



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 E. 81 ST
TULSA, OKLAHOMA 74137

Programs and Project Management Division
Civil Works Branch

PUBLIC NOTICE

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

TITLE: I-135, I-235, K-254 and K-96 Interchange – Wichita North Junction, Park City, Sedgwick County, Kansas (408-SWT-2021-0004)

PUBLIC NOTICE COMMENT PERIOD:

Begins: August 27, 2021

Ends: September 6, 2021

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the City of Wichita, Kansas and Kansas Department of Transportation (KDOT) (requester) has requested permission from the U.S. Army Corps of Engineers (USACE) for the installation of culverts; removal of flap gates; highway embankment tie-in to the levee, and compensatory drainage for highway embankment drainage in the vicinity of WVC Chisholm Levee D and Levee P.

LOCATION: Park City, Sedgwick County, Kansas

REQUESTERS PROPOSED ACTION: A new highway bridge crossing over WVC Chisholm Levee D, compacted fill within the retention basin connected to Middle Fork Chisholm Creek. The bridge abutment will tie into Levee D with overbuilt embankment materials. The current elevation of WVC Big Slough Levee D is 1,337.30 feet and the proposed highway embankment crossing elevation is 1,340.1 feet. The bridge will be founded on steel piles which will be driven to bearing capacity on the riverside WVC Big Slough Levee D embankment just outside of the 15-foot vegetation and encroachment free zone and will be constructed utilizing standard engineering practices. Slope stability analysis has been completed and mitigation techniques will be utilized, such as riprap to mitigate any potential erosion. The construction of the abutment will be done in 8-inch loose lifts to achieve 6-inch compacted lifts with 95% maximum dry density and water content as determined by the Proctor test (ASTM D-698). (Attachment 1 - Map item #: 1 and Attachment 2).

As the bridge proceeds north to cross over eastbound I-235, it will cross over the current alignment of Chisholm Levee P which follows the current southern alignment of the I-135 and I-235 interchange alignment. The low chord of the proposed flyover bridge will be more than 20-feet above the current alignment of the levee. (Attachment 1 - Map item #: 3; Attachment 2).

The compacted fill within the retention basin located on the east side of I-135 will have

varying heights from 15 feet to 45 feet. This embankment will have two 72-inch ungated culverts with a 0.3% grade (flowing from west to east), that will help drain both the east and west sides of the retention basin into Middle Fork Chisholm Creek. The highway embankment will be built to KDOT standards and the culverts passing through the highway embankment will be constructed of corrugated metal. (Attachment 1 - Map item #'s 2, 4 and 5; Attachment 3).

It is proposed to remove the flap gate from the 48-inch culvert through the levee which currently resides between the northbound and southbound lanes of I-135. The associated sluice gate will remain in place. Doing this will allow free movement of water from the embankment runoff to drain in Middle Fork Chisholm Creek and for high waters from the creek to flow into the retention basin, allowing for capacity to be maintained from the construction of the highway embankment in the eastern retention basin. (Attachment 1 - Map item #'s 6 and 7).

It is proposed that three retention basin areas be excavated to a lower elevation to equally compensate for the proposed embankment fill. This compensation is equal to or just over the volume taken by the highway embankment and meets the "FEMA No Rise Requirement". (Attachment 1 - Map item #'s 4, 5 and 8; Attachment 3).

It is proposed that a new ungated 72-inch RCP culvert be installed by boring it through the embankment to the east of the existing 30-inch CMP and that the 30-inch culvert be extended to provide drainage and compensatory drainage between the western area between eastbound and westbound I-235. The length of these two culverts will be long enough to accommodate future expansions of the interchange. To accommodate this retention area, a levee will be constructed between the eastbound and westbound I-235 lanes. This levee will tie into the eastern side of BNSF railroad embankment. This levee crown elevation will be 1,335.0, which is the same elevation as the existing levee crown elevation. (Attachment 1 - Map items #'s 9, 10, 11; Attachment 4).

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: USACE reviewed the environmental compliance documentation submitted by the requester and adopted the Federal Highway Administration Categorical Exclusion Determination, dated February 2020, which has determined there is no suitable habitat for federally listed species under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). Therefore, USACE determined activities associated with the proposed are not likely to cause adverse effects to federally listed species or designated critical habitat under the jurisdiction of the USFWS.

The proposed project was reviewed for cultural resources, in accordance with Section 106 of the National Historic Preservation Act, based on an area of potential effect determined based upon construction plans and Endangered Species Act figures. Based on the cultural resources review, the project meets the No Effect threshold, concluding the Section 106 process.

AUTHORITY: The authority to grant permission for a temporary or permanent use, occupation, or alteration of any USACE civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 U.S.C. 408 ("Section 408"). Section 408 authorized 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 public interest

and will not impair the usefulness of the project. 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 and Division and District Engineers, depending upon the nature of the activity.

