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# Public Notice

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**US ARMY CORPS  
OF ENGINEERS**  
St. Louis District  
**Gateway to Excellence**

**Reply To:**  
**U.S. Army Corps of Engineers**  
**Attn: CEMVS-OD-R**  
**1222 Spruce Street**  
**St. Louis, Missouri 63103-2833**

**Permission No.**  
**OD-R 24-023**  
**Public Notice Date**  
**November 18, 2024**  
**Expiration Date**  
**December 17, 2024**

**Postmaster, Please Post Conspicuously Until:**

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## **REQUEST FOR PERMISSION TO MODIFY A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408**

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for certain work near federally constructed flood protection projects of the United States, as described below and shown on the attached maps.

**COMMENTS AND ADDITIONAL INFORMATION:** Comments on the described work should reference the U.S. Army Corps of Engineers Public Notice number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers  
Readiness Branch  
1222 Spruce Street  
St. Louis, Missouri 63103-2833  
ATTN: Jeffrey Wells, P.E.  
or Jeffrey.M.Wells@usace.army.mil

**REQUESTER:** Stock & Associates Consulting Engineers, Inc. Attention: Mr. George Stock, P.E.

**LOCATION:** The site is located along and perpendicular to the Monarch-Chesterfield Levee System. The work is located at the approximate coordinates 38°40'19"N 90°35'55"W in Chesterfield, MO. (St Louis County, Missouri).

**PROPOSED ACTION:** The applicant is requesting to make alterations to the Monarch-Chesterfield Levee seepage berm. The project includes construction of a 27,980-square-foot medical office building, patient parking to the north and south of the building, expanding the drainage ditch south of N. Outer 40, and the construction of storm sewers leading to two bio-retention basins. Specifically, this Section 408 application details the drainage ditch, part of the northern storm sewer, and a parking lot that all overlap the seepage berm on the north side of the project and would be located within the levee right of way. A review of the proposed storm water system and bioretention areas are being

completed to ensure there are no adverse impacts to the function of the levee project, but these areas fall outside the jurisdiction of the Section 408 alteration request.

**LOCATION MAPS AND DRAWINGS:** See Attachment

**ADDITIONAL INFORMATION:** Additional information may be obtained by contacting Jeffrey Wells, P.E., St. Louis District 408 Coordinator, U.S. Army Corps of Engineers, at (314) 331-8568. Your inquiries may also be sent by e-mail to Jeffrey.M.Wells@usace.army.mil.

**REGULATORY AUTHORITY:** The St. Louis District Regulatory Division has conducted a preliminary review of the proposed project. Based upon review of the project activity description, as well as the location of the work, the Regulatory Division determined that this activity does not trigger the need for a Department of the Army Permit under Section 404 of the Clean Water Act. If additional infrastructure plans are developed that include impacts to Waters of the U.S., then a permit application would need to be submitted to the Regulatory Division. It should be noted that although this proposal does not need a Section 404 permit based on submitted plans, any revisions to the applicant's proposal may be subject to permitting.

**EVALUATION:** The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification will be reviewed by a U.S. Army Corps of Engineers technical review team considering the following factors:

1. **Impair the Usefulness of the Project Determination.** The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. The decision whether to approve a request for modification would be based on a determination of no impairments.
2. **Injurious to the Public Interest Determination.** Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the U.S. Army Corps of Engineers project may have on the public interest requires a careful weighing of all those factors that are relevant in each case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.
3. **Environmental Compliance.** A decision on a Section 408 request is a federal action and is therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the St. Louis District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. NEPA and

other analysis completed to comply with the other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the US Army Corps of Engineers project. 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.

In compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, lists of species and critical habitat were acquired from the USFWS Information for Planning and Conservation (IPaC) website on 7 October 2024 (Project Code: 2025-0002730) for the Proposed Action Area. The IPaC list included four bat species: the gray bat, Indiana bat, northern long-eared bat, and tricolored bat; one insect: monarch butterfly; and one plant: decurrent false aster. A “may affect, not likely to adversely affect” (NLAA) determination was made for gray bat, Indiana bat, northern long-eared bat, tricolored bat, and decurrent false aster and a “not likely to jeopardize the continued existence of” determination for the monarch butterfly. The Service will be invited to consult on these effects determinations during the Public Notice period and any comments will be resolved before the permit is issued.

