP	Tribal Implementation Plan
TMDL	Total maximum daily load
U.S.C.	United States Code
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USDOE	U.S. Department of Energy
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
WRDA	Water Resources Development Act

Appendix A. Public Notices, Agency Coordination, Public Comments, and Responses

Comment Number	Commenter	Comment Description	Section Referenced	USACE Response
1	Texas Parks and Wildlife Department (TPWD)	Please refer to the discussion and recommendations of 3.2.14 Recreation, below. If the PEA applies to Section 408 requests that involve permanent impacts to recreation facilities, then TPWD recommends an engineering condition to ensure that permanent impacts comply with PWC chapter 26 and the U.S. Land and Water Conservation Fund (LWCF) Act.	Section 2.6 Engineering Condition #14	Engineering Condition #14 was amended to avoid and minimize impacts to recreation, and permanent impacts must comply with Chapter 26 of the PWC. The Land and Water Conservation Fund Act was also added to the Regulatory Setting in Chapter 4.
2	TPWD	TPWD recommends that avoidance and minimization of impacts to proposed threatened and endangered species, candidate species, and proposed critical habitats be included in Environmental Condition #1.	Section 2.7 Environmental Condition #1	Environmental Condition #1 was amended, adding proposed threatened and endangered species, candidate species, and proposed critical habitat.
3	TPWD	Regarding Environmental Condition #4, rather than just considering appropriate mitigation to offset losses to fish and wildlife habitat, TPWD recommends replacing “considered” with “secured” or “obtained” to ensure that proposed alterations do not result in a net loss of significant fish and wildlife habitat.	Section 2.7 Environmental Condition #4	Environmental Condition #4 was amended, adding if appropriate mitigation to offset losses is "required", the requester will be responsible for providing documentation regarding acquisition of the real estate necessary for the mitigation and reports on the progress and fulfillment of the required mitigation.

4	TPWD	Regarding Environmental Condition #4, TPWD recommends adding that USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine impacts to fish and wildlife and their habitat.	Section 2.7 Environmental Condition #4	Environmental Condition #4 was amended, adding USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the quality and nature of potential fish and wildlife habitat present and the suitability of compensatory mitigation sites.
5	TPWD	TPWD recommends that impact avoidance measures for aquatic organisms, including all native fish and freshwater mussel species, regardless of state listing status, be considered during Section 408 alteration requests.	Section 2.7 Environmental Condition #4	A new Environmental Condition #18 was added requiring avoidance and minimization of impacts to State of Texas Species of Greatest Conservation Need and State of Texas designated threatened or endangered species.
6	TPWD	If construction occurs during times when water is present and dewatering, trampling, dredging, trenching, or filling activities are involved, then TPWD recommends relocating native aquatic resources, including fish and mussels, in conjunction with a Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters, an ARRP. The ARRP should be approved by the department 30 days prior to activity within project waters or resource relocation and submitted with an application for a no-cost permit. ARRPs can be submitted to the appropriate Regional KAST member whose contact information is found on the TPWD KAST webpage.	Section 2.7 Environmental Condition #4	A new Environmental Condition #20 was added requiring compliance with state law regarding protection of aquatic resources. This new Environmental Condition #20 added requirements for Fish, Shellfish or Aquatic Plants into Public Waters, Aquatic Resource Relocation Plan, and adherence to applicable mussel sampling protocol. USACE will require copies of the permits and ARRP be submitted to USACE.

7	TPWD	<p>TPWD recommends the PEA include an Environmental Condition in which the requester is required to abide by state law regarding aquatic resources. For requests that involve work in inland public waters, TPWD recommends USACE utilize the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset to determine if Section 408 alteration requests trigger the need for a requester to follow a mussel sampling protocol. TPWD recommends a new Environmental Condition or adding to Environmental Condition #4, that projects occurring in waters identified as a Group 1 through Group 5 stream must complete the appropriate mussel sampling protocol as determined by the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset and must coordinate with the TPWD KAST for appropriate authorization when a project involves dewatering or other harmful actions that may impact aquatic species. The environmental condition should state that USACE may require the requestor to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the presence of native freshwater mussels or to determine the need for KAST coordination for work in inland public waters.</p>	<p>Section 2.7 Environmental Condition #4</p>	<p>A new Environmental Condition #20 was added requiring compliance with state law regarding protection of aquatic resources. This new Environmental Condition #20 added requirements for Fish, Shellfish or Aquatic Plants into Public Waters, Aquatic Resource Relocation Plan, and adherence to applicable mussel sampling protocol. USACE will require copies of the permits and ARRP be submitted to USACE.</p>
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8	TPWD	TPWD recommends USACE consider the impacts of a Section 408 alteration on state listed species and other SGCN that occur within a Civil Works project area. TPWD recommends an Environmental Condition similar to Environmental Condition #1 but focused on state listed and other SGCN species. TPWD recommends the Environmental Condition indicate that proposed alterations avoid and minimize impacts to state listed species and other SGCN to the maximum extent practicable, and that USACE may require the requestor to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine impacts or identify BMP to reduce potential impacts.	Section 2.7 Environmental Condition #4	A new Environmental Condition #18 was added requiring avoidance and minimization of impacts to State of Texas Species of Greatest Conservation Need and State of Texas designated threatened or endangered species. A new Environmental Condition #19 condition was added requiring requesters to generally comply with state laws.
9	TPWD	TPWD recommends modifying the last sentence to, "Use of grass or vegetation species applicable for turfing or sodding requirements for flood risk management projects is acceptable, although preference will be given to utilization of native plant species."	Section 2.7 Environmental Condition #7	Environmental Condition #7 was amended, clarifying use of applicable species for levees and embankments, and for a general preference for utilization of native species in seed mixes.
10	TPWD	To ensure protection of aquatic systems from AIS and for requesters to stay in compliance with TAC chapter 57, TPWD recommends including an environmental condition when work involves equipment that will come in contact with streams or waterbodies. TPWD recommends Environmental Condition #7 include, "For activities within streams or waterbodies, an Aquatic Invasive Species transfer prevention plan will be required which outlines BMP for preventing inadvertent transfer of aquatic invasive plants and animals on equipment and materials."	Section 2.7 Environmental Condition #7	Environmental Condition #7 was amended, adding requirement for a Aquatic Invasive Species transfer prevention plan.

11	TPWD	TPWD recommends USACE consider BMPs for revegetation and erosion control that avoid entanglement hazards to wildlife. Refer to the Beneficial Management Practices section below for a detailed description of TPWD's recommendations regarding erosion control materials.	Section 2.7 Environmental Condition #8	A new Environmental Condition #21 was added requiring that proposed alterations must utilize as applicable the TPWD Recommended Beneficial Management Practices. The TPWD Recommended Beneficial Management Practices are included under Environmental Condition #21 a-i.
12	TPWD	TPWD recommends including notice to the TPWD KAST in Environmental Condition #12 when project activities, including spills, cause mortality to fish and wildlife. Please add, "If fish and wildlife resources are impacted by the spill, contact Texas Parks and Wildlife Department Kills and Spills Team immediately, KAST 24 Hour Hotline 512-389-4848."	Section 2.7 Environmental Condition #8	Environmental Condition #12 was amended, adding the recommended language about contacting the KAST.

13	TPWD	To highlight important features of the Civil Works projects, TPWD recommends the PEA provide existing conditions at Spring Lake and the San Marcos River as having aquatic habitat for endemic federally listed species and final critical habitat under the ESA.	3.1.12 Section 206	USACE cannot approve Section 408 requests which impair the usefulness of the USACE project Ecosystem Restoration authorized project purpose. Historically, there have been no Section 408 requests at either the Spring Lake or San Marcos Ecosystem Restoration Projects. In the unlikely event of a future Section 408 request at one of these USACE projects, or another Ecosystem Restoration Project, USACE will require the requester to prepare a biological evaluation of potential effects on federally listed species and applicable habitat in the area. USACE would individually evaluate a future Section 408 request for compliance with the Endangered Species Act. Environmental condition #16 also contains avoidance and mitigation requirements for Ecosystem Restoration Projects.
14	TPWD	Because Environmental Condition #3 pertains to obtaining a permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, TPWD recommends including Environmental Condition #3 in the list of conditions the applicant would follow to have minimal effects on wetlands and other waters.	3.2.2 Wetlands and Other Waters	3.2.2.2 was amended, adding Environmental Condition #3.
15	TPWD	In the list of environmental conditions the applicant would follow to have minimal impacts on water quality, TPWD recommends replacing Environmental Condition #13 with Environmental Conditions #11 and #12 which address removing excess material from the construction site and environmental spill notification, clean-up and repair, respectively.	3.2.3 Water Quality	Section 3.2.3.2 was amended, omitting Environmental Condition #13 and adding Environmental Conditions #11 and #12.

16	TPWD	TPWD recommends the PEA acknowledge that state listed and other SGCN species may occur within a Section 408 alteration area and may be impacted by alteration activities.	3.2.8 Fish and Wildlife Species	Section 3.2.8 was amended to include description of State of Texas Species of Greatest Concern, including examples, and link to TPWD's RTEST website was added. Applicable conditions were amended.
17	TPWD	For the PEA to have a stronger claim of minimal effects on fish and wildlife species, TPWD recommends USACE adopt TPWD's engineering condition and environmental condition recommendations provided in this letter.	3.2.8 Fish and Wildlife Species	USACE has adopted most of TPWD's recommended changes to the PEA conditions, and added new conditions.
18	TPWD	In the list of environmental conditions the applicant would follow to have minimal impacts on vegetation, TPWD recommends omitting Environmental Condition #17, and adding Environmental Conditions #10 and 15.	3.2.12 Vegetation	Section 3.2.12.2 was amended, omitting Environmental Condition #17, and adding Environmental Conditions #10 and #15.
19	TPWD	TPWD recommends omitting reference to Engineering Condition #1 unless additional information is provided in the PEA to demonstrate that Engineering Condition #1 is relevant to direct and indirect impacts to recreational facilities.	3.2.14 Recreation	SWFP 1150-2-1, paragraph 5.q., page 4, says, "Any permanent disturbance of existing recreation facilities must be mitigated."

21	TPWD	TPWD recommends the PEA make a distinction that Section 408 requests resulting in permanent impacts to existing recreational facilities or public access to recreational facilities are not covered under the PEA and such requests would be individually reviewed for NEPA compliance. If, in fact, permanent impacts to existing recreational facilities or public access to recreational facilities are covered by the PEA, then TPWD recommends the USACE develop an engineering or environmental condition in which loss to existing public recreation and loss to access to public recreation are mitigated and in which USACE will require the requester to coordinate with the appropriate park or recreational facility to ensure that the Section 408 request complies with PWC chapter 26 and Section 6(f) of the LWCF Act.	3.2.14 Recreation	Historically, permanent impacts to recreation as a result of Section 408 requests has been rare to non-existent. Some USACE projects have recreation as an authorized project purpose. USACE cannot approve Section 408 requests which impair the usefulness of the USACE project recreation authorized project purpose, nor can USACE approve Section 408 requests which are injurious to the public interest, for which recreation is one of the public interest review factors. USACE will continue to require avoidance, minimization, and mitigation for impacts to recreation. Engineering Condition #14 was amended to avoid and minimize impacts to recreation, and permanent impacts must comply with Chapter 26 of the PWC. The Land and Water Conservation Fund Act was also added to the Regulatory Setting in Chapter 4. Section 3.2.14.2 was amended adding explanation of USACE determinations regarding impair the usefulness and injurious to the public interest relative to recreation.
22	TPWD	TPWD recommends that Section 408 requesters follow all federal, state, and local laws, and TPWD recommends the PEA indicate that requesters will need to follow all federal, state, and local laws.	4.0 Regulatory Setting	A new Environmental Condition #18 condition was added requiring requesters to generally comply with state laws. Requesters are responsible for complying with state and local laws. Standard condition #1 from Appendix K in EC 1165-2-220 says, "This permission does not obviate the need to obtain other federal, state, or local authorizations required by law."

23	TPWD	TPWD recommends providing the 2007 TPWD citation for the publication that is referenced in Section 3.1.12.	7.0 References	The citation was corrected in the text to TPWD 2022, and provided in the References. The correct citation is the current TPWD Wildlife Districts Webpage, along with plant information for different ecoregions in Texas.
24	TPWD	TPWD recommends accessing and referencing the most recent version of the TPWD RTEST application because it is updated frequently. TPWD recommends referencing RTEST in 3.2.8 Fish and Wildlife Species of the PEA.	7.0 References	RTEST reference and web address added to section 3.2.8.
25	TPWD	TPWD Recommended Beneficial Management Practices		A new Environmental Condition #21 was added requiring that proposed alterations must utilize as applicable the TPWD Recommended Beneficial Management Practices. The TPWD Recommended Beneficial Management Practices are included under Environmental Condition #21 a-i.
26	Choctaw Nation of Oklahoma	Thank you for forwarding this, the Choctaw Nation of Oklahoma requests to continue to be consulted as is standard under Section 106 of the National Historic Preservation Act.	Public Notice	Acknowledged
27	Delaware Tribe of Indians	Thank you for notifying the Delaware Tribe of the plans for the above-referenced project. The Delaware Tribe is committed to protecting sites and resources important to our tribal heritage, culture, and religion. After reviewing our files, we determined that this project is outside of our area of interest. We therefore have no objection to the proposed project.	Public Notice	Acknowledged



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Public Notice

**Programmatic Environmental Assessment
Section 408 National Environmental Policy Act (NEPA) Compliance
Fort Worth District, Texas**

PURPOSE: The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The Section 408 program verifies that changes to USACE federally authorized Civil Works projects will not be injurious to the public interest and will not impair the usefulness of the project. This requirement was established in Section 14 of the Rivers and Harbors Act of 1899, which has since been amended several times and is codified at 33 U.S.C. 408. This public notice informs the public and interested parties and solicits public comments.