LIMITS OF SECTION 408 AUTHORITY: A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. Section 1344), and/or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). In addition, 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 FACTORS: The decision whether to grant the requested permission for project alteration 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 requests for alteration will be reviewed by a USACE 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 USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. In order for an alteration to be approved, the Requester must demonstrate that the alteration does not impair the usefulness of the federally authorized project.
- 2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest evaluation depend upon the type of USACE project being altered and the nature of the proposed alteration 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. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks and by the net impact of the alteration on the public interest using the public interest factors.
- 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 USACE is responsible for ensuring environmental compliance, the requester is responsible for providing all information that the Tulsa District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and procedures. NEPA and other analysis completed to

comply with other environmental statutes (e.g., Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The Tulsa District will work with the requester to determine the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner.

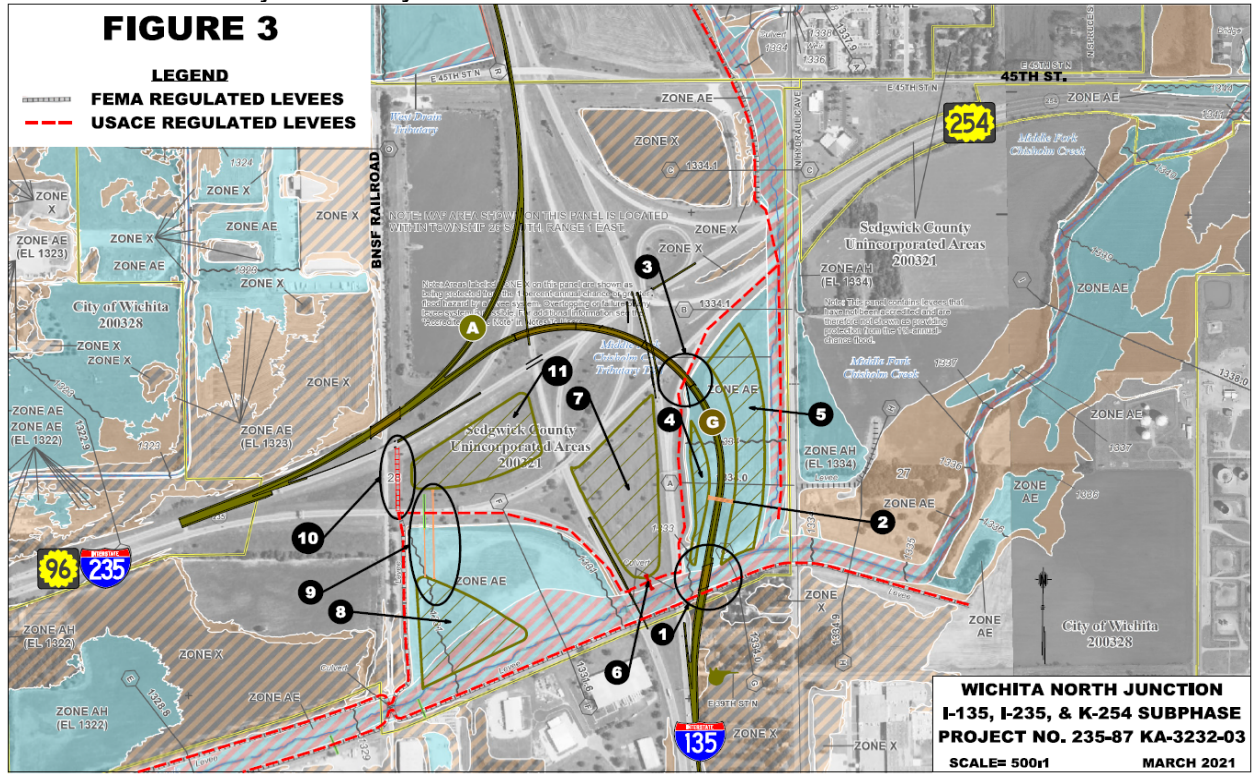
PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the I-135, I-235, K-254 and K-96 Interchange – Wichita North Junction project. Comments received within 10 days of publication of this notice will be used in the evaluation of potential impacts of the proposed action on important resources and in the evaluation of whether the proposed alteration would be injurious to the public interest and/or would impair the usefulness of the authorized project. Only the specific activities that have the potential to occupy, use, or alter the WVC Chisholm Levee D and P will be evaluated. Please limit comments to the area of the alteration and those adjacent areas that would be directly or indirectly affected by proposed highway interchange expansion.

SUMMITTING COMMENTS: Written comments, referencing Identification Number 408-SWT-2021-0004 must be submitted to the office listed below on or before August 30, 2021.

