



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
ROCK ISLAND DISTRICT – CORPS OF ENGINEERS
CLOCK TOWER BUILDING - PO BOX 2004
ROCK ISLAND, ILLINOIS 61204-2004

CEMVR-EO

SEP 10 2018

MEMORANDUM OF RECORD

SUBJECT: Establishment of Section 408 Categorical Permissions for the U.S. Army Corps of Engineers Rock Island District (District)

1. Reference.

a. Engineer Circular (EC) 1165-2-216, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, Paragraph 6.S, Categorical Permissions.

b. Programmatic Environmental Assessment, Categorical Permissions for Requests to Alter U.S. Army Corps of Engineers Civil Works Projects, U.S. Army Corps of Engineers Rock Island District, July 2018.

2. This memorandum provides guidance for the use of the following seven (7) Categorical Permissions (CP) when applied to federally-authorized USACE constructed Civil Works projects within the Rock Island District's area of operation only.

a. Categorical Permission 1 - Overhead Transmission Line Installation/Replacement, Geotechnical Investigations, and Installation or Removal/Abandonment of Deep Foundations, Poles, Posts, Piezometers, Wells, and Relief Wells. Alterations include, or are similar in nature to, geotechnical investigations including geotechnical borings, cone penetration tests, and multi-electrode electrical resistivity tests and other geophysical tests. This CP would allow for the installing, removing, or abandoning deep foundation structures (such as drilled and driven piling, piers, and sheets), poles, posts, piezometers, observation wells, and relief wells, and installation of associated features such as, but not limited to, transmission lines, guy wires, or other operational components resulting in limited surface and subsurface ground disturbance, not including right of way clearing within the geographic and institutional scope of this CP and associated Programmatic Environmental Assessment (PEA).

Exploration, testing, and wells related to oil and gas exploration and production are excluded from this CP because of increased risks to the environment from these products should an accident occur. The PEA also excludes wells intended to supply domestic, agricultural, industrial, municipal and other uses. This CP does not include hydrofracturing techniques, also known as "fracking."

Requests for these and other types of alterations not allowed in this alternative would need to be evaluated as an individual Section 408 permission and in a separate stand-alone Environmental Assessment or Environmental Impact Statement.

These alterations typically have small permanent project footprints. Any holes left as a result of geotechnical investigations, the removal of deep foundation structures, poles, posts, piezometers abandoned wells and pressure relief wells would be required to be filled in accordance with USACE guidance, typically with tremie-placed grout. Construction materials and backfill must be compatible with the altered project's original design and purpose. This may require special backfill materials and a greater level of effort than traditional construction of similar features.

Transmission lines crossing an active District managed navigation channel must be approved by the United States Coast Guard, and neither impede navigation nor impair the District's ability to operate and maintain the navigation channel.

Geotechnical exploration drilling by a non-Federal sponsor needed for the purposes of their operation and maintenance responsibilities (such as for the design of a repair) does not require Section 408 permission as long as requirements of EC 1165-2-216, Appendix A, are followed, including the District's review of the drilling plan. Such exploration may require District Real Estate permission for right of entry or other appropriate real estate instrument.

b. Categorical Permission 2 - Horizontal Directional Drilling, Tunneling, and Tremie Backfilling for Subsurface Exploration, Utility Installation, and Utility Removal/Abandonment. This CP includes for alterations that include, or are similar in nature to, subsurface exploration and testing using horizontal directional drilling (HDD) methods, and installation and removal/abandonment of utilities using HDD and tunneling methods. For the purposes of this CP, HDD includes processes that are surfaced-launched, while tunneling includes processes requiring a starting and ending pit. Inserting tremie pipes and hoses into existing pipes, conduits, and appurtenant structures for the purpose of filling as a method of abandonment is also covered by this CP. Utilities may include, but are not limited to wires, cables, and pipes for the conveyance of non-hazardous material within the geographic and institutional scope of this CP and associated PEA.

Utilities that would be used to transport and store oil and gas are excluded from this CP because of increased risks to the environment from these products should an accident occur. This CP also does not include hydrofracturing techniques, also known as "fracking." Tunnels greater than 4 feet diameter, not including the size of the starting and ending pits, are not included in this CP.

