

PUBLIC NOTICE



US Army Corps of Engineers
Kansas City District

Project No: NWK-2019-00959
Issue Date: March 15th, 2021
Expiration Date: March 30th, 2021

REQUEST FOR PERMISSION TO MODIFY A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for work over the Missouri River as it pertains to the Bank Stabilization and Navigation Project (BSNP), a federal project of the United States, as described below and shown on the attached map at the end of this notice.

COMMENTS AND ADDITIONAL INFORMATION: Comments on the described work should reference the U.S. Army Corps of Engineers project number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers – Kansas City District
601 East 12th Street
Kansas City, MO 64106-2896
ATTN: Julie Adkins

Additional information may be obtained by contacting Julie Adkins, National Environmental Policy Act (NEPA) Specialist, and Kansas City District 408 practitioner, U.S. Army Corps of Engineers, at (816) 534-2756. Your inquiries may also be sent by email to Julie.M.Adkins@usace.army.mil.

REQUESTER: Missouri Department of Transportation (MoDOT) and Federal Highway Administration (FHWA).

PROPOSED ACTION AND PROJECT LOCATION: The proposed project constructs a new bridge across the Missouri River, west of the existing Buck O'Neil bridge, and makes improvements along US-169, north of the river between MO-9 and the new bridge including access improvements to the Kansas City Downtown Airport (MKC, airport). Construction is anticipated to begin in Summer 2021 and conclude in 2024.

REGULATORY AUTHORITY: This request will be reviewed according to the provisions of Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408). The Missouri Department of

Transportation (MoDOT) published a Final Environmental Assessment (Final EA) dated May 2020 to make improvements to the U.S. Highway (US) 169 corridor from Missouri Highway (MO) 9 to Interstate 35 including the Buck O'Neil Bridge crossing over the Missouri River. On May 15, 2020, the Federal Highway Administration (FHWA) issued a Finding of No Significant Impact (FONSI) for the proposed project. The Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) implementing regulations allow for a Federal agency to adopt another agency's environmental assessment (40 CFR § 1506.3). When adopting all or portions of another agency's EIS or EA, USACE is still responsible for developing a Record of Decision (ROD) or FONSI, as applicable, to document NEPA compliance for the Section 408 permission decision. The FONSI being published for Public Notice documents the USACE decision regarding the 408 permission request to alter the federal project.

EVALUATION: The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification will be reviewed by a U.S. Army Corps of Engineers technical review team considering the following factors:

1. Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. The decision whether to approve a request for modification would be based on a determination of no impairments.
2. Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the U.S. Army Corps of Engineers project may have on the public interest requires a careful weighing of all those factors that are relevant in each case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and 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. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.
3. Environmental Compliance A decision on a Section 408 request is a federal action, and therefore, subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the Kansas City District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis completed to comply with the other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the US Army Corps of Engineers project. The scope of analysis for the NEPA and

environmental compliance evaluations for the Section 408 review is limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration. Any substantial project design changes not covered in prior NEPA documents will be addressed in a supplemental NEPA document that will include potential impacts limited to the federal projects.

The USACE has reviewed the United States Fish and Wildlife Service (USFWS) concurrence with MoDOT and has determined that the ‘no effect’ determination for the Indiana bat, gray bat, and the northern long-eared bat, which are federally listed threatened and endangered bat species, is appropriate and applicable to the anticipated effects of the proposed Section 408 alteration. The USACE has reviewed accepts the USFWS concurrence with MoDOT and agrees that the determination of “may affect but is not likely to adversely affect” for the federally listed threatened and endangered Pallid Sturgeon is appropriate and applicable to the anticipated effects of the proposed Section 408 alteration.

