



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
BNSF Railway

Published: October 30, 2025
Expires: November 20, 2025

**Kansas City District
Permit Application No. NWK-2025-00615**

TO WHOM IT MAY CONCERN: The Kansas City District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: BNSF Railway
Attn: Curtis Heisen
2650 Lou Menk Drive
Fort Worth, TX 76131

AGENT: Kelsey Kropp
TranSystems
2400 Pershing Road, Suite 400
Kansas City, MO 64108

WATERWAY AND LOCATION: The project would affect Mill Creek, a water of the United States. The project area is located approximately 0.25 miles southeast of the Mill Creek Streamway Park, in the SW ¼ of Section 36, Township 12 South, Range 23 East, Johnson County, Kansas.

USGS 1:24K Quad: Olathe
Latitude 38.9635 --- Longitude -94.8113

EXISTING CONDITIONS: Mill Creek is a 3rd order perennial tributary to the Kansas River. Aerial photo analysis shows Site MP 19.5 as a streambank that is experiencing accelerated erosion. The project area consists primarily of wooded riparian corridor along both sides of the stream channel with an actively eroding left descending bank. The left bank riparian area (averaging approximately 15-feet wide), with railroad infrastructure directly beyond the riparian buffer. The right bank corridor consists of a wooded riparian buffer (averaging approximately 90-feet wide) with single family residential development beyond the riparian buffer.

PROJECT PURPOSE:

Basic: Streambank Stabilization

Overall: Stabilize actively eroding riverbank to protect railroad infrastructure and reduce sedimentation into Mill Creek.

PROPOSED WORK: The applicant requests authorization to place fill within Mill Creek at Site MP 19.5 for the purpose of bank erosion protection and stabilization to protect railroad infrastructure and reduce sedimentation into Mill Creek. As designed, the proposed work would take place along 1,300 feet of the left descending bank of Mill Creek. Proposed fill material to be placed below the ordinary high water mark (OHWM) of the channel would consist of an estimated total of 200 cubic yards of limestone rock (D50=12-27-inch riprap). Project area will be stabilized at a 1.5:1 slope. All trees greater than 4-inch diameter-at-breast-height (DBH) will be preserved where feasible, other vegetation will be cleared as needed. Estimated area of vegetation removal is 0.5 acres.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The proposed project is designed to minimize the amount of fill necessary to protect the streambank and a Storm Water Pollution Prevention Plan (SWPPP) will be implemented to minimize erosion and sedimentation.

COMPENSATORY MITIGATION: The applicant has provided the following explanation why compensatory mitigation should not be required: The overall project is designed to reduce bank erosion and sedimentation. The bank stabilization is designed to minimize effects to the aquatic resource and surrounding habitat. The bank mature vegetation will be avoided. The proposed project is not expected to adversely affect the aquatic resource, nor would it result in a permanent loss of streambed.

STATE AUTHORIZATION: The applicant has contacted the Kansas Department of Agriculture to determine if a state permit is required pursuant to Kansas Statutes Annotated 82-301 to 305a and 24-126.

CULTURAL RESOURCES: The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, utilizing the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may

occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed below. No other ESA-listed species or critical habitat will be affected by the proposed action.

Table 1: ESA-listed species potentially present in the action area.

Species Common Name and/or Critical Habitat Name	Scientific Name	Federal Status
Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Endangered
Tricolored Bat	<i>Perimyotis subflavus</i>	Proposed Endangered
Monarch Butterfly	<i>Danaus plexippus</i>	Proposed Threatened
Western Regal Fritillary (butterfly)	<i>Argynnis idalia occidentalis</i>	Proposed Threatened

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402. The Corps Kansas City District is the lead Federal agency for ESA consultation for the proposed action. Any required consultation will be completed by the Corps.

This notice serves as request to the USFWS for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water Quality Certification is required from the Kansas Department of Health & Environment.

