



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

ISSUE DATE: 7/23/2025

EXPIRATION DATE: 8/11/2025

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 Memphis Light, Gas, and Water replacement underground water main replacement along the Memphis – Nonconnah Creek Levee System 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. Memphis Light, Gas, and Water (MLGW) has requested to replace an underground water main serving the Valero Memphis Refinery along the Nonconnah Creek Levee (a segment of the Mississippi River Levee system) at Riverport Road, west of Interstate 55, Shelby County, Tennessee (Figure 1). There are two federally authorized projects being altered with this request: the Nonconnah Creek Levee System and the Nonconnah Creek (TN and MS) project. The Nonconnah Levee System was authorized by Flood Control Act, 28 August 1937, as amended by Flood Control Act of 24 July 1946. The Civil Appropriations Act, 28 June 1939 modified the project authority to include pump stations, reservoirs, and outlet works for the City of Memphis. The Memphis Nonconnah Levee System (System #4005000009) consists of 3.73 miles of flood risk reduction levees. The levee system runs along the northern edge of Nonconnah and Caney Creeks in Southeast Memphis Tennessee. The Nonconnah Creek (TN and MS) Project was authorized by the Water Resources Development Act of 1986. The completed part of this project includes five erosion control projects along Nonconnah Creek.

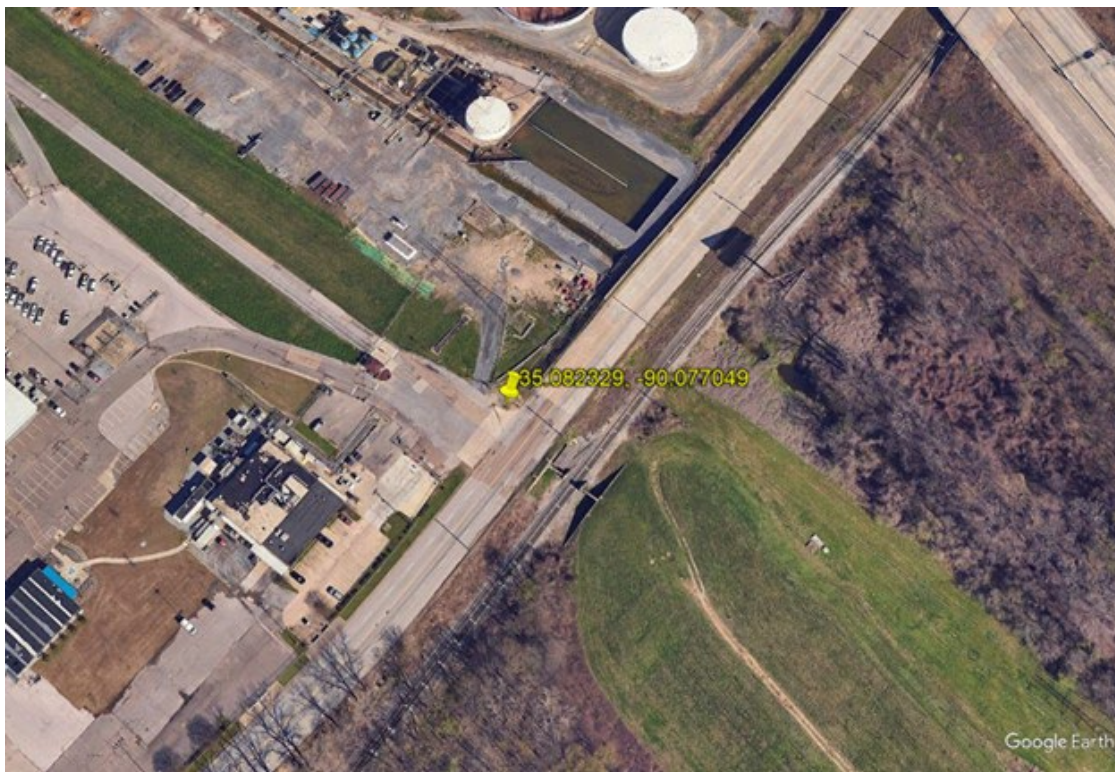


Figure 1. Location of proposed water main replacement in Shelby County, TN.

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.

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. The Pemiscot County Port Authority 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 footprint of the proposed work and potential affects to USACE interests.

A list of potential threatened or endangered species possibly in the project area was created on 14 July 2025 utilizing the Information for Planning and Consulting (IPaC) tool provided by the United States Fish and Wildlife Service. The proposed Section 408 alteration was determined to have the following effects on threatened or endangered species or their critical habitats in the project area, pursuant to the Endangered Species Act:

Common Name	Binomial	Status	Effect Determination
Tricolored Bat	<i>Perimyotis subflavus</i>	Proposed Endangered	No effect
Alligator Snapping Turtle	<i>Macrochelys temminckii</i>	Proposed Threatened	No effect
Monarch Butterfly	<i>Danaus plexippus</i>	Proposed Threatened	No effect

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 area has been previously surveyed and there are no known properties within the project area or surrounding areas.

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 8/11/2025.**

Sincerely,

Mark R. Smith

Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South