An automated Heritage Report was obtained from MDC on 15 October 2024. The report identified resources that may be in the vicinity of the project location including the bald eagle, gray bat, pallid sturgeon, and karst features. Karst features like caves, springs, and sinkholes would not be impacted by the proposed actions. MDC will be invited to comment on the project during the Public Notice period and any comments will be considered prior to the permit being issued.

The Migratory Bird Treaty Act (MBTA) of 1918 provides protection for bird species native to North America. The project area is in the Mississippi Flyway, a bird migration route which follows the Mississippi River, the Missouri River, and the Lower Ohio River in the United States. A variety of migratory birds might occur in the project areas, some as migrants and some as breeders, depending on the time of year. Year-round residents would also be present. The construction disturbance could cause temporary minor adverse impacts.

Although the bald eagle (*Haliaeetus leucocephalus*) was removed from the federal list of threatened and endangered species in 2007, it continues to be protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). The BGEPA prohibits unregulated take of bald eagles, including disturbance. The U.S. Fish and Wildlife Service developed the National Bald Eagle Management Guidelines to provide landowners, land managers, and others with information and recommendations regarding how to minimize potential project impacts to bald eagles, particularly where such impacts may constitute disturbance. The nearest bald eagle nest is over a mile away, along the left descending bank of the Missouri River.

St. Louis District Archaeologists conducted a Historic Property Preliminary Review on 16 October 2024. This review determined that the project area has been previously disturbed by construction. For this reason, the USACE – St. Louis has made a “No Potential to Affect Historic Properties” determination.

All actions taken were in accordance with the National Historic Preservation Act of 1966, as amended (NHPA). In the unlikely event that, earthmoving activities associated with the proposed work did impact potentially significant archeological/historic remains, all construction

activities and earthmoving actions in the immediate vicinity of the remains would be held in abeyance until the potential significance of the remains could be determined. The precise nature of such investigations would be developed by the Saint Louis District in concert with the professional staff of the Missouri SHPO.

4. Environmental Impact Statement. A preliminary determination has been made that an environmental impact statement is not required for the proposed work.
5. Technical Analysis. The St. Louis District is working closely with the requestor to ensure that all technical plans, maps, drawings, specifications are provided and complete. A District-led Technical Review is being conducted to determine any potential adverse impacts to the US Army Corps of Engineers flood protection system.

**SOLICITATION OF COMMENTS:** The U.S. Army Corps of Engineers 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 the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition, or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are taken into consideration in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**SUMMARY:** It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the St. Louis District Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than **December 17th, 2024**. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