DRAFT PEA LOCATION: The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

COMMENT PERIOD: The public comment period is open for 30 calendar days. The public notice is issued on September 15, 2022. The close of the comment period is on October 15, 2022.

SOLICITATION OF COMMENTS: The USACE solicits comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties. Please provide written comments to Ms. Bailee Posey, Biologist, by email at Bailee.Posey@usace.army.mil or CESWF-408@usace.army.mil or mail to Bailee Posey, U.S. Army Corps of Engineers, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-0300 before the close of the comment period. Comments should be postmarked by October 15, 2022. Please direct any questions or requests for additional information to Ms. Posey by email or telephone at 817-886-1696.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey F. Pinsky".

Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

October 28, 2022

Public Notice

**Programmatic Environmental Assessment
Section 408 National Environmental Policy Act (NEPA) Compliance
Fort Worth District, Texas**

PURPOSE: The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The Section 408 program verifies that changes to USACE federally authorized Civil Works projects will not be injurious to the public interest and will not impair the usefulness of the project. This requirement was established in Section 14 of the Rivers and Harbors Act of 1899, which has since been amended several times and is codified at 33 U.S.C. 408. This public notice informs the public and interested parties and solicits public comments.

DRAFT PEA LOCATION: The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

COMMENT PERIOD: The public comment period is open for 15 calendar days. The public notice is reissued on October 28, 2022. The close of the comment period is on November 12, 2022.

SOLICITATION OF COMMENTS: The USACE solicits comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties. Please provide written comments to CESWF-408@usace.army.mil or mail to Jason Story, U.S. Army Corps of Engineers, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-0300 before the close of the comment period. Comments should be postmarked by November 12, 2022. Please direct any questions or requests for additional information to Mr. Jason Story by email Jason.E.Story@usace.army.mil or telephone at 817-886-1852.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey F. Pinsky".

Jeffrey F. Pinsky
Chief, Environmental Branch
Regional Planning and Environmental Center

From: [Posey, Bailee M CIV USARMY CESWD \(USA\)](#)
To: [Karen Hardin](#); [Rachel Lange](#); [Russell.hooten@tpwd.texas.gov](#); [Jessica.schmerler@tpwd.texas.gov](#); [Richard.Hanson@tpwd.texas.gov](#); [Laura Zebehazy](#); [whab@tpwd.texas.gov](#); [brian.vanzee@tpwd.texas.gov](#); [alice.best@tpwd.texas.gov](#); [Marcos DeJesus](#); [Peter Schaefer TCEQ](#); [arles@fws.gov](#); [arles@fws.gov](#); [debra_bills@fws.gov](#); [catherine_yeargan@fws.gov](#); [aubry_buzek@fws.gov](#); [Landeros, Daniel](#); [Robert Houston \(Houston.Robert@epa.gov\)](#); [Grueta, Gabriel](#); [jansky.michael@epa.gov](#); [hayden.keith@epa.gov](#); [price.kimeka@epa.gov](#); [Dean Kuhn](#); [Woody.Frossard@trwd.com](#); [Standifer, Sarah](#); [eduardo.valerio@dallascityhall.com](#); [McRay, Ricky](#); [Melissa Bryant](#); [Gray Eck](#); [ateague@sariverauthority.org](#); [Scott Mitchell](#); [gfennell@cityofirving.org](#); [Henry.Price@austintexas.gov](#); [Sofia.Reyes@austintexas.gov](#); [Andrew.Wong@austintexas.gov](#); [Rachel.Piner@austintexas.gov](#); [John.Cantu@sanantonio.gov](#); [Theresa.Larson@sanantonio.gov](#); [bhornung@sequintexas.gov](#)
Cc: [Sissom, Mark A CIV USARMY CESWF \(USA\)](#); [Jetton, Montey E CIV USARMY CESWF \(USA\)](#); [Pienaar, Deanna N \(Dee\) CIV USARMY CESWF \(USA\)](#); [Nguyen, Tuan A CIV USARMY CESWF \(USA\)](#); [Little, David M CIV USARMY CESWF \(USA\)](#); [Jamerson, James T CIV USARMY CESWF \(USA\)](#); [Danella, Michael A CIV USARMY CESWF \(USA\)](#); [Michaels, Edward P III CIV USARMY CESWF \(USA\)](#); [Hughes, Danielle T CIV USARMY CESWF \(USA\)](#); [Story, Jason E CIV USARMY CESWF \(USA\)](#); [Posey, Bailee M CIV USARMY CESWD \(USA\)](#); [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
Subject: Draft Programmatic Environmental Assessment, Section 408, public notice
Date: Thursday, September 15, 2022 11:28:18 AM
Attachments: [Appendix A public notice.pdf](#)

Dear federal, state, and local agencies and officials:

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA). Please see attached public notice and solicitation of comments.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Respectfully,

Bailee Posey
Biologist, NEPA and Natural Resource Section
Environmental Branch
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
bailee.posey@usace.army.mil
Office: 817-886-1696

From: [Story, Jason E CIV USARMY CESWF \(USA\)](#)
To: [Karen Hardin](#); [Rachel Lange](#); [Russell.hooten@tpwd.texas.gov](#); [Jessica.schmerler@tpwd.texas.gov](#); [Richard.Hanson@tpwd.texas.gov](#); [Laura Zebehazy](#); [whab@tpwd.texas.gov](#); [brian.vanzee@tpwd.texas.gov](#); [alice.best@tpwd.texas.gov](#); [Marcos DeJesus](#); [Peter Schaefer TCEQ](#); [arles@fws.gov](#); [debra_bills@fws.gov](#); [catherine_yeargan@fws.gov](#); [aubry_buzek@fws.gov](#); [Landeros, Daniel](#); [Robert Houston \(Houston.Robert@epa.gov\)](#); [Gruta, Gabriel](#); [jansky.michael@epa.gov](#); [hayden.keith@epa.gov](#); [price.kimeka@epa.gov](#); [Dean Kuhn](#); [Woody.Frossard@trwd.com](#); [Standifer, Sarah](#); [eduardo.valerio@dallascityhall.com](#); [McRay, Ricky](#); [Melissa Bryant](#); [Gray Eck](#); [ateague@sariverauthority.org](#); [Scott Mitchell](#); [gfennell@cityofirving.org](#); [Henry.Price@austintexas.gov](#); [Sofia.Reyes@austintexas.gov](#); [Andrew.Wong@austintexas.gov](#); [Rachel.Piner@austintexas.gov](#); [John.Cantu@sanantonio.gov](#); [Theresa.Larson@sanantonio.gov](#); [bhornung@sequintexas.gov](#); [elizabeth-toombs@cherokee.org](#); [ithompson@choctawnation.com](#); [mcurrie@choctawnation.com](#); [Theodore Villicana](#); [martina.minthorn@comanchenation.com](#); [gary.mcadams@wichitatribe.com](#); [mary.botone@wichitatribe.com](#); [dfrazier@astribe.com](#); [histpres@actribe.org](#); [jlowe@alabama-quassarte.org](#); [durrell.cooper@apachetribe.org](#); [HPO@chickasaw.net](#); [kponcho@coushattatribela.org](#); [cspeck@delawarenation-nsn.gov](#); [Delaware Tribe of Indians \(IL\)](#); [russtown@nc-cherokee.com](#); [pbarton@estoo.net](#); [janthPostOffice@gmail.com](#); [iwilliams@kawnation.com](#); [DC13.DC4@gmail.com](#); [felix.castillo@ktttribe.org](#); [pamwesley@kickapostofficeotribeofoklahoma.com](#); [pdupoint@kiowatribe.org](#); [Menominee Indian Tribe of Wisconsin](#); [Holly@mathPostOffice.org](#); [Miami Tribe of Oklahoma](#); [kcarleton@choctaw.org](#); [Section106@muscogeenation.com](#); [thunt@muscogeenation.com](#); [crystal.reynolds@northernarapaho.com](#); [crystal.cbearing@northernarapaho.com](#); [The Osage Nation](#); [liana.hesler@ponca-nsn.gov](#); [ebandy@quapawnation.com](#); [Sac & Fox Nation, Oklahoma](#); [Underwood.T@sno-nsn.gov](#); [tonya@shawnee-tribe.com](#); [thpo@tttown.org](#); [lbrown@tonkawatribe.com](#); [earl@tunica.org](#); [awatt@ukb-nsn.gov](#); [rquezada@ydsp-nsn.gov](#); [jflynn@jenachoctaw.org](#)
Cc: [Sissom, Mark A CIV USARMY CESWF \(USA\)](#); [Jettson, Montey E CIV USARMY CESWF \(USA\)](#); [Pienaar, Deanna N \(Dee\) CIV USARMY CESWF \(USA\)](#); [Nguyen, Tuan A CIV USARMY CESWF \(USA\)](#); [Little, David M CIV USARMY CESWF \(USA\)](#); [Jamerson, James T CIV USARMY CESWF \(USA\)](#); [Danella, Michael A CIV USARMY CESWF \(USA\)](#); [Michaels, Edward P III CIV USARMY CESWF \(USA\)](#); [Hughes, Danielle T CIV USARMY CESWF \(USA\)](#); [Clemmons, Bailee M CIV USARMY CESWF \(USA\)](#); [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#); [Story, Jason E CIV USARMY CESWF \(USA\)](#)
Subject: Draft Programmatic Environmental Assessment, Section 408, public notice reissue
Date: Friday, October 28, 2022 12:40:59 PM
Attachments: [20221028_PEA_notice_link.pdf](#)

Dear federal, state, tribal and local officials:

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA). Please see attached public notice and solicitation of comments.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

We had a technical problem with a prior email address for submittal of comments. This is a reissue of the same public notice for the draft PEA that previously ran from September 15 until October 15, 2022. There were no changes to the draft PEA. If you submitted comments under the previous public notice, please resubmit the comments. All new comments are welcome. The public comment period is open for 15 calendar days. The public notice is reissued on October 28, 2022. The close of the comment period is on November 12, 2022.

Please send comments to CESWF-408@usace.army.mil

Sincerely,

Jason Story
Section 408 Coordinator
Fort Worth District
Biologist
RPEC
U.S. Army Corps of Engineers
Office 817-886-1852
Cell 817-239-8475
jason.e.story@usace.army.mil

For more information on Section 408, visit the Fort Worth District Section 408 webpage at
<https://www.swf.usace.army.mil/Missions/Section-408/>



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
108 W. 16th Street
Austin, Texas 78701

Dear Mr. Wolfe:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

From: NoResponse@thc.state.tx.us
To: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
Subject: [Non-DoD Source] Project Review Submission
Date: Thursday, September 15, 2022 2:32:59 PM

Thank you for submitting project: Fort Worth District 408 PEA

Tracking Number: 202300477

Due Date: 10/15/2022 2:31:56 PM (30 days)

TEXAS HISTORICAL COMMISSION

From: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
To: jflynn@jenachoctaw.org
Cc: [Story, Jason E CIV USARMY CESWF \(USA\)](#); [Posey, Bailee M CIV USARMY CESWD \(USA\)](#)
Subject: USACE Fort Worth District 408 PEA
Date: Thursday, September 15, 2022 4:11:00 PM
Attachments: [JenaLetterforEmail.pdf](#)

Good afternoon,

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA), which includes conditions for compliance with Section 106 of the National Historic Preservation Act. Please see the attached letter for your review.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Mandy Pesce - Archaeologist
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Office 817-886-1898
Cell 817-876-8059

amanda.k.pesce@usace.army.mil



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Chief B. Cheryl Smith
Jena Band of Choctaw Indians
Post Office Box 14
Jena, Louisiana 71342

Dear Chief Smith:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

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The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

From: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
To: [Mary Botone](#); gary.mcadams@wichitatribe.com
Cc: [Story, Jason E CIV USARMY CESWF \(USA\)](#); [Posey, Bailee M CIV USARMY CESWD \(USA\)](#)
Subject: USACE Fort Worth District 408 PEA
Date: Thursday, September 15, 2022 3:30:00 PM
Attachments: [WichitaAndAffiliated.pdf](#)

Good afternoon,

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA), which includes conditions for compliance with Section 106 of the National Historic Preservation Act. Please see the attached letter for your review.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Mandy Pesce - Archaeologist
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Office 817-886-1898
Cell 817-876-8059

amanda.k.pesce@usace.army.mil



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Gary McAdams
Tribal Historic Preservation Officer
Wichita and Affiliated Tribes
Post Office Box 729
Anadarko, Oklahoma 73005

Dear Mr. McAdams:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

From: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
To: [Theodore Villicana](#); [Martina Minthorn](#)
Cc: [Story, Jason E CIV USARMY CESWF \(USA\)](#); [Posey, Bailee M CIV USARMY CESWD \(USA\)](#)
Subject: USACE Fort Worth District 408 PEA
Date: Thursday, September 15, 2022 3:29:00 PM
Attachments: [Comanche Nation.pdf](#)

Good afternoon,

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA), which includes conditions for compliance with Section 106 of the National Historic Preservation Act. Please see the attached letter for your review.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Mandy Pesce - Archaeologist
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Office 817-886-1898
Cell 817-876-8059

amanda.k.pesce@usace.army.mil



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Martina Minthorn
Tribal Historic Preservation Officer
Comanche Nation of Oklahoma
Post Office Box 908
Lawton, Oklahoma 73502

