

US Army Corps of Engineers Section 408 Overview

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408 Permissions Section

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District



US Army Corps of Engineers
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Authorization - Section 408

Authorized in Section 14 of the River and Harbors Appropriation Act of 1899 (33 USC 408).

Provides that the Secretary of the Army may, on recommendation of the Chief of Engineers, ***grant permission for the alteration of a public work so long as that alteration is not injurious to the public interest and will not impair the usefulness of the work.***



Policy Highlights – EC 1165-2-220

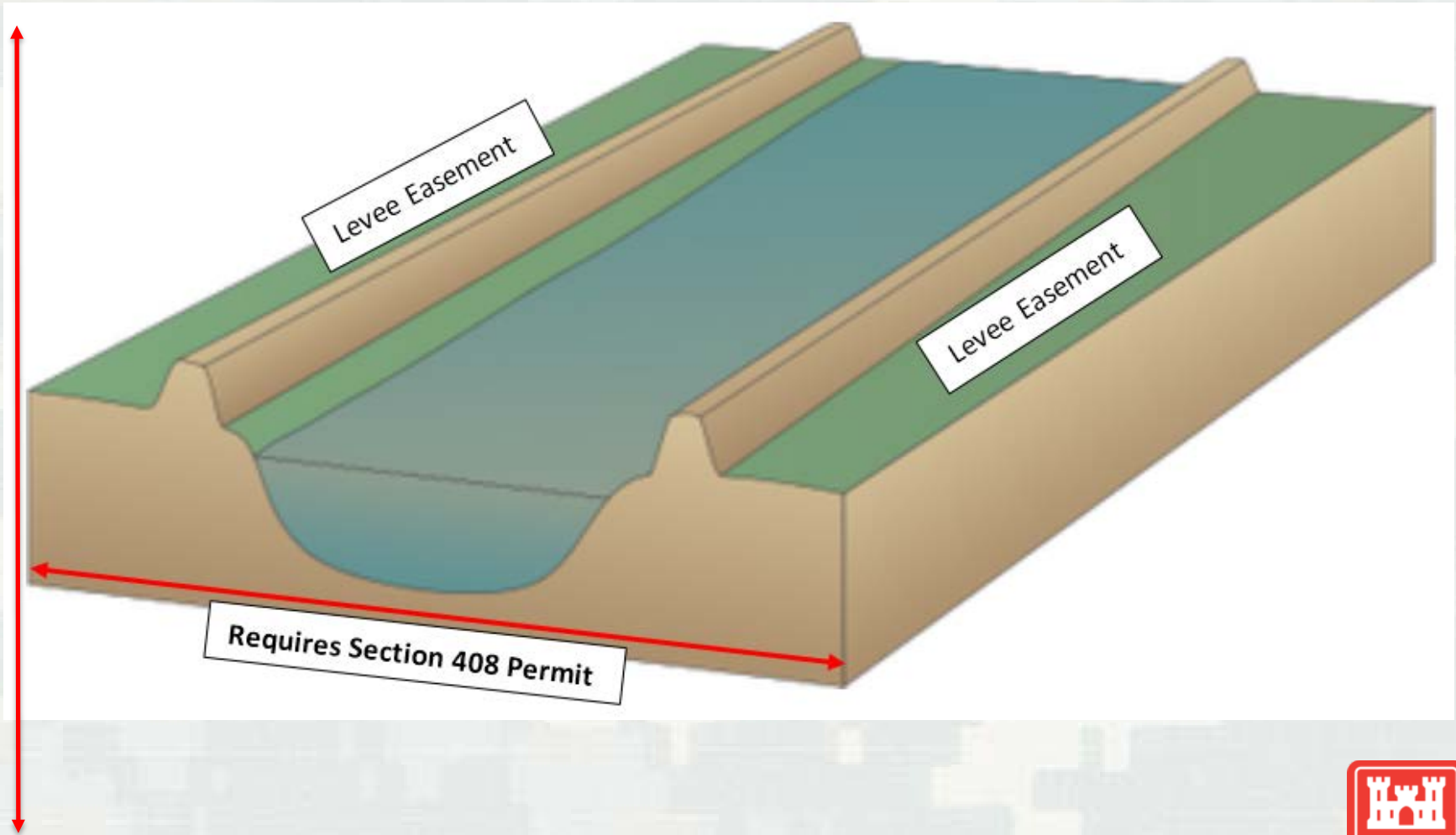
USACE Policy - Engineering Circular 1165-2-220 :

Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408

- Defines what USACE considers an Alteration:
 - Alterations or alter refers to any action by any entity other than USACE that builds upon, alters, improves, moves, occupies, or otherwise affects the usefulness, or the structural or ecological integrity, of a USACE project. Alterations also include actions approved as “encroachments” pursuant to 33 CFR 208.10.



Section 408 Jurisdiction



Process Steps

- Pre-Application Coordination
- Requester Submits 408 Request
- Completeness Determination
- Review and Decision
- Issue Letter of Permission
- Post-Permission Oversight



408 Review Process

- Step 1: Pre-Application Coordination
 - Pre-application meeting to help identify USACE procedures and potential issues – Lead Federal Agency designation letter if another federal agency involved
- Step 2: Submit Request through the Non Federal Sponsor
 - Non-Federal sponsor reviews the request for completeness (state compliance typically)
 - Non-Federal sponsor submits request to USACE
- Step 3: USACE Conducts Completeness Determination
 - Appropriate technical details and analyses
 - Biological assessment and any associated NEPA doc completed
 - Cultural resources report
 - Env compliance docs (if another fed agency designated lead)
 - Real estate details



408 Review Process

- Step 4: USACE Technical Review
 - Impair of the Usefulness of the Project Determination
 - Injurious to the Public Interest Determination
 - Legal and Policy Compliance Determination

- Step 5: Summary of Findings
 - SPK makes their recommendation

- Step 6: USACE issues permission and permit decisions

- Step 7: Post Permission Oversight

