

CEXXX-XX *(This is your district abbreviation)*
Application XXX-XXXX-XXXXX *(ORM number)*

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Finding for Above-Numbered Permit Application

This document constitutes the Environmental Assessment, 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings.

1. Application as described in the public notice.

APPLICANT:

WATERWAY & LOCATION:

LATITUDE & LONGITUDE: Latitude North:
Longitude West:

PROJECT PURPOSE

Basic:

Overall:

Water Dependency Determination:

PROPOSED WORK:

Avoidance and Minimization Information:

Compensatory Mitigation:

EXISTING CONDITIONS:

2. Authority.

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403).

Section 404 of the Clean Water Act (33 U.S.C. §1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

3. Scope of Analysis.

a. NEPA. *(Write an explanation of rationale in each section, as appropriate)*

(1) Factors.

(i) Whether or not the regulated activity comprises "merely a link" in a corridor type

project.

(ii) Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity.

(iii) The extent to which the entire project will be within the Corps jurisdiction.

(iv) The extent of cumulative Federal control and responsibility.

(2) Determined scope.

Only within the footprint of the regulated activity within the delineated water.

Over entire property. *Explain.*

b. NHPA "Permit Area".

(1) Tests. Activities outside the waters of the United States are/are not included because all of the following tests are/are not satisfied: Such activity would/would not occur but for the authorization of the work or structures within the waters of the United States; Such activity is/is not integrally related to the work or structures to be authorized within waters of the United States (or, conversely, the work or structures to be authorized must be essential to the completeness of the overall project or program); and Such activity is/is not directly associated (first order impact) with the work or structures to be authorized. *Explain.*

(2) Determined scope. *Describe.*

c. ESA "Action Area".

(1) Action area means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

(2) Determined scope. *Describe.*

d. Public notice comments. NA

(1) The public also provided comments at public hearing, public meeting, and/or *Explain.*

(2) Commentors and issues raised.

Name	Issue

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- (3) Site was/ was not visited by the Corps to obtain information in addition to delineating jurisdiction. *Include dates and synopsis of information gathered if site was visited.*
- (4) Issues identified by the Corps. *Describe.*
- (5) Issues/comments forwarded to the applicant. NA/ Yes.
- (6) Applicant replied/provided views. NA/ Yes.
- (7) The following comments are not discussed further in this document as they are outside the Corps purview. NA/ Yes *Explain.*

4. Alternatives Analysis.

a. Basic and Overall Project Purpose (as stated by applicant and independent definition by Corps).

- Same as Project Purpose in Paragraph 1.
- Revised: *Insert revised project purpose here and explain why it was revised.*

b. Water Dependency Determination:

- Same as in Paragraph 1.
- Revised: *Insert revised water dependency determination here if it has changed due to changing project purpose or new information.*

c. Applicant preferred alternative site and site configuration.

- Same as Project Description in Paragraph 1.
- Revised: *Explain any difference from Paragraph 1*

Criteria.

Issue	Measurement and/or constraint
<i>e.g. Wetlands</i>	<i>Acres of direct impact</i>

d. Off-site locations and configuration(s) for each. (e.g. alternatives located on property not currently owned by the applicant are not practicable under the Section 404(b)(1) Guidelines as this project is the construction or expansion of a single family home and attendant features, such as a driveway, garage, storage shed, or septic field; or the construction or expansion of a barn or other farm building; or the expansion of a small

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business facility; and involves discharges of dredged or fill material less than two acres into jurisdictional wetlands.)

Off-site locations and configurations

Description	Comparison to criteria
Site A	
Site B	
Site C	

e. (NA) Site selected for further analysis and why.

f. On-site configurations.

Description	Comparison to criteria
Plan A1	
Plan A2	
Plan A3	

g. Other alternatives not requiring a permit, including No Action.

Description	Comparison to criteria
No Action	

h. Alternatives not practicable or reasonable. *Describe/explain*

i. Least environmentally damaging practicable alternative. *Describe/explain*

5. Evaluation of the 404(b)(1) Guidelines. (NA)

a. Factual determinations.

Physical Substrate. <input type="checkbox"/> See Existing Conditions, paragraph 1 <input type="checkbox"/>
Water circulation, fluctuation, and salinity. <input type="checkbox"/> Addressed in the Water Quality Certification. <input type="checkbox"/>
Suspended particulate/turbidity. <input type="checkbox"/> Turbidity controls in Water Quality Certification. <input type="checkbox"/>
Contaminant availability. <input type="checkbox"/> General Condition requires clean fill. <input type="checkbox"/>
Aquatic ecosystem and organism. <input type="checkbox"/> Wetland/wildlife evaluations, paragraphs 5, 6, 7 & 8. <input type="checkbox"/>
Proposed disposal site. <input type="checkbox"/> Public interest, paragraph 7. <input type="checkbox"/>
Cumulative effects on the aquatic ecosystem. <input type="checkbox"/> See Paragraph 7.e. <input type="checkbox"/>
Secondary effects on the aquatic ecosystem. <input type="checkbox"/> See Paragraph 7.e. <input type="checkbox"/>

b. Restrictions on discharges (230.10).

- (1) It has/has not been demonstrated in paragraph 5 that there are no practicable nor less damaging alternatives which could satisfy the project's basic purpose. The activity is/is not located in a special aquatic site (wetlands, sanctuaries, and refuges, mudflats, vegetated shallows, coral reefs, riffle & pool complexes). The activity does/does not need to be located in a special aquatic site to fulfill its basic purpose.
- (2) The proposed activity does/does not violate applicable State water quality standards or Section 307 prohibitions or effluent standards (based on information from the certifying agency that the Corps could proceed with a provisional determination). The proposed activity does/does not jeopardize the continued existence of federally listed threatened or endangered

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species or affects their critical habitat. The proposed activity does/does not violate the requirements of a federally designate marine sanctuary.

(3) The activity will/will not cause or contribute to significant degradation of waters of the United States, including adverse effects on human health; life stages of aquatic organisms' ecosystem diversity, productivity and stability; and recreation, esthetic, and economic values.

(4) Appropriate and practicable steps have/have not been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (see Paragraph 8 for description of mitigative actions).

6. Public Interest Review: All public interest factors have been reviewed as summarized here. Both cumulative and secondary impacts on the public interest were considered. Public interest factors that have had additional information relevant to the decision are discussed in number 7.

				+ Beneficial effect
				0 Negligible effect
				- Adverse effect
				M Neutral as result of mitigative action
+	0	-	M	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Conservation.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Economics.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Aesthetics.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	General environmental concerns.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wetlands.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Historic properties.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Fish and wildlife values
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Flood hazards.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Floodplain values.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Land use.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Navigation.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shore erosion and accretion.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Recreation.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Water supply and conservation.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Water quality.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Energy needs.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Safety.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Food and fiber production.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mineral needs.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Considerations of property ownership.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Needs and welfare of the people.

7. Effects, policies and other laws.

a. NA

Public Interest Factors. (add factors that are relevant to specific project that you checked in number 6 above and add a discussion of that factor)

Factor	Discussion

b. Endangered Species Act. NA

The proposed project:

(1) Will not affect these threatened or endangered species:

Any/ . Explain.

(2) May affect, but is not likely to adversely affect:

Species: . Explain.

(3) Will/ Will not adversely modify designated critical habitat for the .

Explain.

(4) Is/ Is not likely to jeopardize the continued existence of the .

Explain.

(5) The Services concurred/ provided a Biological Opinion(s). Explain.

c. Essential Fish Habitat. Adverse impacts to Essential Fish Habitat will/ will not result from the proposed project. Explain.

d. Historic Properties. The proposed project will/ will not have any affect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance based on letter from SHPO/ . Explain.

e. Cumulative & Secondary Impacts. The geographic area for this assessment is the watershed.

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- (1) Baseline. Approximately % of the watershed area is wetland. There are also approximately stream miles contained within the watershed comprised of % perennial, % intermittent, and % ephemeral tributaries. Corps permits for the period has authorized the fill of acres and linear feet of stream. The projection is that authorizations will continue at the current rate/ increase/ because . Natural resource issues of particular concern [from Corps & non-Corps activities] are .
- (2) Context. The proposed project is typical of/ a precedent/ very large compared to/ other activities in the watershed. Development similar to the proposal have occurred since . Future conditions are expected to be.. . Besides Corps authorized projects, other activities include. . Resulting natural resource changes and stresses include . These resources are also being affected by . A key issue(s) of concern in this watershed is/are the resulting from wetland loss.
- (3) Mitigation and Monitoring. The project affects the following key issue(s):
 . The magnitude of the proposed effect is within the watershed.
 Avoidance and minimization methods include that will result in
 . Compensatory mitigation, namely and monitoring described in herein will result in .

Expand this section commensurate with the level of impact and appropriate level of existing and reasonably foreseeable watershed stress to aquatic resources.

- f. Corps Wetland Policy. Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.
 - g. (NA) Water Quality Certification under Section 401 of the Clean Water Act has/ has not yet been issued by / State/ Commonwealth.
 - h. Coastal Zone Management (CZM) consistency/permit: Issuance of a State permit certifies that the project is consistent with the CZM plan. There is no evidence or indication from the that the project is inconsistent with their CZM plan.
 - i. Other authorizations.
 - j. (NA) Significant Issues of Overriding National Importance. *Explain.*
8. Compensation and other mitigation actions.
- a. Compensatory Mitigation
 - (1) Is compensatory mitigation required? yes no [If “no,” do not complete

the rest of this section]

- (2) Is the impact in the service area of an approved mitigation bank? yes no
- (i) Does the mitigation bank have appropriate number and resource type of credits available? yes no
- (3) Is the impact in the service area of an approved in-lieu fee program?
 yes no
- (i) Does the in-lieu fee program have appropriate number and resource type of credits available? yes no
- (4) Check the selected compensatory mitigation option(s):
- mitigation bank credits
 - in-lieu fee program credits
 - permittee-responsible mitigation under a watershed approach
 - permittee-responsible mitigation, on-site and in-kind
 - permittee-responsible mitigation, off-site and out-of-kind
- (5) If a selected compensatory mitigation option deviates from the order of the options presented in §332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in §332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project):
- (6) Other Mitigative Actions

9. General evaluation criteria under the public interest review. We considered the following within this document:

- a. The relative extent of the public and private need for the proposed structure or work. (e.g. Public benefits include employment opportunities and a potential increase in the local tax base. Private benefits include land use and economic return on the property; for transportation projects benefits include safety, capacity and congestion issues.)
Explain.
- b. There are no unresolved conflicts as to resource use. (There are unresolved conflicts as to resource use. One or more of the alternative locations and methods described above are reasonable or practicable to accomplish the objectives of the proposed structure or work but are not being accepted by the applicant.) (There are unresolved conflicts as to resource use however there are no practicable reasonable alternative locations and methods to accomplish the objective of the proposed work.)

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Check the appropriate box, delete the statements that do not apply and explain.

- c. The extent and permanence of the beneficial and/or detrimental effects, which the proposed work is likely to have on the public, and private uses to which the area is suited. Detrimental impacts are expected to be minimal although they would be permanent in the construction area. The beneficial effects associated with utilization of the property would be permanent. *Explain.*

10. Determinations.

- a. Public Hearing Request: NA

I have reviewed and evaluated the requests for a public hearing. There is sufficient information available to evaluate the proposed project; therefore, the requests for a public hearing are denied.

- b. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

- c. Relevant Presidential Executive Orders.

- (1) EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians. This action has no substantial direct effect on one or more Indian tribes. *Explain, if appropriate.*
- (2) EO 11988, Floodplain Management. Not in a floodplain. (Alternatives to location within the floodplain, minimization, and compensation of the effects were considered above.)
- (3) EO 12898, Environmental Justice. In accordance with Title III of the Civil Right Act of 1964 and Executive Order 12898, it has been determined that the project would not directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities.
- (4) EO 13112, Invasive Species.
 There were no invasive species issues involved.
 The evaluation above included invasive species concerns in the analysis of impacts at the project site and associated compensatory mitigation projects.

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Through special conditions, the permittee will be required to control the introduction and spread of exotic species.

- (5) EO 13212 and 13302, Energy Supply and Availability. The project was not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety. (The review was expedited and/or other actions were taken to the extent permitted by law and regulation to accelerate completion of this energy-related (including pipeline safety) project while maintaining safety, public health, and environmental protections.)

b. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

c. Compliance with 404(b)(1) guidelines. NA

Having completed the evaluation in paragraph 5, I have determined that the proposed discharge complies/ does not comply with the 404(b)(1) guidelines.

d. Public Interest Determination: I find that issuance of a Department of the Army permit is not/ is contrary to the public interest.

CEXXX-XX (*District abbreviation*) (Application XXX-XXXX-XXXXX (*ORM number*))
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PREPARED BY:

_____ Date:

Project Manager

REVIEWED BY:

_____ Date

Chief, Regulatory XX District (*insert appropriate level reviewer*)

APPROVED BY:

_____ Date

Colonel, Corps of Engineers, Commanding (*insert appropriate level approver*)