Dear Ms. Minthorn:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

From: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
To: elizabeth-toombs@cherokee.org
Cc: [Story, Jason E CIV USARMY CESWF \(USA\)](#); [Posey, Bailee M CIV USARMY CESWD \(USA\)](#)
Subject: USACE Fort Worth District 408 PEA
Date: Thursday, September 15, 2022 3:12:00 PM
Attachments: [Cherokee Nation.pdf](#)

Good afternoon,

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA), which includes conditions for compliance with Section 106 of the National Historic Preservation Act. Please see the attached letter for your review.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Mandy Pesce - Archaeologist
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Office 817-886-1898
Cell 817-876-8059

amanda.k.pesce@usace.army.mil



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Elizabeth Toombs
Cherokee Nation
Post Office Box
948 Tahlequah, Oklahoma 74465-0948

Dear Ms. Toombs:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

From: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
To: [Madison D. Currie](#); ithompson@choctawnation.com
Cc: [Story, Jason E CIV USARMY CESWF \(USA\)](#); [Posey, Bailee M CIV USARMY CESWD \(USA\)](#)
Subject: USACE Fort Worth District 408 PEA
Date: Thursday, September 15, 2022 3:06:00 PM
Attachments: [Choctaw Nation.pdf](#)

Good afternoon,

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA), which includes conditions for compliance with Section 106 of the National Historic Preservation Act. Please see the attached letter for your review.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Mandy Pesce - Archaeologist
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Office 817-886-1898
Cell 817-876-8059

amanda.k.pesce@usace.army.mil



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Ian Thompson
Tribal Historic Preservation Officer
Choctaw Nation of Oklahoma
Post Office Drawer 1210
Durant, Oklahoma 74701

Dear Mr. Thompson:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

The following tribes were contacted via postal mail. Copies of the letters to follow:

Absentee-Shawnee Tribe of Indians of Oklahoma

Alabama-Coushatta Tribe of Texas

Alabama-Quassarte Tribal Town

Delaware Nation

Apache Tribe of Oklahoma

Caddo Nation of Oklahoma

Chickasaw Nation

Coushatta Tribe of Louisiana

Delaware Tribe of Indians

Eastern Shawnee Tribe of Oklahoma

Eastern Band of the Cherokee Indians

Jicarilla Apache Nation

Kaw Nation of Oklahoma

United Keetoowah Band of Cherokee Indians

Kialagee Tribal Town

Kickapoo Tribe of Oklahoma

Kickapoo Traditional Tribe of Texas

Kiowa Indian Tribe of Oklahoma

Menominee Indian Tribe of Wisconsin

Mescalero Apache Tribe

Miami Tribe of Oklahoma

Mississippi Band of Choctaw Indians

Muscogee (Creek) Nation

Northern Arapaho Tribe

The Osage Nation

Ponca Tribe of Indians of Oklahoma

Quapaw Tribe of Indians

Sac and Fox Nation of Oklahoma

Seminole Nation of Oklahoma

Shawnee Tribe

Thlopthlocco Tribal Town

Tonkawa Tribe of Oklahoma

Tunica-Biloxi Indian Tribe

Ysleta del Sur Pueblo



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Devon Frazier
Tribal Historic Preservation Officer
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Dear Ms. Frazier:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Bryant Celestine
Tribal Historic Preservation Officer
Alabama-Coushatta Tribe of Texas
571 State Park Road 56
Livingston, Texas 77351

Dear Mr. Celestine:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

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Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Chief Tarpie Yargee
Alabama-Quassarte Tribal Town
Post Office Box
187 Wetumka, Oklahoma 74883

Dear Chief Yargee:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Erin Thompson
Tribal Historic Preservation Officer
Delaware Nation
Post Office Box 825
Anadarko, Oklahoma 73005

Dear Ms. Thompson:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Durrell Cooper III
Chairman
Apache Tribe of Oklahoma
Post Office Box 1330
Anadarko, Oklahoma 73005

Dear Mr. Cooper:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Jonathan Rohrer
Tribal Historic Preservation Officer
Caddo Nation of Oklahoma
Post Office Box 487
Binger, Oklahoma 73009

Dear Mr. Rohrer:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Karen Brunso
Tribal Historic Preservation Officer
Chickasaw Nation
Post Office Box 1548
Ada, Oklahoma 74820

Dear Ms. Brunso:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Kristian Poncho
Tribal Historic Preservation Officer
Coushatta Tribe of Louisiana
Post Office Box 10
Elton, Louisiana 70532

Dear Mr. Poncho:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Chief Brad Killscrow
Delaware Tribe of Indians
5100 Tuxedo Blvd
Bartlesville, Oklahoma 74006

Dear Chief Killscrow:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Paul Barton
Tribal Historic Preservation Officer
Eastern Shawnee Tribe of Oklahoma
12755 South 705 Road
Wyandotte, Oklahoma 74370

Dear Mr. Barton:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Russell Townsend
Tribal Historic Preservation Officer
Eastern Band of the Cherokee Indians
Post Office Box 455
Cherokee, North Carolina 28719

Dear Mr. Townsend:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Jeffrey Blythe
Tribal Historic Preservation Officer
Jicarilla Apache Nation
Post Office Box 1367
Dulce, New Mexico 87528

Dear Mr. Blythe:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Chair Lynn Williams
Kaw Nation of Oklahoma
Post Office Box 50
Kaw City, Oklahoma 74641

Dear Ms. Williams:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Whitney Warrior
Director
Historic Preservation Office
United Keetoowah Band of Cherokee Indians
Post Office Box 746
Tahlequah, Oklahoma 74465

Dear Ms. Warrior:

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Kenneth Shingleton

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. David Cook
Tribal Administrator
Kialagee Tribal Town
Post Office Box 332
Wetumka, Oklahoma 74883

Dear Mr. Cook:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. David Pacheco, Jr.
Chairman
Kickapoo Tribe of Oklahoma
Post Office Office Box
70 McCloud, Oklahoma 74851

Dear Mr. Pacheco:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Felix Castillo
Tribal Historic Preservation Officer
Kickapoo Traditional Tribe of Texas
2212 Rosita Valley Road
Eagle Pass, Texas 78852

Dear Mr. Castillo:

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Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Phil Dupoint
Tribal Historic Preservation Officer
Kiowa Indian Tribe of Oklahoma
Post Office Box 369
Carnegie, Oklahoma 73015

Dear Mr. Dupoint:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. David Grignon
Tribal Historic Preservation Officer
Menominee Indian Tribe of Wisconsin
Post Office Box 910
Keshena, Wisconsin 54135

Dear Mr. Grignon:

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Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Holly Houghton
Tribal Historic Preservation Officer
Mescalero Apache Tribe
Post Office Box 227
Mescalero, New Mexico 88340

Dear Ms. Houghton:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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The public comment period will be open from September 15 to October 15, 2022 for a 30-day comment period.

The USACE solicits your review and comment on the draft PEA. Please provide written comments to Ms. Amanda Pesce, Archaeologist, Environmental Branch, Regional Planning and Environmental Center, P.O. Box 17300 Fort Worth, TX 76102-03, or by email at amanda.k.pesce@usace.army.mil before closing the comment period. Please direct any questions or requests for additional information to Ms. Pesce by email or telephone at 817-886-1898.

Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Diane Hunter
Tribal Historic Preservation Officer
Miami Tribe of Oklahoma
Post Office Box
1326 Miami, Oklahoma 74355

Dear Ms. Hunter:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Kenneth Carleton
Tribal Historic Preservation Officer
Mississippi Band of Choctaw Indians
Post Office Box 6010
Choctaw, Mississippi 39350

Dear Mr. Carleton:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Turner Hunt
Tribal Historic Preservation Officer
Muscogee (Creek) Nation
Post Office Box 580
Okmulgee, Oklahoma 74447

Dear Mr. Hunt:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Crystal Reynolds
Tribal Historic Preservation Officer
Northern Arapaho Tribe
Post Office Box 397
Fort Washakie, Wyoming 82524

Dear Ms. Reynolds:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Dr. Andrea Hunter
Tribal Historic Preservation Officer
The Osage Nation
627 Grandview Avenue
Pawhuska, Oklahoma 74056

Dear Dr. Hunter:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Staci Hesler
Tribal Historic Preservation Officer
Ponca Tribe of Indians of Oklahoma
20 White Eagle Drive
Ponca City, Oklahoma 74601

Dear Ms. Hesler:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Everett Bandy
Tribal Historic Preservation Officer
Quapaw Tribe of Indians
Post Office Box 765
Quapaw, Oklahoma 74363-0765

Dear Mr. Bandy:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Chris Boyd
Tribal Historic Preservation Officer
Sac and Fox Nation of Oklahoma
920883 South Highway 99, Building A
Stroud, Oklahoma 74079

Dear Mr. Boyd:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Ted Underwood
Tribal Historic Preservation Officer
Seminole Nation of Oklahoma
Post Office Box 1498
Wewoka, Oklahoma 74884

Dear Mr. Underwood:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Tonya Tipton
Tribal Historic Preservation Officer
Shawnee Tribe
Post Office Box 189
Miami, Oklahoma 74355

Dear Ms. Tipton:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Galen Cloud
Tribal Historic Preservation Officer
Thlopthlocco Tribal Town
Post Office Box 188
Okemah, Oklahoma 74859

Dear Mr. Cloud:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Ms. Lauren Norman-Brown
Tribal Historic Preservation Officer
Tonkawa Tribe of Oklahoma
1 Rush Buffalo Road
Tonkawa, Oklahoma 74653

Dear Ms. Norman-Brown:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Earl Barbry, Jr.
Tribal Historic Preservation Officer
Tunica-Biloxi Indian Tribe
Post Office Box 1589
Marksville, Louisiana 71351

Dear Mr. Barbry:

The U.S. Army Corps of Engineers, Fort Worth District (USACE) has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). This PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The draft PEA documents may be found on the following webpage:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
P.O. BOX 17300
FORT WORTH, TX 76102-0300

September 15, 2022

Mr. Rick Quezada
Director of Cultural Preservation
Ysleta del Sur Pueblo
Post Office Box 17579
Ysleta Station El Paso, Texas 79917

Dear Mr. Quezada:

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Sincerely,

Kenneth Shingleton

Kenneth L. Shingleton
Chief, Cultural and Environmental Program Support
Regional Planning and Environmental Center

From: [Madison D. Currie](#)
To: [Pesce, Amanda Kay \(Mandy\) CIV USARMY CESWF \(USA\)](#)
Cc: [Lindsey Bilyeu](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] RE: USACE Fort Worth District 408 PEA
Date: Friday, October 14, 2022 3:15:09 PM
Attachments: [image001.png](#)

Halito Mandy,

Thank you for forwarding this, the Choctaw Nation of Oklahoma requests to continue to be consulted as is standard under Section 106 of the National Historic Preservation Act.

Yakoke,

Maddie Danielle Currie
NHPA Compliance Review Specialist
Historic Preservation Department
Choctaw Nation of Oklahoma
P.O. Box 1210
Durant, OK 74702
Office: 580-642-8467
Cell: 580-740-9537



From: Pesce, Amanda Kay (Mandy) CIV USARMY CESWF (USA) <Amanda.K.Pesce@usace.army.mil>
Sent: Thursday, September 15, 2022 3:07 PM
To: Madison D. Currie <mcurrie@choctawnation.com>; Ian Thompson <ithompson@choctawnation.com>
Cc: Story, Jason E CIV USARMY CESWF (USA) <Jason.E.Story@usace.army.mil>; Posey, Bailee M CIV USARMY CESWD (USA) <Bailee.Posey@usace.army.mil>
Subject: USACE Fort Worth District 408 PEA

Halito: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA), which includes conditions for compliance with Section 106 of the National Historic Preservation Act. Please see the attached letter for your review.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

Mandy Pesce - Archaeologist
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Office 817-886-1898
Cell 817-876-8059

amanda.k.pesce@usace.army.mil

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure. If you have received this message in error, you are hereby notified that we do not consent to any reading, dissemination, distribution or copying of this message. If you have received this communication in error, please notify the sender immediately and destroy the transmitted information. Please note that any view or opinions presented in this email are solely those of the author and do not necessarily represent those of the Choctaw Nation.

From: [Larry Heady](#)
To: [Story, Jason E CIV USARMY CESWF \(USA\)](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] Re: Draft Programmatic Environmental Assessment, Section 408, public notice reissue
Date: Monday, October 31, 2022 1:47:59 PM

Dear Mr. Story:

Thank you for notifying the Delaware Tribe of the plans for the above-referenced project. The Delaware Tribe is committed to protecting sites and resources important to our tribal heritage, culture, and religion. After reviewing our files, we determined that this project is outside of our area of interest. We therefore have no objection to the proposed project.

Wanishi! Anushiik!
Thank You!

LARRY HEADY | Tribal Historic Preservation Officer
Delaware Tribe of Indians
125 Dorry Lane | Grants Pass, OR 97527
262.825.7586 | lheady@delawaretribe.org
"Preserving the Legacy of Lenape Culture and the Delaware Diaspora"

I recognize that I am a guest in the ancient and sacred homeland of the living nations of the Coos, Hupa, Karuk, Klamath, Modoc, Takelma, Shasta, Siuslaw, Cow Creek Band of Umpqua, Yahooskin, and Yurok. I extend my respect and gratitude to the Indigenous people who call these lands home.