Requests for these and other types of alterations not allowed in this CP would need to be evaluated as an individual Section 408 permission and in a separate stand-alone Environmental Assessment or Environmental Impact Statement.

These alterations typically have small permanent project footprints. Any holes left as a result of explorations, testing, utility installation, and utility removal/abandonment would be required to be filled in accordance with USACE guidance, typically with controlled earth backfill or tremie-placed grout. Utility materials and backfill must be compatible with the altered project's original design and purpose. This typically would require special backfill materials and a greater level of effort than traditional utility construction.

c. Categorical Permission 3 - Exploratory Excavations, Utility Installation and Removal/Abandonment Using Excavation and Cover Construction. This CP includes projects, or are similar in nature to, exploratory excavations, test pits, inspection trenches, and installation, removal, and abandonment of utilities using excavation and cover construction methods within the geographic and institutional scope of this CP. Utilities may include, but are not limited to wires, cables, conduits, pipes, and associated vaults, manholes, and other appurtenances for the conveyance of non-hazardous materials within the geographic and institutional scope of this CP and associated PEA.

Utilities that would be used to transport and store oil and gas are excluded from this CP because of increased risks to the environment from these products should an accident occur. Requests for these and other types of alterations not allowed in this alternative would need to be evaluated as an individual Section 408 permission and in a separate stand-alone Environmental Assessment or Environmental Impact Statement.

These alterations typically have small permanent project footprints. Any excavations would be required to be filled in accordance with USACE guidance, typically with controlled earth backfill or tremie-placed grout. Utility materials and backfill must be compatible with the altered project's original design and purpose. This typically will require special backfill materials and a greater level of effort than traditional utility construction.

d. Categorical Permission 4 - Small Structures in Undeveloped Areas and Waters Encompassing an Active District Managed Navigation Channel. This CP addresses the construction or demolition of small structures in undeveloped areas on federally-authorized levees, channel modification projects within the federally-managed lands and real property interests of these projects within the scope of this document.

It would include but not be limited to such actions as modifying existing structures, shallow footings and foundations, basements, vaults, manholes, tanks, and other similar below-grade structures, and abandonment and filling of such structures, installing fences, installing or modifying utility structures, pump stations, and constructing small buildings within the geographic and institutional scope of this CP and associated PEA.

Tanks and other features that would be used to transport and store oil and gas are excluded from this CP because of increased risks to the environment from these products should an accident occur. Grade changes that permanently affect a project's authorized grade are excluded from this CP.

Any excavations would be required to be filled in accordance with USACE guidance, typically with controlled earth backfill or tremie-placed grout. Construction materials and backfill must be compatible with the altered project's original design and purpose. This may require special backfill materials and a greater level of effort than traditional construction of similar features.

This CP also includes structures extending out into the navigable waterway such as docks (including those that float), intake/outfall pipes, dolphins, mooring stations, etc. not located within the historic and/or theoretical Navigation Channel.

e. Categorical Permission 5 - Ground Surface and Overhead Alterations in Undeveloped Areas, Including Recreational Trails, Access Roads, Boat Ramps, Erosion Protection Construction Staging Areas, Minor Grade Changes, Drainage Ditches, Overhead Utilities and Bridges, Borrow Areas, Erosion Control Measures, and Environmental Enhancement. This CP includes projects, or projects similar in nature to, the construction, improvement, maintenance, removal, and abandonment of recreation trails, roads, boat ramps, erosion protection, and constructing staging areas in undeveloped areas within the geographic and institutional scope of this CP and associated PEA. Minor grade changes and drainage ditches, overhead utilities and bridges (not including supports and foundations), use of existing borrow areas and environmental enhancement activities, including, but not limited to the construction of wetlands, are also covered in this CP.

