



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

Public Notice

Section 408 Request ID #: 408-SWF-2022-0032

Date issued: December 16, 2022

Close of comment period: January 15, 2023

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: Section 408 Request ID # 408-SWF-2022-0032, Flint Hills Resources pipeline relocation

SUBJECT: Request for a Section 408 permission to alter the Big Fossil Creek Project, U.S. Army Corps of Engineers (USACE) federally authorized Civil Works projects. 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 may 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: Flint Hills Resources

LOCATION: The proposed project is located south of State Highway 121 and north of Midway Road in Tarrant County, Texas

NON-FEDERAL SPONSOR: City of Richland Hills

LOCATION MAP(S)/DRAWING(S): Attached figures

DESCRIPTION OF THE PROPOSED ALTERATION: The proposed alteration consists of activities within the Big Fossil Creek Floodway. The proposed alteration includes relocating a portion of an existing 14" refined fuels pipeline under Big Fossil Creek using Horizontal Directional Drilling installation to comply with permit requirements. The relocation of the pipeline is due to a conflict with a City of Fort Worth-sponsored sanitary sewer improvement project. The ground will be minimally disturbed at the entry and exit workspace of the Horizontal Directional Drilling; however, the area will be restored to existing grade and existing conditions after installation, therefore, it will not increase flood elevations within Big Fossil Creek.

REGULATORY AUTHORITY: This request will be reviewed pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408). A requester 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, which included a cultural resources desktop review provided by the applicant. Based on this review, the USACE determined that this undertaking will have ***No Effect to Historic Properties*** (36 CFR Part 800.4 (d)(1)). The USACE received concurrence from the Texas State Historic Preservation Office on November 29, 2022. The USACE also consulted with federally recognized tribes and received concurrence from the Comanche Nation on November 7, 2022 and the Delaware Nation on December 5, 2022.