From: "Story, Jason E CIV USARMY CESWF (USA)" <Jason.E.Story@usace.army.mil>
To: Karen Hardin <Karen.Hardin@tpwd.texas.gov>, Rachel Lange <Rachel.Lange@tpwd.texas.gov>, "Russell.hooten@tpwd.texas.gov" <Russell.hooten@tpwd.texas.gov>, "Jessica.schmerler@tpwd.texas.gov" <Jessica.schmerler@tpwd.texas.gov>, "Richard.Hanson@tpwd.texas.gov" <richard.hanson@tpwd.texas.gov>, Laura Zebehazy <Laura.Zebehazy@tpwd.texas.gov>, "whab@tpwd.texas.gov" <whab@tpwd.texas.gov>, "brian.vanzee@tpwd.texas.gov" <brian.vanzee@tpwd.texas.gov>, "alice.best@tpwd.texas.gov" <alice.best@tpwd.texas.gov>, Marcos DeJesus <Marcos.Dejesus@tpwd.texas.gov>, Peter Schaefer TCEQ <peter.schaefer@tceq.texas.gov>, "arles@fws.gov" <arles@fws.gov>, "debra_bills@fws.gov" <debra_bills@fws.gov>, "catherine_yeargan@fws.gov" <catherine_yeargan@fws.gov>, "aubry_buzek@fws.gov" <aubry_buzek@fws.gov>, "Landeros, Daniel" <landeros.daniel@epa.gov>, "Robert Houston (Houston.Robert@epa.gov)" <Houston.Robert@epa.gov>, "Gruta, Gabriel" <Gruta.Gabriel@epa.gov>, "jansky.michael@epa.gov" <jansky.michael@epa.gov>, "hayden.keith@epa.gov" <hayden.keith@epa.gov>, "price.kimeka@epa.gov" <price.kimeka@epa.gov>, Dean Kuhn <Dean.Kuhn@trwd.com>, "Woody.Frossard@trwd.com" <Woody.Frossard@trwd.com>, "Standifer, Sarah" <Sarah.Standifer@dallascityhall.com>.

"eduardo.valerio@dallascityhall.com" <eduardo.valerio@dallascityhall.com>, "McRay,
 Ricky" <ricky.mcray@dallas.gov>, Melissa Bryant <mbryant@sariverauthority.org>, Gray
 Eck <geck@sariverauthority.org>, "ateague@sariverauthority.org"
 <ateague@sariverauthority.org>, Scott Mitchell <smitchell@richlandhills.com>,
 "gfennell@cityofirving.org" <gfennell@cityofirving.org>, "Henry.Price@austintexas.gov"
 <Henry.Price@austintexas.gov>, "Sofia.Reyes@austintexas.gov"
 <Sofia.Reyes@austintexas.gov>, "Andrew.Wong@austintexas.gov"
 <Andrew.Wong@austintexas.gov>, "Rachel.Piner@austintexas.gov"
 <Rachel.Piner@austintexas.gov>, "John.Cantu@sanantonio.gov"
 <John.Cantu@sanantonio.gov>, "Theresa.Larson@sanantonio.gov"
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Sent: 10/28/2022 10:40 AM

Subject: Draft Programmatic Environmental Assessment, Section 408, public notice reissue

Dear federal, state, tribal and local officials:

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA). Please see attached public notice and solicitation of comments.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

We had a technical problem with a prior email address for submittal of comments. This is a reissue of the same public notice for the draft PEA that previously ran from September 15 until October 15, 2022. There were no changes to the draft PEA. If you submitted comments under the previous public notice, please resubmit the comments. All new comments are welcome. The public comment period is open for 15 calendar days. The public notice is reissued on October 28, 2022. The close of the comment period is on November 12, 2022.

Please send comments to CESWF-408@usace.army.mil

Sincerely,

Jason Story
Section 408 Coordinator
Fort Worth District
Biologist
RPEC
U.S. Army Corps of Engineers
Office 817-886-1852
Cell 817-239-8475
jason.e.story@usace.army.mil

For more information on Section 408, visit the Fort Worth District Section 408 webpage at <https://www.swf.usace.army.mil/Missions/Section-408/>

From: [WHAB](#)
To: [Story, Jason E CIV USARMY CESWF \(USA\)](#)
Cc: [WHAB](#)
Subject: [Non-DoD Source] TPWD has received your project review request
Date: Friday, October 28, 2022 12:42:24 PM

This is an automated message to inform you that the Wildlife Habitat Assessment (WHAB) program has received your email. Please note that responses to requests for project review generally take approximately 45 days to complete, and project schedules should accommodate the review timeline. Responses may be delayed due to workload and lack of staff. If you wish to speak to the biologist who will review your project, please visit https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/habitat_assessment/media/whab-map-2020.jpg for a staff directory by area of responsibility. Thank you.

From: [Karen Hardin](#)
To: [CESWF-408](#)
Cc: [Story, Jason E CIV USARMY CESWF \(USA\)](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] RE: Draft Programmatic Environmental Assessment, Section 408, public notice reissue; TPWD Project 49201
Date: Monday, October 31, 2022 1:07:29 PM
Attachments: [WL49201-USACE-PEA-Section408-C10-11-2022.pdf](#)

Dear Jason Story,

Please refer to the attached Texas Parks and Wildlife Department (TPWD) comments regarding the draft Programmatic Environmental Assessment for Section 408 NEPA compliance. TPWD originally submitted this comment letter on October 11, 2022, to Ms. Bailee Posey, and are resubmitting the comments in response to USACE's reissued public notice dated October 28, 2022.

Sincerely,

Karen Hardin
Natural Resource Specialist
Wildlife Habitat Assessment Program
Texas Parks and Wildlife Department
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Austin, TX 78744
903-322-5001
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From: Story, Jason E CIV USARMY CESWF (USA) <Jason.E.Story@usace.army.mil>
Sent: Friday, October 28, 2022 12:41 PM
To: Karen Hardin <Karen.Hardin@tpwd.texas.gov>; Rachel Lange <Rachel.Lange@tpwd.texas.gov>; Russell Hooten <Russell.Hooten@tpwd.texas.gov>; Jessica Schmerler <Jessica.Schmerler@tpwd.texas.gov>; Richard Hanson <Richard.Hanson@tpwd.texas.gov>; Laura Zebehazy <Laura.Zebehazy@tpwd.texas.gov>; WHAB <WHAB@tpwd.texas.gov>; Brian VanZee <Brian.VanZee@tpwd.texas.gov>; Alice Best <Alice.Best@tpwd.texas.gov>; Marcos DeJesus <Marcos.Dejesus@tpwd.texas.gov>; Peter Schaefer TCEQ <peter.schaefer@tceq.texas.gov>; arles@fws.gov; debra_bills@fws.gov; catherine_yeargan@fws.gov; aubry_buzek@fws.gov; Landeros, Daniel <landeros.daniel@epa.gov>; Robert Houston (Houston.Robert@epa.gov) <Houston.Robert@epa.gov>; Gruta, Gabriel <Gruta.Gabriel@epa.gov>; jansky.michael@epa.gov; hayden.keith@epa.gov; price.kimeka@epa.gov; Dean Kuhn <Dean.Kuhn@trwd.com>; Woody.Frossard@trwd.com; Standifer, Sarah <Sarah.Standifer@dallascityhall.com>; eduardo.valerio@dallascityhall.com; McRay, Ricky <ricky.mcray@dallas.gov>; Melissa Bryant <mbryant@sariverauthority.org>; Gray Eck <geck@sariverauthority.org>; ateague@sariverauthority.org; Scott Mitchell <smitchell@richlandhills.com>; gfennell@cityofirving.org; Henry.Price@austintexas.gov; Sofia.Reyes@austintexas.gov; Andrew.Wong@austintexas.gov; Rachel.Piner@austintexas.gov; John.Cantu@sanantonio.gov; Theresa.Larson@sanantonio.gov; bhornung@seguintexas.gov; elizabeth-toombs@cherokee.org; ithompson@choctawnation.com; mcurrie@choctawnation.com; Theodore Villicana

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Subject: Draft Programmatic Environmental Assessment, Section 408, public notice reissue

Some people who received this message don't often get email from jason.e.story@usace.army.mil. [Learn why this is important](#)

ALERT: This email came from an external source. Do not open attachments or click on links in unknown or unexpected emails.

Dear federal, state, tribal and local officials:

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft Programmatic Environmental Assessment (PEA) for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA). Please see attached public notice and solicitation of comments.

The draft PEA documents may be found on the following webpage:

<https://www.swf.usace.army.mil/Missions/Section-408/Programmatic-Environmental-Assessment/>

We had a technical problem with a prior email address for submittal of comments. This is a reissue of the same public notice for the draft PEA that previously ran from September 15 until October 15, 2022. There were no changes to the draft PEA. If you submitted comments under the previous public notice, please resubmit the comments. All new comments are welcome. The public comment period is open for 15 calendar days. The public notice is reissued on October 28, 2022. The close of the comment period is on November 12, 2022.

Please send comments to CESWF-408@usace.army.mil

Sincerely,

Jason Story
Section 408 Coordinator
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Biologist
RPEC
U.S. Army Corps of Engineers
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Cell 817-239-8475
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For more information on Section 408, visit the Fort Worth District Section 408 webpage at <https://www.swf.usace.army.mil/Missions/Section-408/>



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Carter P. Smith
Executive Director

October 11, 2022

Ms. Bailee Posey
U.S. Army Corps of Engineers
Regional Planning and Environmental Center
P.O. Box 17300
Fort Worth, TX 76102-0300
Bailee.Posey@usace.army.mil

RE: Draft Programmatic Environmental Assessment for Section 408 Requests

Dear Ms. Bailee Posey:

The Texas Parks and Wildlife Department (TPWD) received the public notice of the opportunity to provide comments on the draft Programmatic Environmental Assessment (PEA) for future Section 408 requests.

Project Description

The U.S. Army Corps of Engineers (USACE), Fort Worth District, has prepared a draft PEA for future Section 408 requests pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*). The PEA evaluates the potential environmental effects of future proposed Section 408 requests, which are similar and have similar impacts. The Section 408 program verifies that changes to USACE federally authorized Civil Works projects will not be injurious to the public interest and will not impair the usefulness of the project. This requirement was established in Section 14 of the Rivers and Harbors Act of 1899, which has since been amended several times and is codified at 33 U.S.C. 408. The proposed PEA will replace the previous 2011 PEA. After five years the PEA will be reevaluated and may be renewed if appropriate.

Materials provided for public review include the draft PEA and maps generally depicting the location of federally authorized Civil Works projects within the Fort Worth District. The PEA indicates that Civil Works projects in the Fort Worth District include flood risk management, emergency streambank protection, ecosystem restoration, recreation, and multi-purpose lakes. Many of the Civil Works projects have been turned over to non-federal sponsors to operate and maintain. Section 408 requests are requests from private or public entities to temporarily or permanently use, occupy, or alter USACE federally authorized Civil Works projects.

The PEA scope is the USACE Fort Worth District federally authorized Civil Works projects operated and maintained by non-federal sponsors and those portions of alterations under Section 408 outside the USACE project where the USACE has adequate control and responsibility over. The PEA applies to USACE federally authorized Civil Works projects that are constructed, under construction, or not yet constructed if a Project Partnership Agreement is signed, and a non-federal sponsor has

provided real property for the USACE project. This PEA does not apply to USACE Fort Worth District dams and lake projects.

The PEA evaluates the No Action Alternative in which the Fort Worth District will continue to review all Section 408 requests individually for NEPA compliance and evaluate each for compliance with either a categorical exclusion, environmental assessment, or environmental impact statement. Under the Preferred Alternative, the PEA would be utilized for NEPA compliance for future Section 408 requests if those future proposed projects would result in minimal environmental effects and meet the engineering conditions and environmental conditions described in the PEA. USACE reserves discretion for requiring an environmental assessment or environmental impact statement for future Section 408 requests if the effects were determined not minimal, if proposed mitigation was determined insufficient, if controversial issues were involved, or for other project-specific reasons.

Common alterations covered by the PEA, include, but are not limited to, the following:

- Abandonment of utilities
- Borings, levee explorations, and instrumentation
- Bridges and roads
- Buildings and structures
- Fences, gates, signs
- Horizontal Directional Drilling (HDD)
- Maintenance access facilities (roads)
- Parking lots
- Pipelines (gas and petroleum)
- Real estate disposal and exchanges
- Recreational features (benches, docks, pavilions, ramps, trails)
- Utilities (sanitary, storm, telecommunication, water)
- Utility poles and transmission towers

TPWD Review of PEA

As the state agency with primary responsibility for protecting the state's fish and wildlife resources and in accordance with the authority granted by Texas Parks and Wildlife Code (PWC) section 12.0011 and per the NEPA process, TPWD provides the following recommendations and informational comments on the draft PEA to minimize potential adverse impacts to the state's fish and wildlife resources that may be associated with Section 408 requests covered by the proposed PEA.

Section 2.5, 2.6, and 2.7

The PEA identifies fourteen engineering conditions (Section 2.6) and seventeen environmental conditions (Section 2.7) that must be met to qualify for the PEA. Future proposed Section 408 alterations that do not meet these conditions will be evaluated under a categorical exclusion, environmental assessment, or environmental impact statement. USACE may impose project specific special conditions in addition to the engineering and environmental conditions of the PEA.

Section 2.6 Engineering Condition #14

Engineering Condition #14 is specific to minimizing disturbance to recreational facilities and providing temporary access to the recreational facility during construction. Engineering Condition #14 does not address permanent impacts to recreational facilities.

