



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

ISSUE DATE: May 21, 2021

EXPIRATION DATE: June 4, 2021

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 Tom Lee Park Improvements, Memphis, 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 Memphis River Parks Partnership has requested to install improvements within Tom Lee Park, Memphis, Tennessee (Figure1).

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 (MRT), the federally authorized civil works project proposed for alteration, provides for navigation and managing risks from floodwaters of the Mississippi River. The proposed request to modify Tom Lee Park includes, but is not limited to, landscape improvements such as tree, shrub, and grass plantings and new pathways; amenity/support pavilion structures (food, beverage, restrooms, storage, etc.); a shade canopy; an elevated pedestrian walk way; new park lighting; and relocated power distribution to improve visitor experience in Tom Lee Park.

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. As the proposed project would not result in fill material being placed into any wetlands or waters of the U.S., a Section 404(b)(1) permit would not be required. Similarly, water quality certification would not be required from the State of Tennessee. As the proposed Section 408 alteration is within the USACE project footprint, no known historic properties would be affected. Furthermore, the proposed Section 408 alteration is not likely to adversely affect threatened or endangered species or their critical habitat pursuant to the Endangered Species 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.

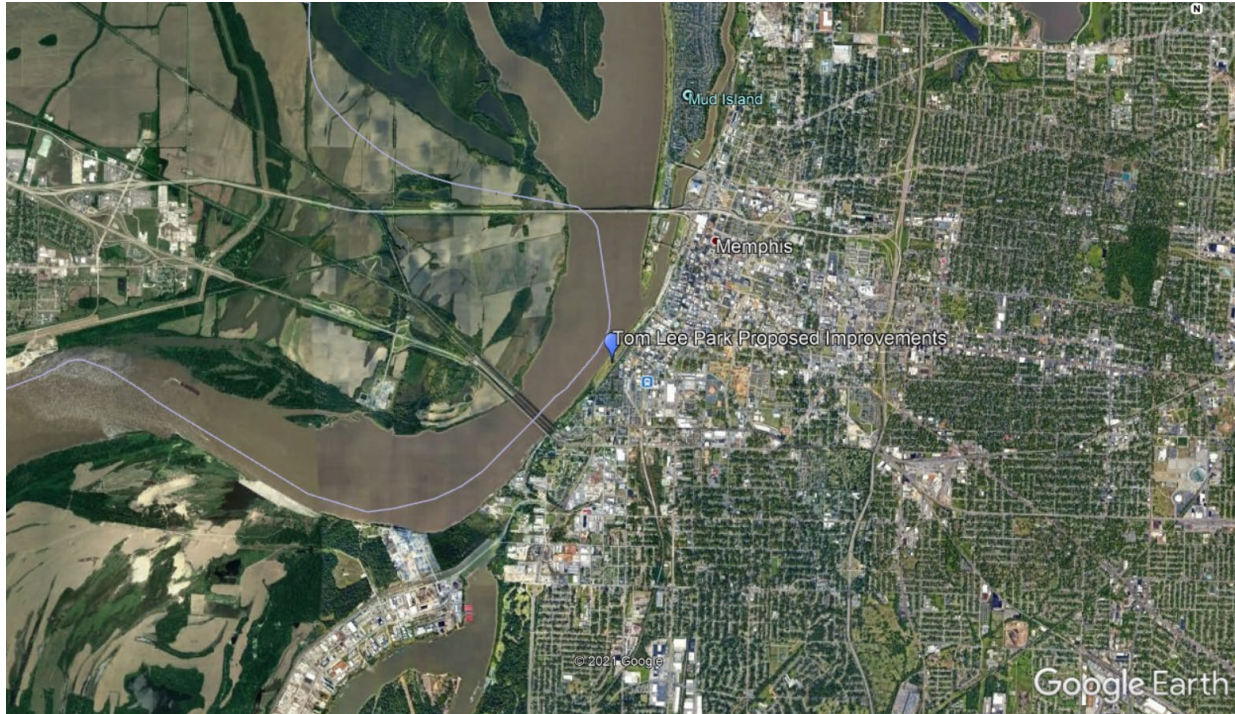


Figure 1. Location of proposed Tom Lee Park Improvements, Memphis, Tennessee.

PUBLIC INTEREST REVIEW: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; Native American Tribes; and other interested parties. Comments received within 15 days of this publication will be used in the evaluation of potential impacts of the proposed action on important resources. All comments will 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 Andrea.L.Carpenter@usace.army.mil and should be received by June 4, 2021.**

Sincerely,

Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South