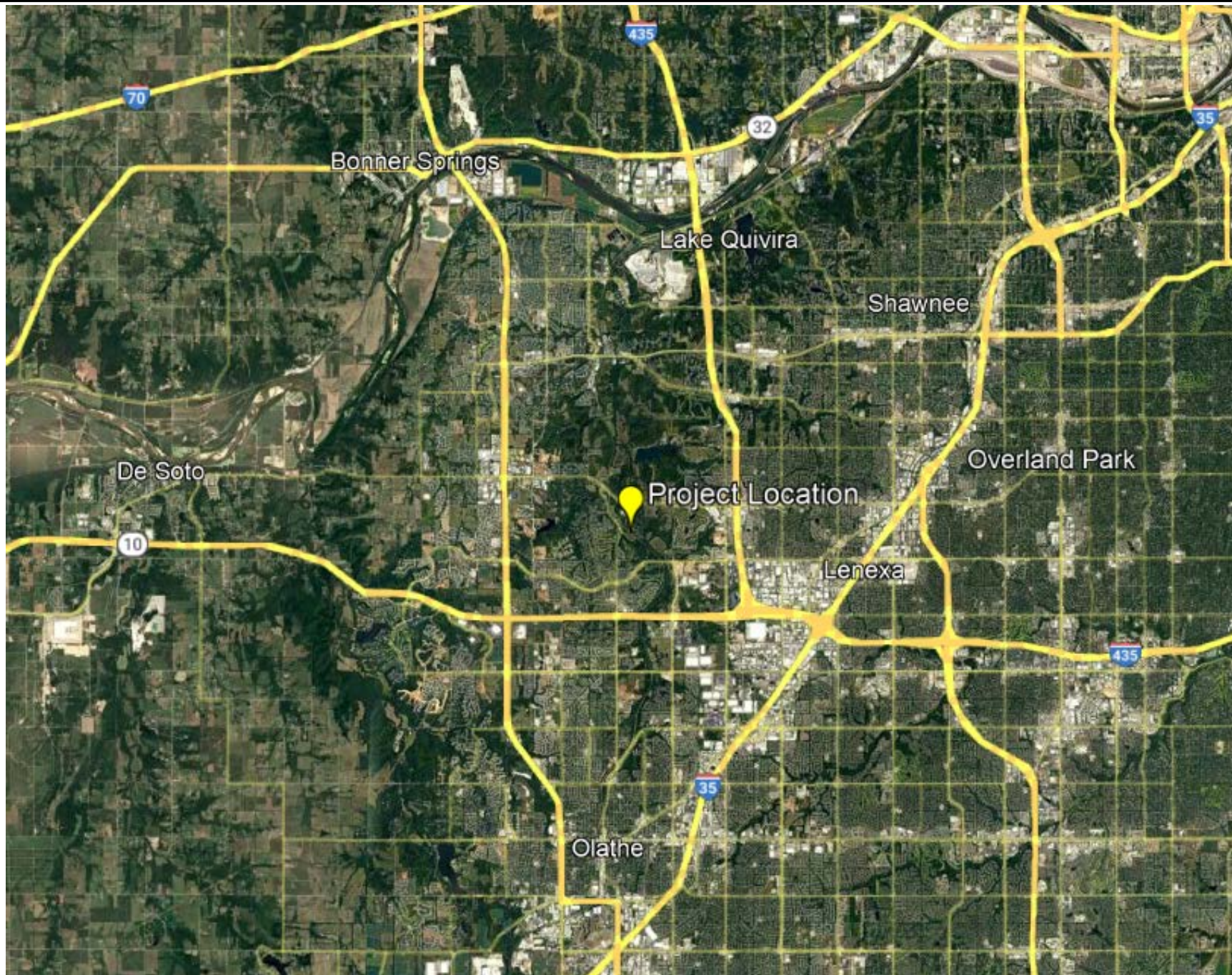
NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Kansas City District will receive written comments on the proposed work, as outlined above, until November 20, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Regulatory.KansasState@usace.army.mil. Please refer to the permit application number in your comments. Additional information may be obtained by contacting Mr. Scott Dodson, (816) 389-3743 or scott.t.dodson@usace.army.mil.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.



Permit No. NWK-2025-00615
BNSF Railway
MP 19.5 - Mill Creek Bank Stabilization
Johnson County, Kansas
Sheet 1 of 2
30 October 2025

LOCATION MAP

S36-T12S-R23E
Johnson County, KS



