



Public Notice

**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 24-012
Public Notice Date
May 28, 2024

Postmaster, Please Post Conspicuously Until:

Expiration Date
June 25, 2024

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: Missouri Department of Transportation Attention: Mr. Brian Okenfuss, P.E.

LOCATION: The site is located along and perpendicular to the Bois Brule Levee. The work is located at the approximate coordinates 37°53'42.37"N and 89°50'56.02"W, in Perryville, MO. (Bois Brule Levee and Drainage District, Perry County, Missouri).

PROPOSED ACTION: The applicant is requesting to make alterations to the Bois Brule Levee. The proposed alterations include the construction three ramps that will allow property owners to access the properties during construction of the Chester Bridge. Specifically, this Section 408 application details the alterations to the levee embankment that will occur when materials are placed on the levee for trafficability and ease of access.

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 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:

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 23 May 2024 (Project Code: 2024-0095064) for the proposed action area. The St. Louis District has made a “No Effect” determination for the Gray Bat, Indiana Bat, Northern Long-eared Bat, and Tricolored Bat. The St. Louis District has made a “not likely to jeopardize the continued existence” determination for the Monarch Butterfly.

An automated report was obtained from the Missouri Department of Conservation on 23 May 2024. The Missouri Department of Conservation Database contained a record of possible Karst features in the project area. There was no record of State-listed species, Illinois Natural Area Inventory sites, dedicated Illinois Nature Preserves, or registered Land and Water Reserves in the vicinity of the project location.

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 driveway construction disturbance would 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 known active bald eagle nest is approximately 0.5 miles northwest of the project area. This nest is further than 660 feet from any work area, so a disturbance permit is not required. If a bald eagle nest is found in the project area, or in the vicinity of the project area, then the USFWS should be contacted, and the National Bald Eagle Guidelines shall be implemented.

St. Louis District Archaeologists conducted a Historic Property Preliminary Review on 8 May 2024. This review determined that there are no known archeological sites within the project area. The project is limited to driveway construction and has been previously surveyed. For these reasons, 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 Illinois 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 **June 25, 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 15 days from the date of this issuance of this notice.