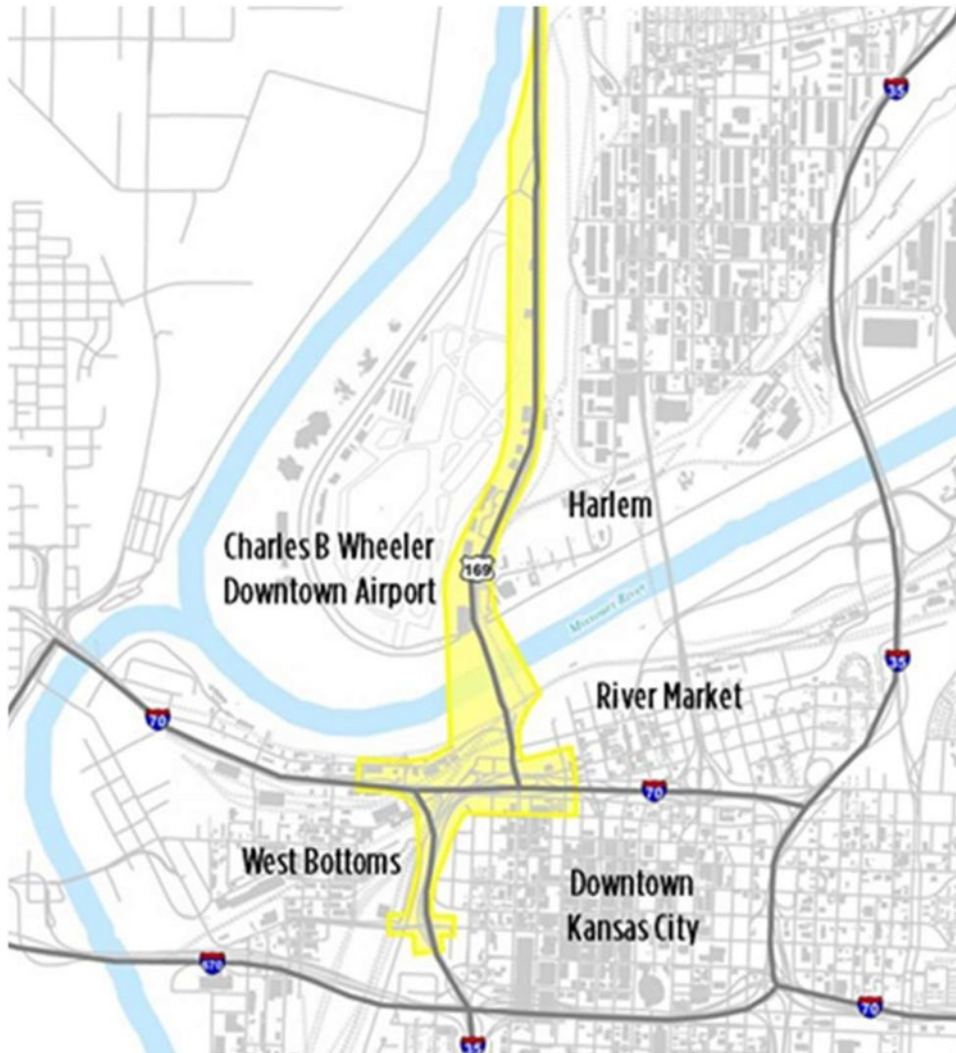
The MoDOT EA documents unavoidable effects to some National Register of Historic Places (NRHP)-eligible resources, which would be mitigated through implementation of a Programmatic Agreement (PA). A copy of the Draft PA is included in the EA, which is accessible online. A complete table of identified parties and responses concerning cultural resources can be found in the Final EA. Consultation with interested parties was completed over meetings throughout the development of the project. A Kansas City District Archeologist has reviewed the evaluation of cultural resources and the findings and conditions laid out within the PA and has determined it is appropriate and applicable to the anticipated effects on the proposed Section 408 alteration.

4. Environmental Impact Statement A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

SOLICITATION OF COMMENTS: The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition, or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are taken into consideration 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 and to determine the overall public interest of the proposed activity.

SUMMARY: It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of 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 Kansas City District Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than March 30, 2021. 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 project as described. This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.



Project Location