



**US Army Corps
of Engineers** ®
Fort Worth District

Public Notice

Section 408 Request #: 408-SWF-2019-0013

Date issued: December 17, 2020

Close of comment period: January 17, 2021

USACE Point of Contact: Jason Story

REQUEST TO ALTER A U.S. ARMY CORPS OF ENGINEERS FEDERALLY AUTHORIZED CIVIL WORKS PROJECT UNDER 33 USC 408 (SECTION 408)

TITLE: Supplemental Public Notice, Section 408 Request 408-SWF-2019-0013, MCI Fiber Optic Cable – Fort Worth Floodway

SUBJECT: Request for a Section 408 permission to alter the Fort Worth Floodway, a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project. Written comments are being solicited from anyone having an interest in this proposed alteration. Comments will become part of the USACE administrative record and will be considered in determining whether to approve the proposed alteration. Comments supporting, opposing, or identifying concerns that should be considered by the USACE in its decision process are all welcome. Issuance of this notice does not imply USACE endorsement of the proposed alteration as described.

REQUESTER: MCI Metro Access Transmission Services

LOCATION: The proposed project would be in two areas on a tributary of the Clear Fork of the Trinity River in Fort Worth, Texas

NON-FEDERAL SPONSOR: Tarrant Regional Water District

LOCATION MAP(S)/DRAWING(S): Figure 1

DESCRIPTION OF THE PROPOSED ALTERATION: This is a Supplemental Public Notice (original public notice: <https://www.swf.usace.army.mil/Media/Public-Notices/Article/2075101/408-swf-2019-0013-mci-fiber-optic-cable/>). The requester previously planned three separate directional borings to install buried fiber optic cables located at 1) near Hulen Street, 2) near the Clear fork Bridge, and 3) near Bellaire Drive South. The requester has changed to aerial suspended crossings at the 1) near Hulen Street and 3) near Bellaire Drive South crossings. The 2) near the Clear fork Bridge crossing has been withdrawn from the Section 408 request.

REGULATORY AUTHORITY: This request will be reviewed pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408). A requestor has the responsibility to acquire other authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program. An approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION: The decision whether to grant the request for the alteration under Section 408 is based on several factors which are outlined in Engineer Circular 1165-2-220. The benefits which reasonably may be expected to accrue from the proposed alteration must be balanced against its reasonably foreseeable detriments. Review of the proposed alteration will be reviewed by a USACE technical review team considering the following factors:

1. *Impacts to the Usefulness of the USACE Project Determination.* The review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs.

2. *Injurious to the Public Interest Determination.* The review team will determine the probable impacts of the proposed alteration, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation.

3. *Environmental Compliance.* A decision on a Section 408 request is a federal action subject to the National Environmental Policy Act (NEPA) and other applicable federal environmental and cultural resources compliance requirements.

THREATENED AND ENDANGERED SPECIES: The USACE has reviewed an official list of species protected under the Endangered Species Act, and our initial review indicates the proposed alteration would have no effect to species listed by the United States Fish and Wildlife Service as threatened or endangered within the action area for the Section 408 jurisdiction.

HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES: The USACE has reviewed the proposed alteration for impacts to historic properties and has determined that there are No Historic Properties Present or Affected within the area of potential effects. In a letter dated March 20, 2020, the Texas Historical Commission/ State Historic Preservation Officer (THC/SHPO) concurred with this determination.

SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed alteration.

Comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permission for this proposed alteration.

Materials submitted as part of the Section 408 request become part of the public record and are available to the public under the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Fort Worth District, Corps of Engineers, Office of Counsel.

It is presumed that all parties receiving this notice will wish to respond to this public notice. A lack of response will be interpreted as meaning that there is no objection to the proposed alteration as described herein.

CLOSE OF COMMENT PERIOD: Written comments on the proposed alteration must reach this office on or before the close of the comment period. Comments must reference the Section 408 Request ID # and project name. Comments and requests for additional information should be submitted to CESWF-PEE-T, ATTN: Mr. Jason Story, P.O. Box 17300 Fort Worth, TX 76102-0300. Email inquiries should be directed to jason.e.story@usace.army.mil. Telephone inquiries should be directed to Mr. Jason Story, at (817) 886-1852. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available. For more information on Section 408, visit the Fort Worth District Section 408 webpage at <https://www.swf.usace.army.mil/Missions/Section-408/>.