Utilities that would be used to transport and store oil and gas are excluded from this CP because of increased risks to the environment from these products should an accident occur. Grade changes that permanently affect a project's authorized grade are excluded from this CP.

f. Categorical Permission 6 – Minor Maintenance Dredging Within Waters Encompassing an Active District Managed Navigation Channel. This CP addresses minor dredging below the plane of the ordinary high water mark or the mean high water of the District managed waterway. The dredging activity must occur outside of the historic and/or theoretical Navigation Channel and will not impede the flow of navigation traffic. The dredging activities must also not impede the District's ability to operate and maintain the navigation channel, or impact structures utilized in directing river flow, such as, but not limited to, wing dams and jetties. This CP does not authorize the dredging or placing dredged material that would degrade sites supporting submerged aquatic vegetation (including wetlands, fish spawning areas or the connection of canals and other artificial waterways). Activities under this CP are also regulated by the District's Regulatory Permit authority.

Examples may be small boat harbors, grain terminal approaches and loading areas, mooring facilities, and docks.

g. Categorical Permission 7 Linear Transportation Projects over Waters Encompassing an Active District Managed Navigation Channel. This CP addresses construction of a bridge (new or replacement) across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills, provided the construction of the bridge structure has been authorized by the U.S. Coast Guard under section 9 of the Rivers and Harbors Act of 1899 or other applicable laws. Causeways and approach fills must be coordinated with the District's Regulatory Permit authority. Bridges altering the District's federally-authorized flood risk management projects, dams, locks, or real property interests are not included in this CP and require a separate Section 408 determination.

3. Based on the evaluation results of the District's review and evaluation of the public comments received, the USACE has determined that these categorical permissions will not impair the usefulness of the project, and are not injurious to the public interest; provided the following terms and conditions are adhered to:

a. For alterations that impact a federally-authorized Civil Works project with a non-federal sponsor, the requester must provide, at a minimum, a letter of no objection from the project's sponsor. The applicant shall contact the appropriate non-federal sponsor for locally established requirements.

b. Prior to construction of any alteration that complies with these categorical permissions, the applicant must receive written concurrence from the Rock Island District.

In order to ensure compliance with the categorical permissions the applicant must provide for review and approval, a request letter, construction schedule, a map (including real estate boundaries), detailed design plans and specifications, flood action plan, appropriate engineering computations, and any supporting documentation, as appropriate, such as drilling program plans, endangered species surveys, historic and cultural resources surveys, borrow source locations and maps, and operation and maintenance requirements. The non-federal sponsor shall keep a copy of the District's written concurrence in their Operation and Maintenance Manual for record purposes.

c. All Section 408 permission requests must demonstrate full compliance with USACE engineering regulations, manuals, circulars, and other USACE published requirements. These are provided on the USACE websites:

- <http://www.publications.usace.army.mil/USACE-Publications/Engineer-Manuals>
- <http://www.publications.usace.army.mil/USACE-Publications/Engineer-Regulations/>

d. Design and construction specifications must be signed and sealed by a Registered Professional Engineer and, if applicable, a Registered Geologist from the respective state where the work would be performed.

e. The proposed alteration must not negatively impact typical inspections, operations, and maintenance of the federally-authorized project.

f. The proposed alteration must not impact any flood-fighting operations conducted at the federally-authorized project.

g. The proposed alteration must not result in any increase in operation and maintenance costs to the Government.

h. The proposed action must meet the geographic and institutional scope of the Programmatic Environmental Assessment, Categorical Permissions for Requests to Alter U.S. Army Corps of Engineers Civil Works Project, July 2018.

i. Statutory or non-statutory wetland mitigation would not be required.

j. Submit a USFWS Planning and Conservation report (<https://ecos.fws.gov/ipac/>) documenting any threatened or endangered species potentially occurring within the project area. Any proposed alteration must have either a "no effect", or "may affect, but not likely to adversely affect" determination for potential impacts to any Federally listed threatened or endangered species, including their critical habitat, in accordance with the

Endangered Species Act. The IPaC report must be obtained within 90 days prior to submitting to the District for their review.

k. Ensure any proposed alteration would not result in the take of any migratory birds as defined in the Migratory Bird Treaty Act.

l. Confirm any proposed alteration does not result in the transfer of any invasive species to new locations.

m. Validate the proposed action does not require an individual Clean Water Act, Section 404 permit or there is an applicable Nationwide or Regional General Permit.

n. Demonstrate best management practices to control stormwater runoff or any point source discharges in accordance with any required National Pollutant Discharge Elimination System permits.

o. Confirm the proposed alteration does not encourage additional development within the 100-year regulatory base floodplain.

