



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

**ISSUE DATE: October 8, 2024**

**EXPIRATION DATE: October 23, 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 Northwest Tennessee Regional Port Authority Port of Cates Landing Railroad Extension Project, Lake County, Tennessee.

**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. The Northwest Tennessee Regional Port Authority (NWTRPA) has requested a Section 408 Permission Evaluation to install a railroad line over a levee owned by the Madrid Bend Levee District of Lake County. This construction is part of a proposed 5.5-mile rail line to connect the TennKen railroad to the Port of Cates Landing (Figure 1).



Figure 1. Location of proposed rail line extension, including levee crossing, Lake County, Tennessee.

**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 and Tributaries system Project, the federally authorized civil works project proposed for alteration, 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 rail line briefly crossing a levee 0.5 miles southeast of the Port of Cates Landing. No grading will occur on top of the levee, and ballast and all rail components will sit on top of the existing ground on the levee (Figure 2).

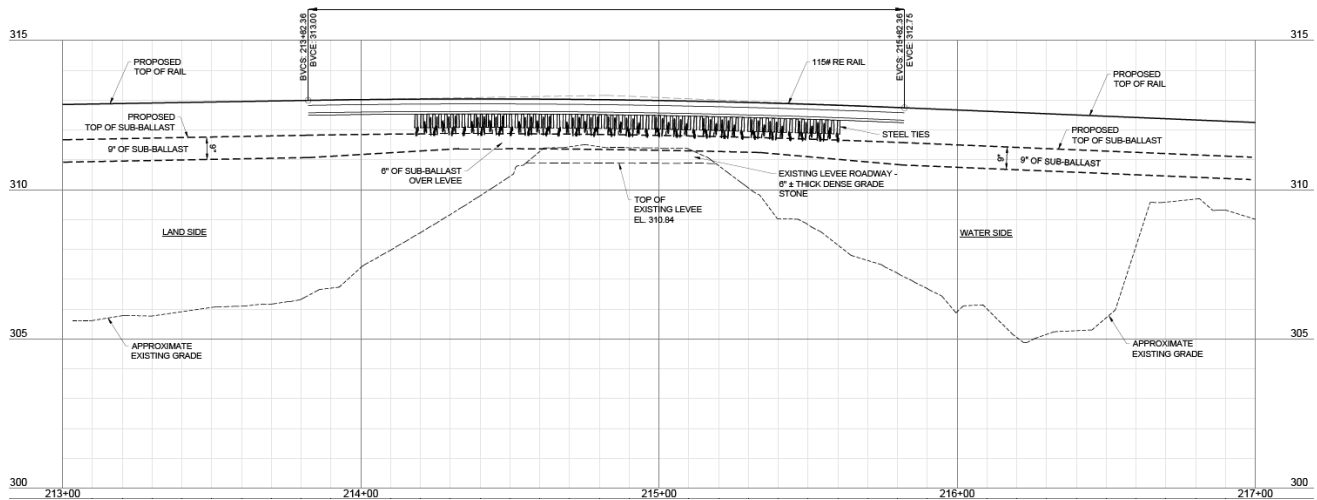


Figure 2. Diagram of rail line crossing levee near Port of Cates Landing, Lake County, Tennessee.

**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 is limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration. The NWTRPA has requested a Section 408 evaluation on the proposed action from the Memphis District. The environmental compliance branch conducted a preliminary determination by reviewing the proposed work of the footprint of this project that may affect USACE interests and found (1) no effects to threatened and endangered species or their critical habitats pursuant to the Endangered Species Act, Section 7, (2) no effects to nesting bald eagles pursuant to the Bald and Golden Eagle Act, (3) no effects to known historic properties pursuant to the National Historic Preservation Act, Section 106, and (4) the proposed activity would not result in fill material being placed into wetlands or waters of the U.S.; thus, a Section 404(b)(1) permit is not required from USACE Regulatory Branch or Section 401 water quality certification from the State of Tennessee. 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 [kristina.l.mitchell@usace.army.mil](mailto:kristina.l.mitchell@usace.army.mil) and should be received by October 23, 2024.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark R. Smith', with a long horizontal flourish extending to the right.

Mark R. Smith  
Chief, Environmental Compliance Branch,  
Regional Planning and Environmental Division South