



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

DETERMINATION OF CATEGORICAL EXCLUSION

**408 PERMISSION (Permit # 18019-1)
CENTRAL VALLEY FLOOD PROTECTION BOARD
For
MARC BRENNEN SECURITY FENCE
SACRAMENTO COUNTY, CALIFORNIA**

INTRODUCTION

This Determination of Categorical Exclusion memorializes the guidance and technical findings used to determine the appropriate level of documentation required under the National Environmental Policy Act (NEPA) and compliance with applicable environmental laws.

For information concerning this Determination of Categorical Exclusion, contact:

Elizabeth Holland
Project Manager
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, CA 95814
Phone: (916) 557-6763
elizabeth.g.holland@usace.army.mil

PROPOSED ACTION

The U.S. Army Corps of Engineers (Corps) proposes to grant permission to the Central Valley Flood Protection Board (CVFPB) for Marc Brennen to install an ornamental metal fence and driveway gate. The project would include the installation of a metal fence along the driveway of a private residence.

PROJECT LOCATION

The project is located 2945 Garden Highway in Sacramento, Sacramento County California (Exhibit 1). The project is located on the Sacramento River and is part of Sacramento River Flood Control Project.

PROJECT DESCRIPTION

The project would include the installation of a fence and gate at a private residence. All work will occur above the high water mark and no 404 Permit is required.

ENVIRONMENTAL CONSIDERATIONS

The fence is being installed along a paved road and no affect to human or natural environment would occur. Because the fence will be installed within the levee along the Garden Highway and no native soil will be affected there is no potential to affect historic properties. There are no endangered species in the project area and no vegetation would be removed.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

"Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human or natural environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required (CEQ 1508.4).

ER 200-2-2: Procedures for Implementing NEPA states that the actions listed below, when considered individually and cumulatively, do not have significant effects on the quality of the human environment and are categorically excluded from NEPA documentation. However, district commanders should be alert for extraordinary circumstances which may dictate the need to prepare an EA or an EIS. Even though an EA or EIS is not indicated for a Federal action because of a "categorical exclusion", that fact does not exempt the action from compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS. Pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. 408 (Section 408) falls under category h: Real Estate grants for rights-of-way which involve only minor disturbances to earth, air, or water.

There are no extraordinary circumstances in which a normally excluded action may have a significant environmental effect (See Enclosure 1 - NEPA Checklist). As described below, the proposed work complies with other Federal laws.

OTHER APPLICABLE LAWS

Endangered Species Act (16 U.S.C. 1531 et seq.)

Pursuant to the Federal Endangered Species Act (ESA) (PL 93-205), the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) have regulatory authority over federally listed species. The ESA prohibits “take” of listed species unless authorized by an incidental take statement issued after federal agency consultation under Section 7. There are no endangered species in the project area, for this reason, as the lead Federal Agency, the Corps has determined that Section 7 Consultation is not required.

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).

Section 106 of this Act requires a Federal agency to take into account the effects of Federal undertakings on historical properties following the procedures outlined in 36 CFR 800. Because the fence will be installed within the levee along the Garden Highway and no native soil will be affected Section 106 is not required because there is no potential to affect historic properties.

DETERMINATION

The proposed 408 Permission to the Central Valley Flood Protection Board for the Marc Brennen fence falls under a category of actions that the Corps has excluded from NEPA review. No extraordinary circumstances have been identified that would require preparation of an EA or EIS. The Corps has therefore determined that the proposed action is not considered to be a major Federal action significantly affecting the quality of the human and natural environment and is therefore categorically excluded from NEPA documentation.

PREPARED BY: Elizabeth Holland
Environmental Manager
U.S. Army Corps of Engineers
Sacramento District

APPROVED BY: _____
Ryan Larson
Chief, Flood Protection and Navigation Section
U.S. Army Corps of Engineers
Sacramento District

Exhibit 1. LOCATION AND VICINITY MAP