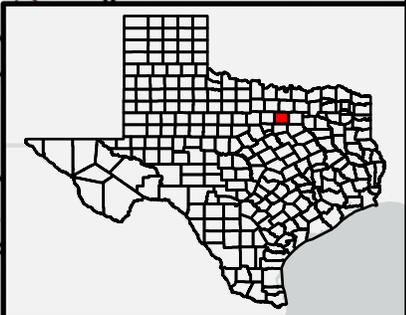
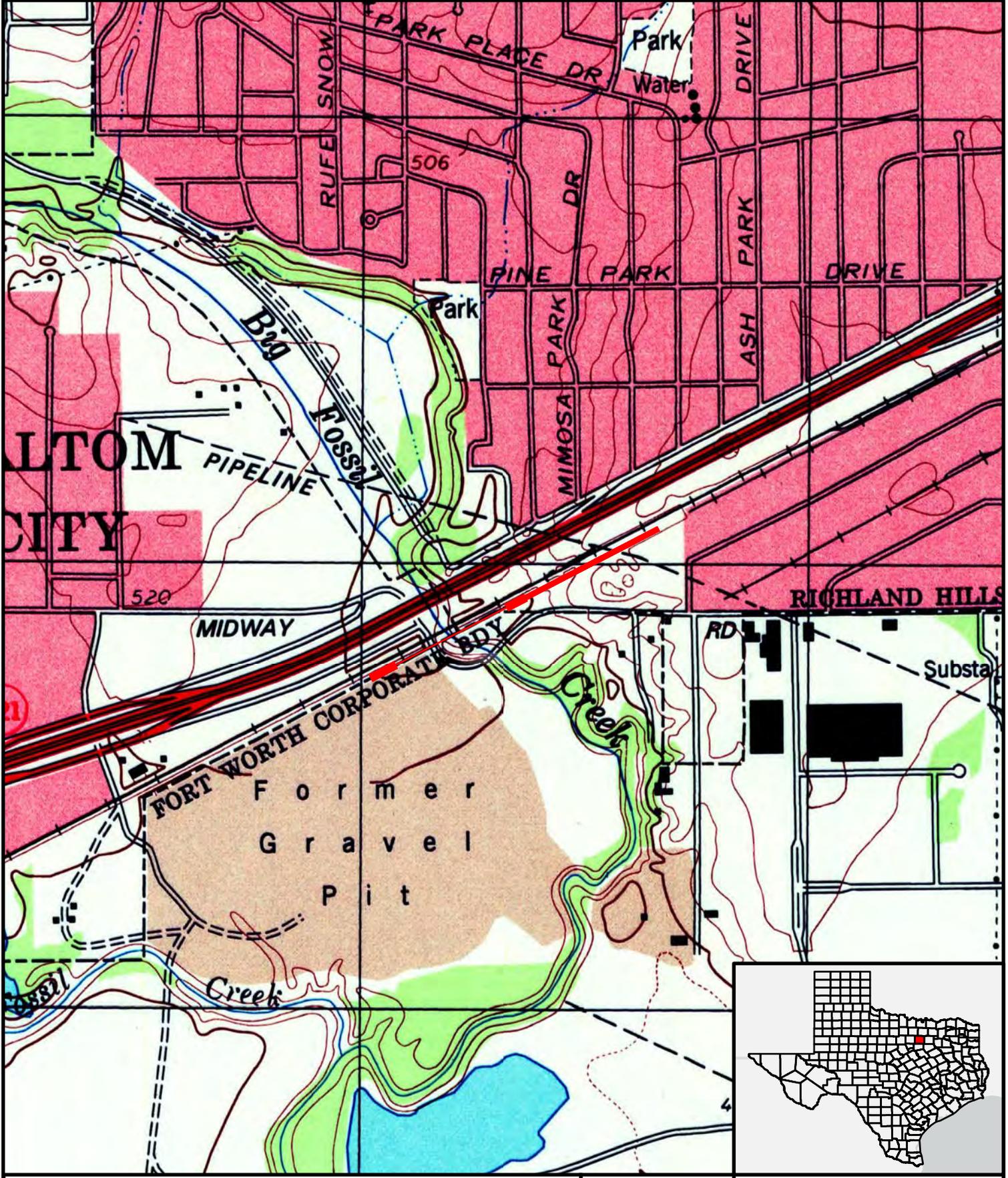
SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public; federal, state, and local agencies and officials; federally recognized tribes; and other interested parties to consider and evaluate the impacts of the proposed alteration. Comments received will be considered by the USACE to 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, U.S. Army Corps of Engineers, Office of Counsel.

It is presumed that all parties receiving this notice will wish to respond to this public notice, therefore, 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-408@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/>.

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CONANIP, Esri, Garmin, FAO, NOAA, USGS, EPA, Source: Historical Topographic Map Collection courtesy of the U.S. Geological Survey, Esri



— Project Area

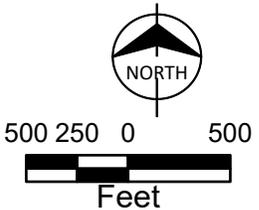
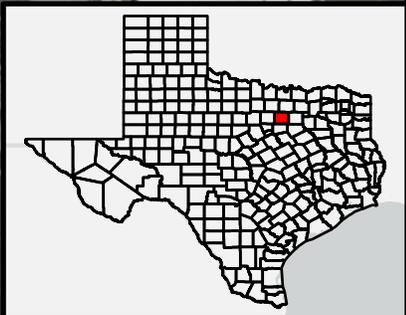


Exhibit 1
Project Location Map
Big Fossil Creek HDD Project
Flint Hills Resources
Tarrant County, Texas

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— Project Area

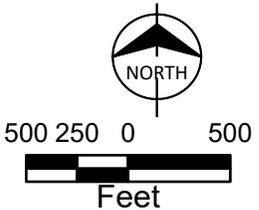


Exhibit 2
Aerial Map
Big Fossil Creek HDD Project
Flint Hills Resources
Tarrant County, Texas