Recommendation: Please refer to the discussion and recommendations of 3.2.14 *Recreation*, below. If the PEA applies to Section 408 requests that involve permanent impacts to recreation facilities, then TPWD recommends an engineering condition to ensure that permanent impacts comply with PWC chapter 26 and the U.S. Land and Water Conservation Fund (LWCF) Act.

Section 2.7 Environmental Condition #1

Environmental Condition #1 states that “Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to federally listed threatened or endangered species including their critical habitat, in accordance with the Endangered Species Act (ESA).”

There are currently proposed threatened and endangered species and proposed critical habitats in Texas that occur within or adjacent to some of the PEA Civil Works projects. For example, there is proposed critical habitat for the proposed threatened Texas Fawnsfoot (*Truncilla macrodon*) in a section of the Brazos River adjacent to the Brazos River AT Wastewater Treatment Plant of PEA Figure 2, and there is proposed critical habitat for the proposed endangered false spike (*Fusconaia mitchelli*) within the stream directly downstream of Granger Lake. Because a listing decision under ESA can come at a time in between a Section 408 request and actual construction activities, TPWD recommends a conservative approach in evaluating a project’s impacts on listed species that includes evaluating potential impacts to proposed threatened and endangered species, candidate species, and proposed critical habitats.

Recommendation: TPWD recommends that avoidance and minimization of impacts to proposed threatened and endangered species, candidate species, and proposed critical habitats be included in Environmental Condition #1.

Section 2.7 Environmental Condition #4

Environmental Condition #4 indicates that proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to fish and wildlife habitat, including bottomland hardwood habitat, proposed alterations must not result in a net loss of significant fish and wildlife habitat, and appropriate mitigation to offset losses will be considered.

Recommendation: Regarding Environmental Condition #4, rather than just considering appropriate mitigation to offset losses to fish and wildlife habitat, TPWD recommends replacing “considered” with “secured” or “obtained” to ensure

that proposed alterations do not result in a net loss of significant fish and wildlife habitat.

Recommendation: Regarding Environmental Condition #4, TPWD recommends adding that USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine impacts to fish and wildlife and their habitat.

In addition to bottomland hardwood habitat, the existing Civil Works projects may also provide other quality habitats including habitat for native mussels and other aquatic life. PWC section 1.011 grants TPWD authority to regulate and conserve aquatic animal life of public waters. Texas Administrative Code (TAC) section 57.157 regulates take of mussels, including mussels that are not state listed. TPWD regulates the introduction and stocking of fish, shellfish, and aquatic plants into public waters of the state under PWC 12.015, 12.019, and 66.015 and TAC 52.101-52.105, 52.202, and 57.251-57.259.

Dewatering activities can impact aquatic resources through stranding fish and mussels. Other harmful construction activities can trample, dredge, or fill areas exhibiting stationary aquatic resources such as plants and mussels. Relocating aquatic life to an area of suitable habitat outside the project footprint avoids or reduces impacts to aquatic life. Relocation activities are done under the authority of a TPWD *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters* with an approved Aquatic Resource Relocation Plan (ARRP). The permit allows for movement (i.e., introduction, stocking, transplant, relocation) of aquatic species in waters of the state. ARRPs are used to plan resource handling activities and assist in the permitting process. If dewatering activities and other project related activities cause mortality to fish and wildlife species, then the responsible party would be subject to investigation by the TPWD Kills and Spills Team (KAST) and will be liable for the value of lost resources under the authority of PWC sections 12.0011 (b) (1) and 12.301.

The Section 408 requests may include stream, river, or reservoir disturbances that involve dewatering, trampling, dredging, trenching, or filling that can impact aquatic life. Section 408 requests that involve dewatering, trampling, dredging, trenching, or filling a public water would be subject to TAC and PWC.

Recommendation: TPWD recommends that impact avoidance measures for aquatic organisms, including all native fish and freshwater mussel species, regardless of state listing status, be considered during Section 408 alteration requests.

Recommendation: If construction occurs during times when water is present and dewatering, trampling, dredging, trenching, or filling activities are involved, then TPWD recommends relocating native aquatic resources, including fish and mussels, in conjunction with a *Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters*, an ARRP. The ARRP should be approved by the department 30 days prior to activity within project waters or resource relocation and submitted with an application for a no-cost permit. ARRPs can be submitted to the

appropriate Regional KAST member whose contact information is found on the TPWD KAST webpage.

Many of the Fort Worth District Civil Works projects presented on the PEA Table 1 and on Figures 2, 3, and 4 occur within or near streams or reservoirs that are identified as needing to follow either a Group 1, 2, 3, 4, or 5 stream protocol within the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset found at <https://www.fws.gov/library/collections/texas-freshwater-mussel-sampling-protocol>. The Texas Freshwater Mussel Survey Protocol was updated in October 2021 to streamline an applicant's coordination with both the TPWD and USFWS whenever a project has potential to impact freshwater mussels while ensuring the needs of both agencies are met. Stream groups are defined as follows:

- Group 1 – Small/medium stream reaches that include designated or proposed Critical Habitat for federally-listed or federally-proposed mussel species, or reaches known to or may be inhabited by federally-listed species.
- Group 2 – Large stream reaches that include designated or proposed Critical Habitat for federally-listed or federally-proposed mussel species, or reaches known to or may be inhabited by federally-listed species.
- Group 3 – Small/medium stream reaches that are known to, or may be inhabited by state-listed freshwater mussel species, but presence of federally-listed freshwater mussel species is not anticipated.
- Group 4 – Large stream reaches that are known to or may be inhabited by state-listed freshwater mussel species, but presence of federally-listed freshwater mussel species is not anticipated.
- Group 5 – Streams where no federally-or state-listed freshwater mussels occur, but mussels are known to occur; or, perennial streams where it is anticipated that live freshwater mussels may occur, but presence or diversity have not been confirmed.

Recommendation: TPWD recommends the PEA include an Environmental Condition in which the requester is required to abide by state law regarding aquatic resources. For requests that involve work in inland public waters, TPWD recommends USACE utilize the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset to determine if Section 408 alteration requests trigger the need for a requester to follow a mussel sampling protocol. TPWD recommends a new Environmental Condition or adding to Environmental Condition #4, that projects occurring in waters identified as a Group 1 through Group 5 stream must complete the appropriate mussel sampling protocol as determined by the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset and must coordinate with the TPWD KAST for appropriate authorization when a project involves dewatering or other harmful actions that may impact aquatic species. The environmental condition should state that USACE may require the requestor to

conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the presence of native freshwater mussels or to determine the need for KAST coordination for work in inland public waters.

Please note that the mussel protocol is included as part of the TPWD Aquatic Resource Relocation Plan that is needed in conjunction with a *Permit to Introduce Fish, Shellfish, or Aquatic Plants into Public Fresh Water*. Additionally, the groupings were based on TCEQ designated stream segments that were identified as perennial streams. However, the dataset is not perfect and there may be perennial water bodies that were not assigned a stream grouping or segments of classified perennial waters that are intermittent. Therefore, the need to conduct a survey is based on the presence of suitable mussel habitat, which is currently defined as perennial water, or water being present at the site for the past three consecutive years. If a site has dried within the last three years, then it is considered unsuitable mussel habitat. If a site is found to have suitable mussel habitat and is not currently identified by a stream group, then the site should be treated as a Group 5 stream.

Regarding Environmental Condition #4, in addition to bottomland hardwood habitat, state listed species and other species of greatest conservation need (SGCN) may occur within the limits of a Civil Works project and those species have potential to be impacted by Section 408 alteration requests. PWC chapter 68 regulates state listed threatened and endangered animal species. The capture, trap, take, or killing of state listed animal species is unlawful unless expressly authorized by USFWS or TPWD. In addition to federal and state listed species, TPWD monitors other SGCN and actively promotes their conservation. TPWD considers it important to evaluate and, if feasible, minimize impacts to SGCN and their habitat to reduce the likelihood of endangerment and preclude the need to list as threatened or endangered in the future.

Recommendation: TPWD recommends USACE consider the impacts of a Section 408 alteration on state listed species and other SGCN that occur within a Civil Works project area. TPWD recommends an Environmental Condition similar to Environmental Condition #1 but focused on state listed and other SGCN species. TPWD recommends the Environmental Condition indicate that proposed alterations avoid and minimize impacts to state listed species and other SGCN to the maximum extent practicable, and that USACE may require the requestor to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine impacts or identify BMP to reduce potential impacts.

Section 2.7 Environmental Condition #7

Environmental Condition #7 states that “Proposed alterations must be designed to minimize the introduction of exotic species (both plant and animal). Seed mixes used in site restoration must consist only of native species. Use of grass or vegetation species applicable for turfing or sodding requirements for flood risk management projects is acceptable.”

Recommendation: TPWD recommends modifying the last sentence to, “Use of grass or vegetation species applicable for turfing or sodding requirements for flood

risk management projects is acceptable, although preference will be given to utilization of native plant species.”

Per TAC chapter 57, it is an offense for any person to possess, transport, or release into the water of this state any species, hybrid of a species, subspecies, eggs, seeds, or any part of any species defined as a harmful or potentially harmful exotic fish, shellfish, or aquatic plant. This rule applies not only to zebra mussels (*Dreissena polymorpha*) (live or dead) and their larvae but also to any species or fragments thereof designated as harmful or potentially harmful under this subchapter (e.g., giant salvinia, hydrilla, Eurasian watermilfoil). The full list can be found on the TPWD Invasive, Prohibited, and Exotic Species website.

Project equipment coming in contact with surface waters could transport aquatic invasive species (AIS) where mud, plant debris, or water accumulate. This can occur when equipment arrives from a previous job site or when leaving a current job site that already contains AIS. When equipment will come in contact with streams or waterbodies, TPWD recommends preparing and following an AIS transfer prevention plan which outlines BMPs for preventing inadvertent transfer of aquatic invasive plants and animals on project equipment and materials. AIS BMPs are presented in the TPWD ARRP guidelines packet and the *TPWD Clean/Drain/Dry Procedures and Zebra Mussel Decontamination Procedures for Contractors Working in Inland Public Waters*.

Recommendation: To ensure protection of aquatic systems from AIS and for requesters to stay in compliance with TAC chapter 57, TPWD recommends including an environmental condition when work involves equipment that will come in contact with streams or waterbodies. TPWD recommends Environmental Condition #7 include, “For activities within streams or waterbodies, an Aquatic Invasive Species transfer prevention plan will be required which outlines BMP for preventing inadvertent transfer of aquatic invasive plants and animals on equipment and materials.”

Section 2.7 Environmental Condition #8

Environmental Condition #8 states that “Proposed alterations must incorporate BMPs to control storm water runoff, erosion, and contaminant spills.”

Recommendation: TPWD recommends USACE consider BMPs for revegetation and erosion control that avoid entanglement hazards to wildlife. Refer to the *Beneficial Management Practices* section below for a detailed description of TPWD’s recommendations regarding erosion control materials.

Environmental Condition #12 indicates that the USACE, the non-federal sponsor, and the appropriate state agency must be notified immediately in the event of an environmental spill. Please note that activities causing mortality to fish and wildlife species should be reported to the TPWD KAST, who have authority to investigate under PWC sections 12.0011 (b) (1) and 12.301.

Recommendation: TPWD recommends including notice to the TPWD KAST in Environmental Condition #12 when project activities, including spills, cause mortality to fish and wildlife. Please add, “If fish and wildlife resources are impacted by the spill, contact Texas Parks and Wildlife Department Kills and Spills Team immediately, KAST 24 Hour Hotline 512-389-4848.”

3.1.12 Section 206

The PEA indicates that it is not a requirement under Council on Environmental Quality guidance to provide other than broad regional or landscape descriptions of the affected environment. Only the largest non-federal sponsor operated USACE projects of the PEA have general descriptions of authorization, history, location, and existing conditions. However, in Section 3.1.12 of the PEA, Spring Lake and the San Marcos are the locations of Section 206 Aquatic Ecosystem Restoration projects with no existing condition information. TPWD notes that Spring Lake and the upper portions of the San Marcos River represent aquatic habitat for endemic species including six federally listed species [San Marcos salamander (*Eurycea nana*), Texas blind salamander (*Eurycea rathbuni*), fountain darter (*Etheostoma fonticola*), Texas wild-rice (*Zizania texana*), Comal Springs riffle beetle (*Heterelmis comalensis*), and San Marcos gambusia (*Gambusia georgei*)] and final critical habitat for five of those species under the ESA.

Recommendation: To highlight important features of the Civil Works projects, TPWD recommends the PEA provide existing conditions at Spring Lake and the San Marcos River as having aquatic habitat for endemic federally listed species and final critical habitat under the ESA.

3.2.2 Wetlands and Other Waters

The PEA indicates that the effects of the No Action Alternative and Preferred Alternative to wetlands and other waters would be minimal because effects would be individually evaluated during the Section 408 review and effects would be minimized by compliance with PEA Engineering Conditions #6 and #9, and Environmental Conditions #4, #7, #8, #10, #16. USACE may also require project specific special conditions to minimize effects to these aquatic resources.

Recommendation: Because Environmental Condition #3 pertains to obtaining a permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, TPWD recommends including Environmental Condition #3 in the list of conditions the applicant would follow to have minimal effects on wetlands and other waters.

3.2.3 Water Quality

The PEA indicates that the effects of the No Action Alternative and Preferred Alternative on water quality would be minimal because of compliance with applicable Nationwide and Regional General Permits, along with adherence to the standard provisions and general permit conditions, and Water Quality Certification conditions.