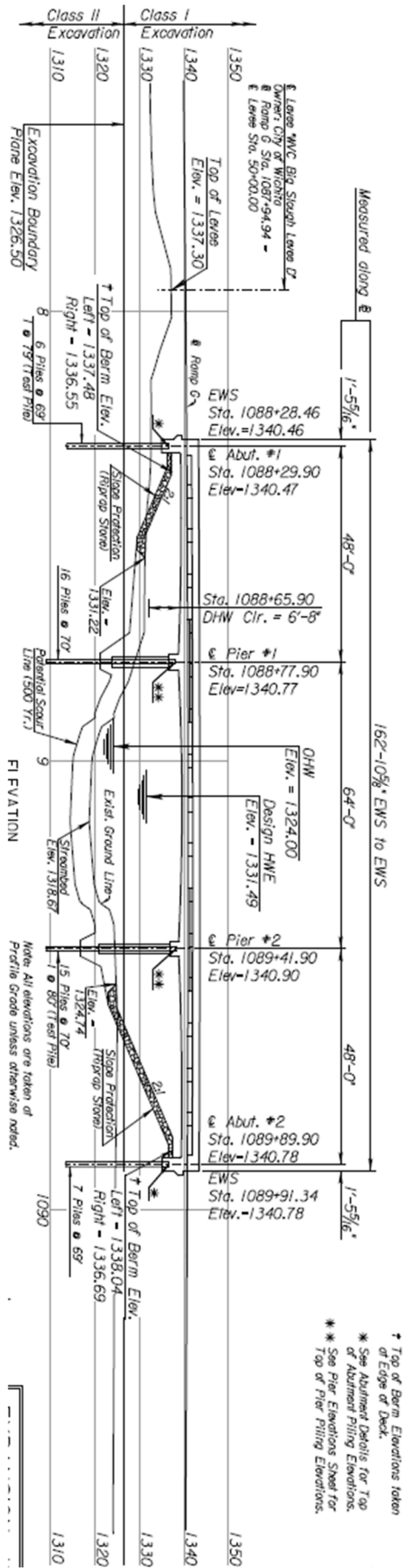
Tony Clyde, Project Manager – 408 Coordinator
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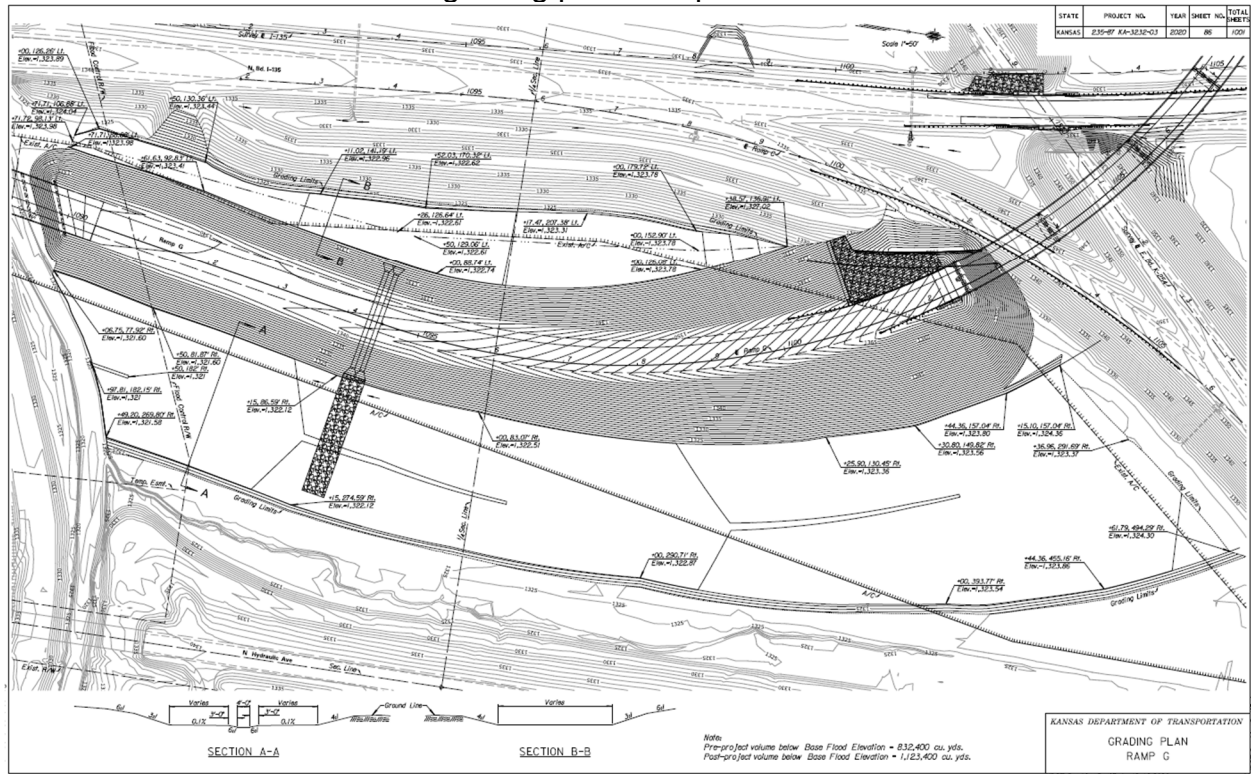
Attachment 1: Project vicinity.



Attachment 2: Bridge cross section.



Attachment 3. Retention basin grading plan Ramp G.



Attachment 4. Retention basin grading plan I-235.

