



**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:** Ideatek Underground Fiberoptic Levee Crossing, Woodie Seat Freeway at Arkansas River, Hutchinson, Kansas.

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: November 3, 2021

Ends: November 12, 2021

**REQUESTER:** In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the Ideatek (requester) has requested permission from the U.S. Army Corps of Engineers (USACE) for the placement of a 3-inch pipe to contain fiber optic cable below the Hutchinson Levee A & E.

**LOCATION:** Arkansas River crossing of the Woodie Seat Freeway in Hutchinson, Reno County, Kansas.

**REQUESTERS PROPOSED ACTION:** Ideatek proposes to construct a single shot, horizontal directional bore and placement of a 3-inch diameter steel pipe to contain a fiber optic cable. Bore head will be 8-inches or less. Bore profile will be outside critical zones of the Hutchinson Levee A & E defined as 300-foot perpendicular to the levee centerline and vertically 2x the levee maximum height.

**ENVIRONMENTAL IMPACTS OF PROPOSED ACTION:** USACE review of environmental compliance requirements is ongoing. It is anticipated the USACE will exercise a categorical exclusion available in 33 CFR 230.9. No effect to threatened and endangered species subject to Section 7 of the Endangered Species Act is expected or anticipated. It is also anticipated the project will meet the no potential to affect threshold for cultural resources subject to Section 106 of the National Historic Preservation Act.

**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.

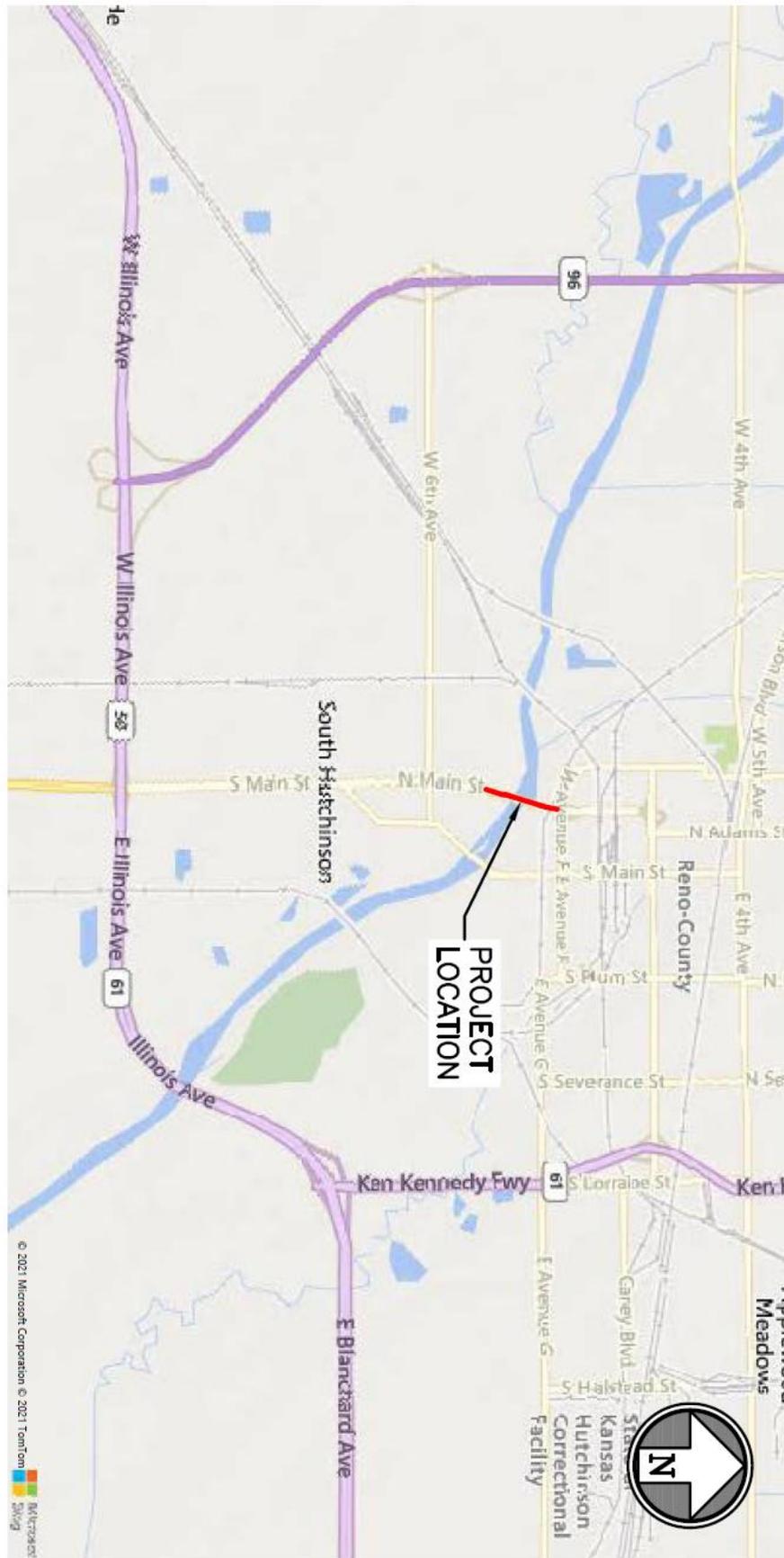
**PUBLIC INVOLVEMENT:** The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Ideatek underground fiberoptic line construction. Comments received within 10 days of publication of this notice 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 Hutchinson Levee A & E and Hutchinson Levee B embankments 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.