Additionally, effects to water quality would be minimized by compliance with PEA Environmental Conditions #3, #8, and #13. Environmental Condition #13 pertains to stopping construction upon encountering human remains, archaeological sites, or other cultural resources and are not specific to water quality.

Recommendation: In the list of environmental conditions the applicant would follow to have minimal impacts on water quality, TPWD recommends replacing Environmental Condition #13 with Environmental Conditions #11 and #12 which address removing excess material from the construction site and environmental spill notification, clean-up and repair, respectively.

3.2.8 Fish and Wildlife Species

The affected environment discussion indicates that a variety of birds, mammals, reptiles, amphibians, invertebrates, and fish occur within the USACE Civil Works project areas. The PEA does not acknowledge state listed species or other SGCN and does not differentiate project impacts on fish and wildlife resources separately from impacts on state listed species or other SGCN.

As mentioned previously, in addition to federal and state listed species, TPWD monitors other SGCN and actively promotes their conservation. TPWD considers it important to evaluate and, if feasible, minimize impacts to SGCN and their habitat to reduce the likelihood of endangerment and preclude the need to list as threatened or endangered in the future.

Recommendation: TPWD recommends the PEA acknowledge that state listed and other SGCN species may occur within a Section 408 alteration area and may be impacted by alteration activities.

The PEA indicates that the effects of the No Action Alternative and the Preferred Alternative on fish and wildlife species would be minimal because of compliance with PEA Environmental Conditions #1, #2, #3, and #4.

Recommendation: For the PEA to have a stronger claim of minimal effects on fish and wildlife species, TPWD recommends USACE adopt TPWD's engineering condition and environmental condition recommendations provided in this letter.

3.2.12 Vegetation

The PEA indicates that the effects of the No Action Alternative and the Preferred Alternative on vegetation would be minimal because of compliance with PEA Environmental Conditions #4, #7, #9, #11, #16, and #17.

Environmental Condition #10 focuses on minimizing the amount of woody vegetation removal. Environmental Condition #15 addresses avoiding impacts to mitigation areas. Environmental Condition #17 addresses hazardous, toxic, and radioactive waste.

Recommendation: In the list of environmental conditions the applicant would follow to have minimal impacts on vegetation, TPWD recommends omitting Environmental Condition #17, and adding Environmental Conditions #10 and 15.

3.2.14 Recreation

The PEA generally presents how USACE project lands provide public recreation which include concrete, gravel, and natural surface recreational trails, maintenance access roads and paths for public use, public parks adjacent or co-located on USACE projects, ponds, lakes, and open water recreation areas, stream or river segments for small watercraft use, public boat ramps, and dedicated public water access points. The PEA indicates that under the No Action Alternative, future Section 408 requests would be individually reviewed for NEPA compliance and not covered under this PEA. The PEA indicates that under the Preferred Alternative, there would be minimal effects on recreation by compliance with PEA Engineering Conditions #1 and #13.

The PEA Section 2.6 Engineering Condition #1 states that “work must comply with the *SWFP 1150-2-1, Criteria for Design and Construction Within the Limits of Existing Federal Projects, (USACE 2013)*, or applicable future update or replacement document.” Engineering Condition #13 states that “the requester is responsible for protecting levees from damage by construction vehicles, equipment, construction activities, and storage of materials.”

It is not clear to TPWD how Engineering Condition #1 addresses impacts to existing recreational facilities. Engineering Condition #1 references following SWFP 1150-2-1 which only addresses proposed construction of recreational facilities. Additionally, SWFP 1150-2-1 does not apply to USACE- Southwest Division -Fort Worth District (CESWF) dams, ecosystem restoration projects, or navigation projects, thus Engineering Condition #1 would not be applicable to all Section 408 requests covered by the PEA.

Recommendation: TPWD recommends omitting reference to Engineering Condition #1 unless additional information is provided in the PEA to demonstrate that Engineering Condition #1 is relevant to direct and indirect impacts to recreational facilities.

Engineering Condition #13 does not apply to recreational facilities, however, Engineering Condition #14 indicates that the requester shall minimize disturbance to recreational facilities, and the requester shall, to the maximum extent practicable, provide for temporary access if trails, or public access points, parking lots, or other recreational facilities are blocked to accommodate construction.

Recommendation: TPWD recommends updating the PEA to omit reference to Engineering Condition #13 and replace it with Engineering Condition #14.

PWC chapter 26 requires that before a department, agency, political subdivision, county, or municipality can approve any project that will result in the use or taking of public land designated and used as a park, recreation area, scientific area, wildlife

refuge, or historic site, that department, agency, political subdivision, county, or municipality must provide certain notices to the public, conduct a hearing, and render a finding that there is no feasible and prudent alternative and that the project includes all reasonable planning to minimize harm to the property.

Additionally, per Section 6(f) of the U.S. LWCF Act, no public outdoor recreation areas acquired or developed with LWCF assistance can be converted to non-recreational uses without Department of Interior approval. The conversion must be in accordance with the statewide outdoor recreation plan and replaced with other recreation land of reasonable equivalent usefulness and location.

There is potential for Section 408 requests to have a permanent impact on existing recreational facilities or public access to recreational facilities including project impacts subject to PWC chapter 26 and Section 6(f) of LWCF Act. The PEA does not address any Section 408 requests that result in a permanent impact to recreational facilities or permanent impact to public access to recreational facilities.

Recommendation: TPWD recommends the PEA make a distinction that Section 408 requests resulting in permanent impacts to existing recreational facilities or public access to recreational facilities are not covered under the PEA and such requests would be individually reviewed for NEPA compliance. If, in fact, permanent impacts to existing recreational facilities or public access to recreational facilities are covered by the PEA, then TPWD recommends the USACE develop an engineering or environmental condition in which loss to existing public recreation and loss to access to public recreation are mitigated and in which USACE will require the requester to coordinate with the appropriate park or recreational facility to ensure that the Section 408 request complies with PWC chapter 26 and Section 6(f) of the LWCF Act.

4.0 Regulatory Setting

The regulatory setting of the PEA only addresses federal laws.

Recommendation: TPWD recommends that Section 408 requesters follow all federal, state, and local laws, and TPWD recommends the PEA indicate that requesters will need to follow all federal, state, and local laws.

7.0 References

Section 3.1.12 references a 2007 TPWD publication, though there is no citation provided in Section 7.0.

Recommendation: TPWD recommends providing the 2007 TPWD citation for the publication that is referenced in Section 3.1.12.

The reference to the TPWD Annotated County Lists of Rare Species [also known as the TPWD Rare, Threatened, and Endangered Species of Texas by County (RTEST)] was retrieved September 24, 2021, though indicates it has an April 2015 revision.

Please note that the RTEST county lists are updated quarterly, as needed, and should be retrieved prior to finalization of the PEA for data to be current upon publication of the final PEA. Additionally, the PEA does not reference the TPWD RTEST within the body of the document.

Recommendation: TPWD recommends accessing and referencing the most recent version of the TPWD RTEST application because it is updated frequently. TPWD recommends referencing RTEST in 3.2.8 *Fish and Wildlife Species* of the PEA.

TPWD Recommended Beneficial Management Practices

TPWD recommends USACE consider the following BMP when reviewing Section 408 projects to avoid or minimize impacts to wildlife, particularly state listed species and other SGCN, potentially occurring at a project site:

1. TPWD recommends utilizing the TPWD RTEST and known occurrence data from the Texas Natural Diversity Database (TXNDD) to identify species of SGCN, including state and federal listed SGCN, that may occur in a project area. RTEST provides SGCN lists and general habitat descriptions for each species potentially occurring in each county of Texas. The TXNDD provides known occurrences from a database of individual records for SGCN. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Please note that absence of information in the database does not imply that a species is absent from that area. The data from the TXNDD do not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and **cannot be used as presence/absence data**. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records. For questions regarding a TXNDD record or to obtain digital data, please visit the TXNDD webpage for guidance.
2. A permit under PWC chapter 86 may be required for disturbance of marl, sand, gravel, shell, or mudshell within streams of the state, where applicable. Information regarding such permits can be found on the TPWD website. TPWD recommends the Section 408 requestor contact Tom Heger, TPWD – Inland Fisheries at Tom.Heger@tpwd.texas.gov to determine potential applicability of the TPWD permit to the proposed project and for permit application forms and additional information.
3. TPWD recommends Section 408 alteration requesters inform employees and contractors of the potential for federal and state listed species and other SGCN to occur in the project area and to avoid impacts to all wildlife that are encountered. Wildlife observed during construction, operation, and maintenance should be allowed to safely leave the site. Wildlife in danger from project activities that will not readily leave the site, can be translocated to a nearby area with similar habitat. TPWD recommends that any translocations of reptiles be the minimum distance possible no greater than one mile, preferably within 100-200 yards from the initial

encounter location. For purposes of relocation, surveys, monitoring, and research, terrestrial state listed species may only be handled by persons with the appropriate authorization obtained through the TPWD Wildlife Permits Program. For more information on obtaining this authorization, please contact the Wildlife Permits Office at (512) 389-4647.

4. Sky glow because of light pollution can have negative impacts on wildlife and ecosystems by disrupting natural diurnal and nocturnal behaviors such as migration, reproduction, nourishment, rest, and cover from predators. TPWD recommends utilizing the minimum amount of night-time lighting needed for safety and security for on ground facilities and lighted structures. TPWD recommends minimizing the project's contribution to skyglow by focusing light downward, with cutoff luminaires to avoid light emitting above the horizontal, and to use dark-sky friendly lighting that is illuminated only when needed, fully shielded, as bright as needed, and minimizes blue light emissions. Appropriate lighting technologies, BMP, and other dark sky resources can be found at the International Dark-Sky Association and McDonald Observatory websites.
5. Waterways, floodplains, riparian corridors, lakes, and wetlands provide valuable wildlife habitat, and TPWD recommends protecting them to the maximum extent possible. TPWD recommends avoiding unnecessary temporary or permanent access roads or culverts within creeks, boring under streams for utilities, retaining riparian and stream bank vegetation, and establishing disturbance-free buffers contiguous to wetlands or aquatic systems to preserve wildlife cover, food sources, and travel corridors. TPWD recommends avoiding disturbance to inert microhabitats in waterways such as snags, brush piles, fallen logs, creek banks, pools, and gravel stream bottoms, as these provide habitat for a variety of fish and wildlife species and their food sources. Erosion control measures should be installed prior to construction and maintained until disturbed areas are permanently revegetated using site-specific native vegetation.
6. Where trenching or other excavation is involved in construction, TPWD recommends that contractors keep trenching, excavation, and backfilling crews close together to minimize the number of trenches or excavation areas left open at any given time during construction. Any trenches or holes left open for more than two daylight hours should be inspected for the presence of trapped wildlife prior to backfilling. TPWD recommends that any open trenches or excavation areas be covered overnight and inspected every morning to ensure no wildlife species have been trapped. If trenches and excavation areas cannot be backfilled the day of initial excavation or covered overnight, then escape ramps should be installed, if feasible, at least every 90 meters (approximately 295 feet). Escape ramps consist of short lateral trenches made of soil or wooden planks sloping to the surface at an angle less than 45 degrees (1:1).
7. For soil stabilization and revegetation of disturbed areas within the project area, TPWD recommends erosion control and seed and mulch stabilization materials that avoid entanglement hazards to snakes and other wildlife species. Because the mesh found in many erosion control blankets or mats pose an entanglement hazard to

wildlife, TPWD recommends the use of no-till drilling, hydromulching, or hydroseeding rather than erosion control blankets or mats due to a reduced risk to wildlife. If erosion control blankets or mats will be used, the product should contain no netting or contain loosely woven, natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic mesh matting and hydromulch containing microplastics should be avoided.

8. Reductions in native floral resources has led to widespread concern about significant declines in the population of migrating monarch butterflies and other native insect pollinator species. To support pollinators and migrating monarchs, TPWD encourages the establishment of native wildflower habitats on private and public lands. TPWD encourages projects to restore or revegetate impacted areas with vegetation that provides habitat for monarch butterflies and other pollinator species. Species appropriate for establishment within the project area can be found by accessing the Lady Bird Johnson Wildflower Center, working with TPWD biologists to develop an appropriate list of species, or utilizing resources found at the Monarch Watch website or the Xerces Society's Guidelines webpage. For areas of the site that already exhibit floral resources and for areas that are planted with floral resources, TPWD recommends incorporating pollinator conservation into maintenance plans for the ROW to promote and sustain the availability of flowering species throughout the growing season. TPWD recommends scheduling vegetation maintenance to occur once the seed from pollinator plants has been released and avoiding herbicides that affect floral resources.
9. To aid in the scientific knowledge of a species' status and current range, TPWD encourages reporting encounters of SGCN to the TXNDD according to the data submittal instructions found at the *TPWD Texas Natural Diversity Database: Submit Data* webpage. An additional method for reporting observations of species is the iNaturalist community app in which plant and animal observations are uploaded from a smartphone. The observer adds the observation to specific TPWD Texas Nature Tracker Projects appropriate for the taxa observed, including Herps of Texas, Birds of Texas, Texas Eagle Nests, Texas Whooper Watch, Mammals of Texas, Rare Plants of Texas, Bees & Wasps of Texas, Terrestrial Mollusks of Texas, Texas Freshwater Mussels, Fishes of Texas, and Texas Milkweeds for Monarchs.

Thank you for considering the fish and wildlife resources of Texas. Please contact me at (903)322-5001 or Karen.Hardin@tpwd.texas.gov if you have any questions.

