



**US Army Corps
of Engineers**®
Memphis District

ISSUE DATE: November 26th, 2024
EXPIRATION DATE: December 10th, 2024

PUBLIC NOTICE

**U.S. Army Corps of Engineers
Memphis District**

U.S.C. Chapter 33, Section 408 Permission Evaluation

TITLE: Section 408 Permission Evaluation for fiber optic cable installation along the Mississippi River Levee in Shelby County, TN.

INTRODUCTION: The authority to grant permission for temporary or permanent alterations of any U.S. Army Corps of Engineers (USACE) federally authorized civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408. Byers Engineering Company has requested permission to install underground fiber optic cable along a portion of the Mississippi River Levee in Shelby County, TN (Figure 1).



Figure 1. Location of proposed fiber optic cable installation in Shelby County, TN

PROJECT DESCRIPTION: Section 408 authorizes USACE to grant permission for the alteration or occupation or use of the project if USACE determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The Mississippi River Levee project is the federal project provides for managing flood risks to lands outside of the levees from floodwaters of the Mississippi River. Federal responsibility extends 15 feet from the landside berm and 40 feet from the riverside toe of the levee. The proposed request involves the installation of fiber optic cable above

the toe of slope and within the right-of-way of Riverport Road. This area is part of the Mississippi River Levee.

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. The scope of analysis for the NEPA and environmental compliance evaluations for the Section 408 review should be limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration. Byers Engineering has requested a Section 408 evaluation on the proposed action from the Memphis District, and the environmental compliance branch is currently conducting a preliminary determination by reviewing the proposed work of the footprint of this project that may affect USACE interests. The proposed Section 408 alteration was determined to have no effect on threatened or endangered species or their critical habitats, pursuant to the Endangered Species Act. There are no permit requirements for Section 401 or 404 of the Clean Water Act for this project. The USACE Memphis District Archaeologist has determined that the proposed activities would cause no effects to known historic properties, pursuant to Section 106 of the National Historic Preservation Act.

The decision on this Section 408 request is being analyzed in accordance with NEPA and is limited to the Section 408 boundaries described herein.

PUBLIC INTEREST REVIEW: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties. Comments received within 15 days of this publication would be used in the evaluation of potential impacts of the proposed action on important resources. All comments would be considered in preparing environmental documentation pursuant to NEPA. USACE has jurisdiction under 33 USC 408, only over the specific activities that have the potential to alter existing USACE projects. Please limit comments to the area of the alteration and those adjacent areas that are directly or indirectly affected by the alteration to the federally authorized civil works project described herein. **Comments may be submitted to robert.w.prebeck@usace.army.mil and should be received by December 10th, 2024.**

Sincerely,

J. Mike Thron
Chief, Environmental Compliance Section,
Regional Planning and Environmental Division South