**ORIGINAL SIGNED**

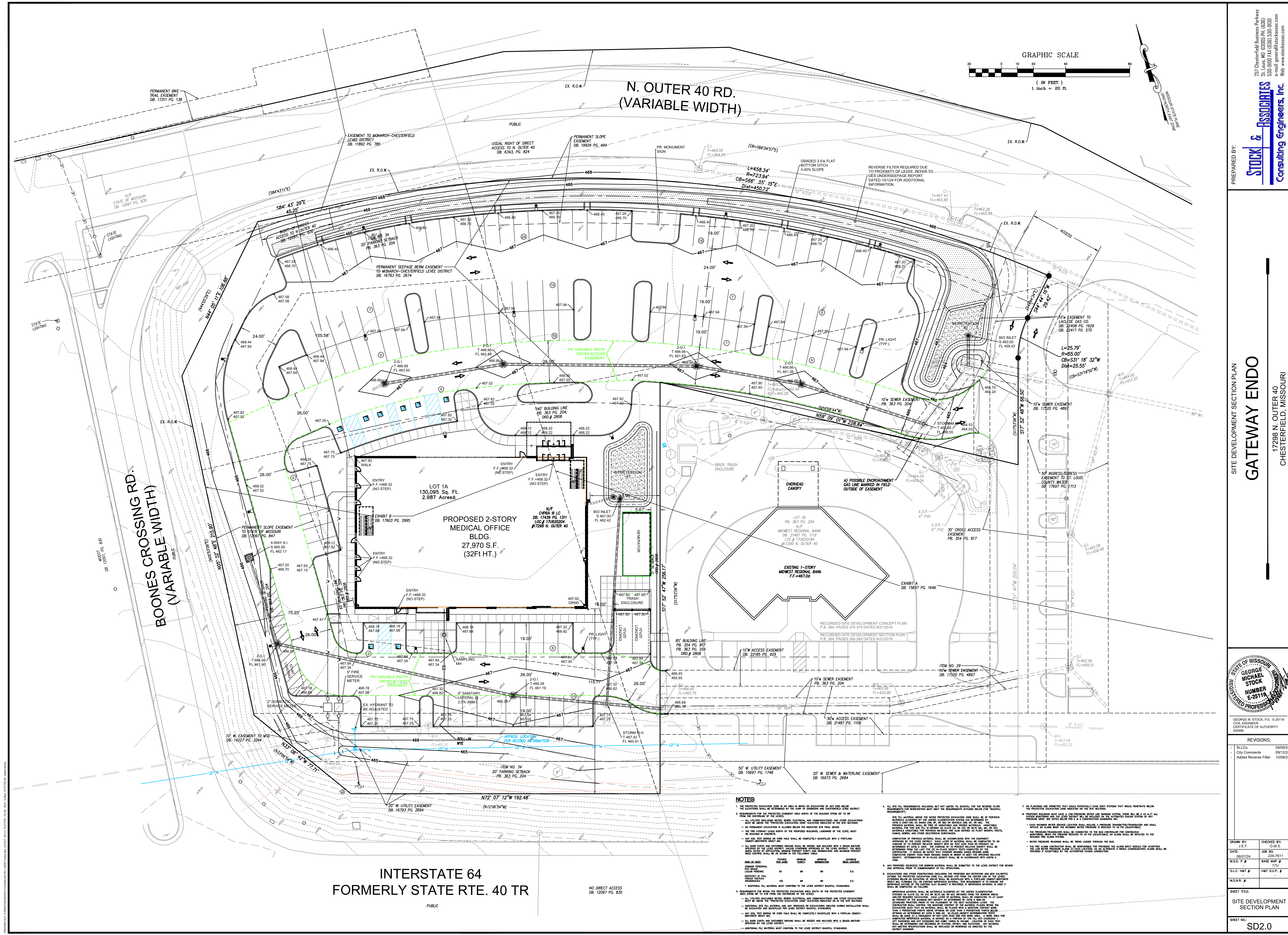
John L. Osterhage  
Chief, Readiness Branch

Attachment

**NOTICE TO POSTMASTERS:**

It is requested that this notice be conspicuously and continually placed for 30 days from the date of this issuance of this notice.





**NOTES:**

1. THE PROPOSED EXCAVATION ZONE IS AN AREA IN WHICH NO EXCAVATION OF ANY KIND SHALL BE PERMITTED... (text continues with detailed excavation requirements)
2. REQUIREMENTS FOR THE PROPOSED EXCAVATION ARE AS FOLLOWS:  
- ALL UTILITIES (INCLUDING WATER, SEWER, ELECTRICAL, GAS, COMMUNICATIONS, AND OTHER EXISTING UTILITIES) SHALL BE MAINTAINED AT ALL TIMES... (text continues with utility requirements)
3. EXCAVATION MATERIAL SHALL BE HANDLED AS FOLLOWS:  
- ALL EXCAVATION MATERIAL SHALL BE HANDLED IN ACCORDANCE WITH THE LEVEE DISTRICT BACKFILL STANDARDS... (text continues with material handling requirements)
4. ALL SITE FILL REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, BACKFILL FOR THE REVERSE FILTER... (text continues with fill requirements)
5. ANY PROPOSED EXCAVATION FOR EXISTING MATERIAL SHALL BE SUBMITTED TO THE LEVEE DISTRICT FOR REVIEW... (text continues with excavation review requirements)
6. EXCAVATIONS AND OTHER PENETRATIONS (INCLUDING THE PROPOSED NO-RETENTION AND BOX COLLECTORS)... (text continues with penetration requirements)
7. NO PLANTINGS ARE PERMITTED THAT COULD POTENTIALLY HAVE ROOT SYSTEMS THAT WOULD PENETRATE BELOW... (text continues with planting restrictions)