Sincerely,



Karen B. Hardin
Wildlife Habitat Assessment Program
Wildlife Division

KBH: 49201



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CEMP-SWD

OCT 19 2010

MEMORANDUM THRU Commander, Southwestern Division

FOR Commander, Fort Worth District

SUBJECT: Implementation Guidance for Section 405(a) of the FY2010 Supplemental Disaster Relief and Summer Jobs Act (Public Law 111-212)

1. Section 405(a) of the FY2010 Supplemental Disaster Relief and Summer Jobs Act (P. L. 111-212) provides that the Secretary is not required to make a determination under the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) for the project for flood control, Trinity River and tributaries, Texas, authorized by Section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved March 2, 1945 [59 Stat. 18], and as modified by Section 5141 of the Water Resources Development Act (WRDA) of 2007 [121 Stat. 1253].
2. This guidance applies to all USACE actions that may impact pertinent features of the existing Dallas Floodway and any modifications to that project or features defined by Section 5141 of WRDA 2007. These features may be located at any point along the Trinity River upstream from the AT&SF Railroad Bridge at Trinity River Mile 497.37, to the confluence of the West and Elm Forks at River Mile 505.50, thence upstream along the West Fork for approximately 2.2 miles and upstream along the Elm Fork approximately 4 miles.
3. In accordance with Section 405(a) of P. L. 111-212, the built environment that comprises the Dallas Floodway Project, as modified by Section 5141 WRDA 2007, will be examined, described and considered only as a cultural resource within the context of the scope of impacts that must be analyzed under the National Environmental Policy Act (NEPA). For administrative and public information purposes, a clear and concise descriptive narrative on the development, function, composition and current operation of the Dallas Floodway will be prepared to satisfy the requirements of NEPA. This narrative will focus on the Dallas Floodway as an engineering system and may contain discussion of the significance of this cultural resource's inherent structural features or relationships between the Dallas Floodway and the historical development of the City of Dallas. Any discussion of the significance of cultural resources shall be devoid of explicit reference to the criteria used to determine eligibility for the National Register of Historic Places.
4. As part of the NEPA process for the Dallas Floodway Project, as modified by Section 5141 of WRDA 2007, Fort Worth District shall document and consider project alternatives and their potential to affect the quality of the built environment. In addition to describing effects of various project alternatives on the Dallas Floodway as an engineering system, the district shall

CEMP-SWD

SUBJECT: Implementation Guidance for Section 405(a) of the FY2010 Supplemental Disaster Relief and Summer Jobs Act (Public Law 111-212)

also document and consider mitigation measures. These mitigation measures shall be developed to avoid, reduce, compensate or eliminate affects to those qualities of the built environment that contribute to the cultural resource's significant structural features or that affect those elements of the built environment that contribute to the relationship between the Dallas Floodway and the historical development of the City of Dallas.

5. It should be noted that the same limitations on the scope of impacts that must be analyzed as identified in paragraph 3, above, also apply to features included in the Balanced Vision Plan which require approval under 33 USC 408; and for analyses conducted pursuant to Section 404 of the Clean Water Act, 33 USC 1344 or Section 10 of the Rivers and Harbors Act of 1899. This guidance includes analyses for any permits required by the City of Dallas to complete repairs or other actions necessary to correct deficiencies noted in the Periodic Inspection Report issued in March 2009. This guidance also includes any actions necessary to enable the authorized project to provide at least a 100 year level of protection while a more comprehensive solution is pursued under Section 5141 of WRDA 2007.

6. In summary, the built environment and other evidence of human activities identified within the geographic areas and associated projects or programs covered by section 405(a) will be examined, described and considered only as cultural resources within the context of the scope of impacts that must be analyzed under NEPA. There will be no determinations made under the National Historic Preservation Act of 1966 in accordance with Section 405(a) of P. L. 111-212.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read 'S. L. Stockton', written in a cursive style.

STEVEN L. STOCKTON, P.E.
Director of Civil Works

SEC. 405. (a) The Secretary of the Army shall not be required to make a determination under the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.) for the project for flood control, Trinity River and tributaries, Texas, authorized by section 2 of the Act entitled “An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved March 2, 1945 [59 Stat. 18], as modified by section 5141 of the Water Resources Development Act of 2007 [121 Stat. 1253].

(b) The Federal Highway Administration is exempt from the requirements of 49 U.S.C. 303 and 23 U.S.C. 138 for any highway project to be constructed in the vicinity of the Dallas Floodway, Dallas, Texas.

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers, Fort Worth District
P.O. Box 17300
Fort Worth, Texas 76102-0300

November 2020

**GENERAL NOTES FOR PROJECT CONSTRUCTION PLANS ALTERING A
FEDERAL CIVIL WORKS PROJECT**

This document applies to U.S. Army Corps of Engineers federally authorized Civil Works projects within the Fort Worth District which are operated and maintained by a non-federal sponsor. This document provides guidance to contractors for construction activities related to the alteration of U.S. Army Corps of Engineers Civil Works projects and in which permission under 33 USC Section 408 has been granted by the Fort Worth District.

The following notes are to be included in the construction plans as General Notes 1-8.

1. This project is located within the (Civil Works Project Name), a U.S. Army Corps of Engineers federally authorized Civil Works project. The Local Sponsor of the (Civil Works Project Name) is the (Local Sponsor Name). The (Local Sponsor Name) operates and maintains the (Civil Works Project Name).
2. The Contractor must coordinate with the (Local Sponsor Name) before construction begins. The Contractor shall acquire all permissions, rights-of-entry, real estate instruments, and other requirements of the (Local Sponsor Name).
3. A pre-construction meeting is required between the Contractor and the (Local Sponsor Name) before construction begins.
4. The Contractor is responsible for monitoring creek/river forecast conditions.
5. The Contractor shall submit a clean set of field record drawings, containing all as-built information, to the (Local Sponsor Name) upon completion of construction of the project.
6. The Contractor shall leave the (Civil Works Project Name) in an equal or better-than-original condition, and to the satisfaction of the (Local Sponsor Name), after completion of the project.

7. The Contractor shall be responsible for compliance with the standard terms and conditions, as well as special conditions, associated with work conducted under a U. S. Army Corps of Engineers Section 408 Permission.

8. The Contractor shall be responsible for compliance with the terms and conditions associated with work conducted under a U. S. Army Corps of Engineers Section 404 of the Clean Water Act permit or Section 10 of the Rivers and Harbors Act of 1899 permit.

ENGINEERING CONDITIONS

1. Work must comply with *SWFP 1150-2-1, Criteria for Design and Construction Within the Limits of Existing Federal Projects*, (USACE 2013), or applicable future update or replacement document.
2. The requester shall include the following in construction plans: *General Notes for Project Construction Plans Altering a Federal Civil Works Project* (Appendix C.).
3. The alteration must not adversely impact the Civil Works project hydraulic capacity, integrity, easement access, and operation and maintenance, inspection, and flood fighting procedures.
4. No temporary staging, stockpiles of materials, temporary buildings, or equipment can remain within the project during construction unless approved in writing by the non-federal sponsor.
5. Construction or other work must be coordinated with other work in the area.
6. All structures, facilities, equipment, and other appurtenances must be properly anchored to prevent flotation in the event of high water.
7. All companies/agencies whose existing utilities are located in the intended construction area(s) must be contacted to determine whether those utilities need to be relocated or modified to accommodate the proposed alteration, or whether they would pose any hazards to alteration construction workers or equipment.
8. Appropriate property rights must be acquired as needed for construction, operation, and maintenance of the alteration.
9. Areas disturbed during construction or other work associated with an alteration must be restored to pre-construction conditions once the work is complete.
10. Damage caused by removal or modification of an alteration must be repaired as part of the removal or modification activity.
11. Excavations and drilling must meet federal, state, and local criteria, USACE standards, and Office of Safety and Occupational Health standards.
12. The requester is responsible for removal and disposal of trees or brush cleared during construction to areas outside the limits of the federal project easement.
13. The requester is responsible for protecting levees from damage by construction vehicles, equipment, construction activities, and storage of materials.
14. The requester shall avoid and minimize, to the maximum extent practicable,

impacts to recreational facilities - if trails, or public access points, parking lots, or other recreational facilities are blocked to accommodate construction, the requester shall, to the maximum extent practicable, provide for temporary access. Permanent impacts to recreational facilities must comply with Chapter 26 of the Texas Parks and Wildlife Code (PWC) and the Land and Water Conservation Fund Act.

ENVIRONMENTAL CONDITIONS

1. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to federally listed threatened or endangered species including their critical habitat, proposed threatened and endangered species, candidate species, and proposed critical habitat in accordance with the Endangered Species Act (ESA). The requester will provide an Official Species List from the U.S. Fish and Wildlife Service online Information from Planning and Consultation website <https://ecos.fws.gov/ipac/> for each Section 408 request. Additionally, if suitable habitat is likely in the area, the USACE may require the requester to prepare an assessment of potential impacts to listed species or habitat. USACE will review the Official Species List, and assessment report prepared by the requester if necessary, to assist in making a Section 7 of the ESA effects determination for each individual Section 408 request.
2. Proposed alterations must avoid and minimize, to the maximum extent practicable, the “take” of migratory birds as defined by the Migratory Bird Treaty Act. The requester is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The requester is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
3. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to aquatic resources. Proposed alterations requiring a Section 404 of the Clean Water Act and or Section 10 of the Rivers and Harbors Act of 1899 permit must be covered under applicable Nationwide or Regional General Permits, or Individual Permits. The requester is required to comply with all general, regional, and special conditions. The requester is required to follow all compensatory mitigation requirements.
4. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to fish and wildlife habitat, including bottomland hardwood habitat. Proposed alterations must not result in a net loss of significant fish and wildlife habitat. If appropriate mitigation to offset losses is required, the requester will be responsible for providing documentation regarding acquisition of the real estate interest necessary for the mitigation and reports on the progress and

fulfillment of the required mitigation. USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the quality and nature of potential fish and wildlife habitat present and the suitability of compensatory mitigation sites.

5. Proposed alterations must avoid, minimize or mitigate any significant impacts to cultural resources, to include any adverse effects to historic properties under Section 106 of the National Historic Preservation Act. Additionally, the USACE may require the requester to conduct surveys, prepare and/or provide reports, and other investigations, for USACE to determine the presence of historic properties or the project's effects to historic properties.
6. Proposed alterations must minimize, to the maximum extent practicable, emissions of criteria pollutants for areas subject to General Conformity within the State of Texas as regulated under the Clean Air Act, reference 40 CFR, Part 93, Subpart B. USACE may require requesters to provide emission projections to USACE, to aid in determining if the alteration is expected to meet or exceed de minimis thresholds.
7. Proposed alterations must be designed to minimize the introduction of exotic species (both plant and animal). Seed mixes used in site restoration must consist only of native species. Use of grass or vegetation species applicable for turfing or sodding requirements for flood risk management projects is acceptable for use on levees and embankments. Preference will be given to utilization of native species in seed mixes. For activities within streams or waterbodies, an Aquatic Invasive Species transfer prevention plan will be required which outlines Best Management Practices (BMPs) for preventing inadvertent transfer of aquatic invasive plants and animals on equipment and materials.
8. Proposed alterations must incorporate BMPs to control storm water runoff, erosion, and contaminant spills (e.g., diesel fuel spills).
9. Upland areas may be temporarily cleared for staging of equipment and materials during construction. Site restoration, including use of seed mixes for applicable USACE project purposes, is required.
10. Vegetation may be removed during construction, however, the alteration should be designed to minimize the amount of woody vegetation removal. Site restoration, including use of seed mixes for applicable USACE project purposes, is required.
11. Excess material from construction must be removed from the project and disposed in an area outside the federal project easement.
12. In the event of an environmental spill, the requester must notify the USACE, the non-federal sponsor and the appropriate state agency immediately. Cleanup and

repair are the requester's responsibility. If fish and wildlife resources are impacted by the spill, contact the Texas Parks and Wildlife Department (TPWD) Kills and Spills Team (KAST) immediately, KAST 24 Hour Hotline 512-389-4848.

13. If human remains, archaeological sites, or other cultural resources are encountered during construction, the requester shall immediately stop work and notify the non-federal sponsor.
14. Proposed alterations will be reviewed for compliance with the 1988 Regional Environmental Impact Statement Trinity River and Tributaries Record of Decision Criteria. These criteria apply to a geographic area within the Dallas/Fort Worth metropolitan area. These criteria require USACE to review development within the floodplain.
15. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to federal mitigation areas, including mitigation areas associated with USACE projects, and Permittee Responsible Mitigation areas and Mitigation Banks associated with the USACE Regulatory Program. Only minimal impacts to mitigation areas associated with USACE projects will be allowed. Some mitigation areas associated with USACE projects may have existing easements or rights of way (e.g., utility or transportation) within the real property acquired for the mitigation areas, and in these cases, proposed alterations within these existing easements or rights of way will need to minimize impacts to the mitigation area. Proposed alterations to Permittee Responsible Mitigation areas or Mitigation Banks shall be the responsibility of the requester to contact the Fort Worth District Regulatory Division. The Fort Worth District Regulatory Division shall make determinations and decisions regarding impacts to Permittee Responsible Mitigation areas. Mitigation may be required to offset long-term or permanent adverse effects.
16. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to USACE Ecosystem Restoration Projects, or Ecosystem Restoration features of multi-purpose USACE projects which may include Ecosystem Restoration as an authorized project purpose. Some USACE Ecosystem Restoration Projects may have existing easements or rights of way (e.g., utility or transportation) within the real property acquired for the USACE Ecosystem Restoration Project, and in these cases, proposed alterations within these existing easements or rights of way will need to minimize impacts to the USACE Ecosystem Restoration Project. Mitigation may be required to offset long-term or permanent adverse effects.
17. Requesters and non-federal sponsors will identify the presence of Hazardous, Toxic, and Radioactive Waste (HTRW) located within the portion of the USACE project where the proposed alteration would occur, and all adjacent properties from which HTRW could migrate onto the USACE project as result of disturbance from the proposed alteration. Non-federal sponsors will notify USACE regarding

remediation or response actions in accordance with ER 1165-2-132.

18. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to State of Texas Species of Greatest Conservation Need (SGCN) and State of Texas designated threatened or endangered species. The requester is responsible for compliance with State Law, the Texas Administrative Code, and TPWD regulations. The requester is responsible for contacting the TPWD for compliance. The requester is responsible for preparation of any surveys, reports, and other investigations, which may be required to comply with State of Texas Laws. More information may be found at

https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/nongame/tcap/sgcn.phtml

and

https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/nongame/listed-species/

19. State agencies and political subdivisions must notify the Texas Historical Commission of ground disturbing projects in accordance with the Antiquities Code of Texas (Texas Natural Resources Code, Title 9, Chapter 191). Chapter 26 of the Texas Administrative Code provides guidance on the process in addition to a list of categorical exclusions. The requester is responsible for ensuring compliance with the Antiquities Code of Texas, which may include but is not limited to, obtaining an Antiquities Code Permit, conducting cultural resources investigations and reports, and reporting any archaeological sites discovered during construction.
20. Proposed alterations must comply with State of Texas laws regarding protection of aquatic resources. Proposed alterations must avoid and minimize, to the maximum extent practicable, impacts to native fish and freshwater mussel species. If construction occurs during times when water is present and dewatering, trampling, dredging, trenching, or filling activities are involved, then relocating native aquatic resources, including fish and mussels, shall be in conjunction with a Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters, and an Aquatic Resource Relocation Plan (ARRP). These are administered by the TPWD. The ARRP should be approved by the TPWD 30 days prior to activities within project waters or resource relocation and submitted with an application for a no-cost permit. ARRPs can be submitted to the appropriate Regional KAST member whose contact information is found on the TPWD KAST webpage. Copies of the Permit to Introduce Fish, Shellfish or Aquatic Plants into Public Waters and ARRP shall be provided to USACE for USACE to confirm the requester is complying with state law and is coordinating with TPWD. Requesters shall complete the appropriate mussel sampling protocol as determined by the Texas Freshwater Mussel Sampling Protocol Stream Grouping dataset and must coordinate with the TPWD KAST for appropriate authorization when a project involves dewatering or other harmful actions that may impact aquatic species, in

waters identified as Group 1 through Group 5 streams, as defined by TPWD. The requester is responsible for preparation of any surveys, reports, and other investigations, which may be required to comply with State of Texas Laws. More information may be found at

https://tpwd.texas.gov/landwater/water/environconcerns/kills_and_spills/

21. Proposed alterations must utilize as applicable, the following TPWD Recommended Beneficial Management Practices.

a. TPWD recommends utilizing the TPWD RTEST and known occurrence data from the Texas Natural Diversity Database (TXNDD) to identify species of SGCN, including state and federal listed SGCN, that may occur in a project area. RTEST provides SGCN lists and general habitat descriptions for each species potentially occurring in each county of Texas. The TXNDD provides known occurrences from a database of individual records for SGCN. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Please note that absence of information in the database does not imply that a species is absent from that area. The data from the TXNDD do not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and cannot be used as presence/absence data. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records. For questions regarding a TXNDD record or to obtain digital data, please visit the TXNDD webpage for guidance.

b. A permit under PWC chapter 86 may be required for disturbance of marl, sand, gravel, shell, or mudshell within streams of the state, where applicable. Information regarding such permits can be found on the TPWD website. The Section 408 requester should contact Tom Heger, TPWD – Inland Fisheries at Tom.Heger@tpwd.texas.gov to determine potential applicability of the TPWD permit to the proposed project and for permit application forms and additional information.

c. It is recommended that Section 408 requesters inform their employees and contractors of the potential for federal and state listed species and other SGCN to occur in the project area and to avoid impacts to all wildlife that are encountered. Wildlife observed during construction, operation, and maintenance should be allowed to safely leave the site. Wildlife in danger from project activities that will not readily leave the site, can be translocated to a nearby area with similar habitat. TPWD recommends that any translocations of reptiles be the minimum distance possible no greater than one mile, preferably within 100-200 yards from the initial encounter location. For purposes of relocation, surveys, monitoring, and research, terrestrial state listed species may only be handled by

persons with the appropriate authorization obtained through the TPWD Wildlife Permits Program. For more information on obtaining this authorization, please contact the Wildlife Permits Office at (512) 389-4647.

d. Sky glow because of light pollution can have negative impacts on wildlife and ecosystems by disrupting natural diurnal and nocturnal behaviors such as migration, reproduction, nourishment, rest, and cover from predators. TPWD recommends utilizing the minimum amount of night-time lighting needed for safety and security for on ground facilities and lighted structures. TPWD recommends minimizing the project's contribution to skyglow by focusing light downward, with cutoff luminaires to avoid light emitting above the horizontal, and to use dark-sky friendly lighting that is illuminated only when needed, fully shielded, as bright as needed, and minimizes blue light emissions. Appropriate lighting technologies, BMP, and other dark sky resources can be found at the International Dark-Sky Association and McDonald Observatory websites.

e. Waterways, floodplains, riparian corridors, lakes, and wetlands provide valuable wildlife habitat, and TPWD recommends protecting them to the maximum extent possible. TPWD recommends avoiding unnecessary temporary or permanent access roads or culverts within creeks, boring under streams for utilities, retaining riparian and stream bank vegetation, and establishing disturbance-free buffers contiguous to wetlands or aquatic systems to preserve wildlife cover, food sources, and travel corridors. TPWD recommends avoiding disturbance to inert microhabitats in waterways such as snags, brush piles, fallen logs, creek banks, pools, and gravel stream bottoms, as these provide habitat for a variety of fish and wildlife species and their food sources. Erosion control measures should be installed prior to construction and maintained until disturbed areas are permanently revegetated using site-specific native vegetation.

f. Where trenching or other excavation is involved in construction, TPWD recommends that contractors keep trenching, excavation, and backfilling crews close together to minimize the number of trenches or excavation areas left open at any given time during construction. Any trenches or holes left open for more than two daylight hours should be inspected for the presence of trapped wildlife prior to backfilling. TPWD recommends that any open trenches or excavation areas be covered overnight and inspected every morning to ensure no wildlife species have been trapped. If trenches and excavation areas cannot be backfilled the day of initial excavation or covered overnight, then escape ramps should be installed, if feasible, at least every 90 meters (approximately 295 feet). Escape ramps consist of short lateral trenches made of soil or wooden planks sloping to the surface at an angle less than 45 degrees (1:1).

g. For soil stabilization and revegetation of disturbed areas within the project area, TPWD recommends erosion control and seed and mulch stabilization materials that avoid entanglement hazards to snakes and other wildlife species. Because the mesh found in many erosion control blankets or mats pose an

entanglement hazard to wildlife, TPWD recommends the use of no-till drilling, hydromulching, or hydroseeding rather than erosion control blankets or mats due to a reduced risk to wildlife. If erosion control blankets or mats will be used, the product should contain no netting or contain loosely woven, natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic mesh matting and hydromulch containing microplastics should be avoided.

h. Reductions in native floral resources has led to widespread concern about significant declines in the population of migrating monarch butterflies and other native insect pollinator species. To support pollinators and migrating monarchs, TPWD encourages the establishment of native wildflower habitats on private and public lands. TPWD encourages projects to restore or revegetate impacted areas with vegetation that provides habitat for monarch butterflies and other pollinator species. Species appropriate for establishment within the project area can be found by accessing the Lady Bird Johnson Wildflower Center, working with TPWD biologists to develop an appropriate list of species, or utilizing resources found at the Monarch Watch website or the Xerces Society's Guidelines webpage. For areas of the site that already exhibit floral resources and for areas that are planted with floral resources, TPWD recommends incorporating pollinator conservation into maintenance plans for the project area to promote and sustain the availability of flowering species throughout the growing season. TPWD recommends scheduling vegetation maintenance to occur once the seed from pollinator plants has been released and avoiding herbicides that affect floral resources.

i. To aid in the scientific knowledge of a species' status and current range, TPWD encourages reporting encounters of SGCN to the TXNDD according to the data submittal instructions found at the *TPWD Texas Natural Diversity Database: Submit Data* webpage,

https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/txndd/submit.phtml.

An additional method for reporting observations of species is the iNaturalist community app in which plant and animal observations are uploaded from a smartphone. The observer adds the observation to specific TPWD Texas Nature Tracker Projects appropriate for the taxa observed, including Herps of Texas, Birds of Texas, Texas Eagle Nests, Texas Whooper Watch, Mammals of Texas, Rare Plants of Texas, Bees & Wasps of Texas, Terrestrial Mollusks of Texas, Texas Freshwater Mussels, Fishes of Texas, and Texas Milkweeds for Monarchs.

FINDING OF NO SIGNIFICANT IMPACT

Programmatic Environmental Assessment Section 408 NEPA Compliance Fort Worth District, Texas

The U.S. Army Corps of Engineers, Fort Worth District (Corps) has conducted an environmental analysis in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended. The Corps prepared a Programmatic Environmental Assessment (PEA) to address the potential environmental effects of future proposed 33 USC 408 (Section 408) requests which are similar in nature and that have similar impacts. The geographic scope of this PEA is limited to Fort Worth District Federally authorized Civil Works projects operated and maintained by Non-Federal Sponsors. This PEA does not apply to Fort Worth District dams and lake projects. This PEA does not apply to other Corps districts. The temporal scope is five years. After five years the PEA will be reevaluated.

In addition to a “no action” plan, one alternative was evaluated. Under the No Action Alternative, the Fort Worth District will continue to review all future Section 408 requests individually for NEPA compliance and evaluate each for compliance with either a categorical exclusion, environmental assessment, or environmental impact statement. Under the Preferred Alternative, this PEA would be utilized for NEPA compliance for future Section 408 requests if those future proposed projects would result in minimal environmental effects and meet the engineering and environmental conditions as described in this PEA. This PEA does not evaluate or authorize a particular Section 408 request. Each future Section 408 request would be validated for compliance with this PEA and individually evaluated for compliance with other environmental laws, regulations, and executive orders. Implementation of this PEA will reduce the administrative burden on both requesters and the Corps and increase the timeliness of processing future Section 408 requests.

For all alternatives, the potential effects were evaluated, as appropriate. A summary assessment of the potential effects of the preferred alternative are listed in Table 1:

Table 1: Summary of Potential Effects of the Preferred Alternative

	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Aesthetics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Air quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Aquatic resources/wetlands	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Invasive species	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fish and wildlife habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Threatened/Endangered species/critical habitat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Historic properties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other cultural resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floodplains	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hazardous, toxic & radioactive waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hydrology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Land use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Noise levels	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public infrastructure	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Socio-economics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Soils	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tribal trust resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the preferred alternative. Future Section 408 requests must adhere to engineering and environmental conditions, and project-specific special conditions as determined necessary, to qualify for this PEA. These conditions help to minimize environmental effects.

Future Section 408 requesters will be responsible for mitigation, if mitigation is determined necessary by the Corps to comply with the PEA conditions and/or applicable Federal laws, regulations, and executive orders.

The Corps issued a public notice on the Fort Worth District website announcing availability of the draft PEA for public comment for 30 days, from September 15 through October 15, 2022. The Corps conducted consultation with Native American Tribes in accordance with Section 106 of the National Historic Preservation Act, with letters submitted via email or postal mail September 15, 2022. The Texas State Historic Preservation Office was consulted via the Texas Historical Commission's e-Trac System. The Corps had a technical problem with an email address for submittal of public comments during the public comment period, and therefore, issued a second public notice announcing availability of the draft PEA for comment for 15 additional days, from October 28 through November 12, 2022. The public notices informed the public and interested parties and solicited comments. The draft PEA was available on the Fort Worth District website for public review and comment. The Corps solicited comments from Native American Tribes, Non-Federal Sponsors, and State and Federal agencies by email, which included an attachment of the public notices. The Corps received comments from the Texas Parks and Wildlife Department, and from two Native American Tribes.

Pursuant to Section 7 of the Endangered Species Act of 1973, as amended, the Corps will individually evaluate each future Section 408 request for potential effects to threatened and endangered species and designated critical habitat.

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, the Corps will individually evaluate each future Section 408 request for the potential to affect historic properties and, when there is the potential to affect, conduct consultation with the appropriate State Historic Preservation Officer or Tribal Historic Preservation Officer and Native American Tribes. Should any historic properties be adversely affected by the undertaking those effects shall be mitigated.

Pursuant to the Clean Water Act of 1972, as amended, the Corps will individually evaluate each future Section 408 request for a discharge of dredged or fill material into waters of the U.S. and will evaluate effects on aquatic resources.

A water quality certification pursuant to Section 401 of the Clean Water Act will be obtained from the Texas Commission on Environmental Quality prior to construction for each applicable future Section 408 request.

All applicable laws, executive orders, regulations were considered in evaluation of the alternatives. Based on the final PEA, the reviews by other Federal, State and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that the preferred alternative would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

12/16/22

Date



Jonathan S. Stover, P.E., PMP
Colonel, U.S. Army
District Engineer