



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

Public Notice

Applicant: City of Dallas

Project No.: SWF- 2014-00151

Date: April 18, 2014

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

Regulatory Program

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

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

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

Contact

Name: Chandler Peter

Phone Number: 817-886-1736

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA), Section 10 of the Rivers and Harbors Act of 1899, 33 United States Code Section 408 (Section 408), and for water quality certification under Section 401 of the CWA to discharge dredged or fill material into waters of the United States and conduct activities in, or affecting, navigable waters of the United States.

APPLICANT: City of Dallas, c/o Elizabeth Fernandez, 1500 Marilla Street, Room 6BS, Dallas, TX 75201

APPLICATION NUMBER: SWF-2014-00151

DATE ISSUED: April 18, 2014

DATE COMMENT PERIOD CLOSSES: June 2, 2014

LOCATION: The proposed project would be located along and in the Trinity River upstream from the abandoned Atchison, Topeka and Santa Fe bridge to the confluence of the West and Elm Forks, then upstream along the West Fork for approximately 2.2 miles, and upstream about 4 miles along the Elm Fork in Dallas County, Texas. The project location is shown on the attached map.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT BACKGROUND AND DESCRIPTION: The U.S. Army Corps of Engineers (USACE), Fort Worth District has prepared a Draft Environmental Impact Statement (DEIS) associated with aspects of the proposed action due to their approval under Section 5141 of the Water Resources Development Act (WRDA) of 2007 (Public Law 110-114; 121 Stat.1041). Section 5141 of WRDA of 2007 provides authorization for implementation of the City of Dallas Balanced Vision Plan Study and Interior Drainage Plan improvements as a Federal project following the preparation of required National Environmental Policy Act (NEPA) documentation. The City of Dallas has engaged with the USACE to evaluate and implement that Federal project. In addition, to undertake any portion of the Federal project as a non-Federal project, the City of Dallas has chosen to also apply for a permit from the USACE to obtain authorization of the entire proposal under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. This public notice is limited to the city of Dallas' permit application. Any permit decision rendered on the city's application will utilize information contained in the

DEIS, any subsequent Final EIS or supplements thereto, and additional information the city supplies. Additionally, due to the proposed project's location within an existing Federal facility (the Dallas Floodway), authorization is required in accordance with Section 408.

Flooding events on the Trinity River have historically caused loss of lives and damage to property and structures. Existing infrastructure for flood risk management (FRM) exists and the city proposes to maintain and upgrade these facilities (raising and slope flattening of levees, upgrade pumps and drainage features) to provide a greater level of protection to the target area. Additionally, urbanization as well as past channelization and clearing of the Dallas Floodway have significantly degraded the natural aquatic and terrestrial habitat in the Trinity River corridor contained in the Dallas Floodway and Dallas proposes to undertake habitat enhancement/restoration associated with modifying the Trinity River, create wetlands and associated pond features. Further, the City of Dallas lacks sufficient land and water based recreational opportunities and proposes the construction of lakes, paths, trails, sports fields, playgrounds, and other features.

The project proposes to impact 323 acres of waters of the U.S. including 166 acres of wetlands and 157 acres of other waters of the U.S., of which 134 acres are navigable waters of the U.S. (i.e., the Trinity River). Project feature impacts include approximately 2 acres of wetlands and other waters for flood risk management activities, approximately 169 acres of wetlands and other waters as well as 38,232 linear feet (134 acres) of the Trinity River for habitat enhancement/restoration, and approximately 18 acres of wetlands and other waters for recreation features. Analysis of impacts associated with the proposed action can be reviewed in the DEIS with focus in Appendix L.

In addition to the applicant's proposed action, a No Action Alternative is described in the DEIS as well as an alternative should the proposed Trinity Parkway proposal, a separate project that is proposed to be built in the project reach of Dallas' permit proposal in the Dallas Floodway does not occur.

No compensatory mitigation is proposed due to the post-project condition resulting in a net increase of approximately 12 acres of wetland, 239 acres of open water, and 1,735 linear feet (76 acres) of the Trinity River compared to the current condition. Functional analyses completed on the proposed post-project condition indicate no net loss of function will occur. Details associated with functional analysis for aquatic resources can be found in the DEIS and its Appendix L.

A general overall project plan is attached to this public notice. Detailed plans of all features are contained within the DEIS. Copies of the DEIS may be reviewed at the following locations:

1. U.S. Army Corps of Engineers, Fort Worth District Web site:
<http://www.swf.usace.army.mil/Missions/WaterSustainment/DallasFloodway.aspx>
2. Dallas Public Library, 1515 Young Street, Dallas, TX 95219.
3. Oak Lawn Branch Library, 4100 Cedar Spring Road, Dallas, TX 75219.
4. At the public meeting to be held on Thursday, May 8, 2014 at the City of Dallas City Hall from 5:30 to 9:30 P.M.

Copies of the DEIS may also be requested in writing from Chandler Peter, P.O. Box 17300, Fort Worth, TX 76102-0300 or by telephone (817) 886-1736.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

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 this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing relative to the permit action and to determine the overall public interest of the proposed activity as it relates to the permit action.

STATE WATER QUALITY CERTIFICATION:

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 45 days from the date of

publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: USACE developed the Dallas Floodway Project Environmental Impact Statement Draft Threatened and Endangered Species Report, dated April 2014 as prepared by Cardno TEC, Inc. It included a determination that the Dallas Floodway Project is not likely to adversely impact federally listed species known to occur in Dallas County, Texas. The U.S. Fish and Wildlife Service provided correspondence April 8, 2014 that the USACE conclusion is sound and well supported due to a lack of suitable habitats within the action area and the presence of ongoing human disturbances.

NATIONAL REGISTER OF HISTORIC PLACES: Section 405(a) of Public Law 111-212 states that the Army is not required to make determinations under the National Historic Preservation Act for the Dallas Floodway Levee System associated with the proposed action. Within the context of the scope of impacts that must be analyzed under NEPA, USACE finds the Dallas Floodway to be a historic and cultural resource. If any previously unidentified sites, prehistoric or historic, are encountered during the proposed work, they will be assessed and impacts will be avoided, lessened or mitigated.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before June 2, 2014, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by

the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to; U. S. Army Corps of Engineers; Regulatory Branch, CESWF-DE-R; Attn: Chandler Peter; Post Office Box 17300; Fort Worth, Texas 76102-0300 or at chandler.j.peter@usace.army.mil. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS