



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
P.O. BOX 60267
NEW ORLEANS LA 70160-0267

APR 27 2016

Regional Planning and
Environmental Division South
Environmental Compliance Branch

TO INTERESTED PARTIES
PUBLIC NOTICES PURSUANT TO 33 USC 408
PERMISSIONS TO ALTER US ARMY CORPS OF ENGINEERS PROJECTS

The US Army Corps of Engineers (USACE), New Orleans District will begin issuing public notices for requests for permission to alter USACE projects pursuant to Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 USC 408 (Section 408). Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of USACE, to grant permission for the alteration or occupation or use of a USACE civil works project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. For purposes of this notice and all other notices for Section 408 requests, the words "alteration" or "alter" include "occupation" and "use" and refer to any action by any entity other than USACE that builds upon, alters, improves, moves, occupies, uses, or otherwise affects the usefulness, or the structural or ecological integrity, of a USACE civil works project. Note that the term "permission" is used to designate the authorization provided by the USACE if approval is deemed appropriate.

In accordance with Engineer Circular (EC) 1165-2-216¹, "Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408" dated September 30, 2015, as revised and changed from time to time, USACE districts will make diligent efforts to involve the public in the decision-making process, including soliciting appropriate information from the public to inform the environmental analysis and public interest determination. For the purposes of Section 408 alteration requests that are expected to have less than a significant effect on the human or natural environment, a public notice will serve as the method of advising interested parties of the proposed alteration and will serve to solicit information to inform the USACE's environmental analysis and public interest determination. For the purposes of Section 408 requests that will have a significant effect on the human or natural environmental, and hence will require preparation of an environmental impact statement (EIS), interested parties will be advised of the proposed alteration by both a public notice and notice of availability of the draft EIS.

The New Orleans District receives numerous requests for activities that could alter constructed or authorized USACE civil works projects. These requests range from simple utility crossings of USACE levees to requests for large alterations that traverse

¹ Available at <http://www.publications.usace.army.mil/USACEPublications/EngineerCirculars.aspx>

civil works projects, including navigation channels maintained by the USACE. Due to the large volume of requests, the simple nature of most of the requests, and the cost and effort involved, the publication of notices in newspapers has been determined to be an impractical method for informing the public. Likewise, the development and maintenance of a postal mailing list, and the postal mailing of a public notice for every request has also been determined to be impractical.

To inform the public and to solicit public comment on Section 408 permission requests, the New Orleans District will provide public notices via the New Orleans District's home page on the internet at:

<http://www.mvn.usace.army.mil/About/Mission/Section408/PublicNotices.aspx>

Public notices will be posted as they become available and the public will have a minimum of 15 calendar days from the date of posting to comment. On the website, interested parties can choose to receive email notifications when new public notices are issued. The name and contact information for the New Orleans District's point-of-contact will be provided, and comments may be provided via email or postal mail. The web-site is active at this time.

The New Orleans District will evaluate requests for Section 408 permissions using several factors and by making several determinations. The benefits which reasonably may be expected to accrue from the proposed actions must be compared against their reasonably foreseeable detriments. Some, but not all, of the determinations to be made are:

1. Potential to impair the usefulness of the project. The review team will determine if the proposed alteration would limit the ability of the USACE project to function as authorized, or if it would compromise or change any authorized project conditions, purposes or outputs.
2. Potential for the proposed alteration to be injurious to the public interest. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, fish and wildlife habitats, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, public use, and recreation. This determination will consider information received from interested parties.
3. 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. While ensuring compliance is the responsibility of USACE, the requester is responsible for providing all information that the New Orleans District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, and policies. The District will work with the requester to determine the required information, which will be scaled to the likely impacts of the proposed alteration.

Following this notice the New Orleans District will provide public notices via the New Orleans District's home page on the internet (<http://www.mvn.usace.army.mil/About/Mission/Section408/PublicNotices.aspx>) as they become available and the public will have a minimum of 15 calendar days from the date of posting to comment. If you have comments or questions about the public notice process for Section 408 permission requests, you may contact Mr. Richard Boe at (504) 862-1505, or by email at richard.e.boe@usace.army.mil, or by postal mail at the address on the letterhead.



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