**SUBMITTING COMMENTS:** Written comments, referencing Identification Number 408-SWT-2021-0017 must be submitted to the office listed below on or before November 12, 2021.

Tony Clyde, Project Manager – 408 Coordinator  
U.S. Army Corps of Engineers, Tulsa District  
2488 E 81<sup>st</sup> Street  
Tulsa, Oklahoma 74137

Email: [Tony.Clyde@usace.army.mil](mailto:Tony.Clyde@usace.army.mil)

Attachment 1: Project vicinity.



Attachment 2: Project location.



HUTCHINSON  
RENO COUNTY  
KANSAS

Rev	Date	Revision	By	Checked

- NOTES:
1. LOCATIONS OF UTILITIES SHOWN ARE APPROXIMATE AND WERE TAKEN FROM PUBLIC RECORDS. CONTRACTOR SHALL VERIFY EXISTENCE AND DEPTH OF UTILITIES PRIOR TO CONSTRUCTION.
  2. EXISTING UTILITIES INFORMATION SHOWN ON THIS MAP IS FOR INFORMATION ONLY. CONTRACTOR SHALL VERIFY EXISTENCE AND DEPTH OF UTILITIES PRIOR TO CONSTRUCTION.
  3. CONTRACTOR SHALL VERIFY ONE CALL PRIOR TO CONSTRUCTION.
  4. ALL EXISTING AND NEW WORK IS TO BE ACCORDANCE WITH CURRENT CODES AND REGULATIONS.
  5. CONTRACTOR SHALL VERIFY EXISTENCE AND DEPTH OF UTILITIES PRIOR TO CONSTRUCTION.
  6. ALL PERMITS SHALL BE OBTAINED PRIOR TO CONSTRUCTION.
  7. CONTRACTOR SHALL VERIFY EXISTENCE AND DEPTH OF UTILITIES PRIOR TO CONSTRUCTION.
  8. ALL PERMITS SHALL BE OBTAINED PRIOR TO CONSTRUCTION.

**Digsafety**  
Kansas One-Call  
1-800-344-7733



**IDEATEK**  
CONTRACT ENGINEERING / SURVEYING / UTILITIES

**IDEATEK**  
FIBER OPTIC CABLE PROJECT  
ARKANSAS RIVER  
LEVEL CROSSING  
WOODY SEAT FERRYWAY &  
WOODSON PLAZA  
HUTCHINSON, RENO COUNTY  
KANSAS

Sheet 186  
KEY LOCATION MAP

Date Drawn	08/28/2021	Drawn	INC	Sheet	3
Project No.	08780401	Checked	PLJ	Scale	3 of 7
Scale	NOT TO SCALE	Approved	MB		