p. Document the proposed alteration does not adversely affect any cultural resources and is in compliance with the National Historic Preservation Act Section 106.

q. Proposed alterations must meet other conditions as described in the Programmatic Environmental Assessment, Categorical Permissions for Requests to Alter U.S. Army Corps of Engineers Civil Works Project, July 2018, Section IV, Environmental Consequences, which include, but are not limited to, air quality, water quality, wetlands, terrestrial vegetation, fish and wildlife, threatened and endangered species, invasive species, floodplain management, socioeconomics and environmental justice, cultural resources, protected resources within the geographic area, hazardous, toxic, and radioactive waste, constructed resources, probable adverse effects which cannot be avoided, relationship between short-term use and long-term productivity, irreversible or irretrievable commitment of resources, relationship of the proposed project to land-use plans, indirect and cumulative impacts of the preferred alternative, and compliance with environmental quality statutes.

r. The District must approve a flood contingency plan before the requester starts any fieldwork whenever the proposed alteration has the potential to reduce or negatively impact, even temporarily, the level of protection or performance of flood risk management features.

s. The Section 408 project requester will return any excess borrow material to its original location, grade onto nearby lands, use for other project purposes, or dispose of offsite resulting in no environmental impacts. The excess material from federally-

project lands is not allowed to be disposed of in any wetlands, waters of the U.S., locations in which woody vegetation would need to be cleared, or locations affecting cultural resource sites.

t. If the project requires borrow material, the District must preapprove the location to ensure there are no environmental impacts. Examples include negatively impacting threatened or endangered species and their habitat, wetlands, cultural resource locations, and removing trees larger than three inches diameter at breast height.

u. For alterations requiring excavation, following construction, the Section 408 requester must plant native herbaceous vegetation or a District/State-approved grass seed mixture if required for engineering purposes, such as on federally-authorized levees.

v. The applicant shall notify the Rock Island District and the non-federal sponsor 72-hours prior to the commencement of work.

w. The applicant shall provide construction as-built documentation and survey data to the Rock Island District and non-federal sponsor within 60-days upon completion of construction.

4. General. Each request received will be reviewed by Rock Island District Engineering, Environmental Compliance, Regulatory, Real Estate, Emergency Management, and/or Operations staff to verify compliance with these categorical permissions. Additional compliance information may be requested by USACE prior to confirming compliance with these established categorical permissions. If the District determines the proposed alteration cannot be covered by a categorical permission(s), or the District Commander is not the appropriate approval authority, then the alteration must be processed by the District as an individual Section 408 permission. The applicant will be notified of this decision in writing by the Rock Island District.

Proposed alterations may occur on lands owned or operated by the Federal Government, private entities, or public entities. Section 408 permission does not grant any property rights or exclusive privileges, and appropriate real estate instruments must be acquired by an applicant prior to construction. For proposed alterations on USACE owned or managed lands, please contact the Rock Island District Real Estate Division, via e-mail at cemvr-re@usace.army.mil, or by phone at 309-794-5506.

Compliance with these categorical permissions only grants authority under Section 408, and cannot grant authority under USACE Section 10 or 404 authorities. For alterations that will require a Section 10 or 404 permit, a separate application must be submitted to the Rock Island District Regulatory Branch. Please contact the Rock Island District Regulatory Branch, via e-mail at cemvr-odpublicnotice@usace.army.mil, or by phone at 309-794-5057.

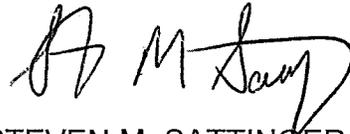
This permission does not obviate the need to obtain other Federal, state, or local authorizations required by law.

The applicant is still required to obtain all other federal, state, and local permits, permissions, and certifications, and to comply with other applicable Federal and State design standards.

5. These categorical permissions will remain valid for a period of five-years from the date on this memorandum. The District Commander has the authority to suspend or revoke these categorical permissions within that period, as appropriate.

6. Questions regarding the above will be taken by the Section 408 Program Manager at 309-794-5208, or by e-mail at MVR408@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "S M Sattinger". The signature is written in a cursive, somewhat stylized font.

STEVEN M. SATTINGER
COL, EN
Commanding