



US Army Corps
of Engineers®
Seattle District

Public Notice

REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER 33 USC 408 (Section 408)

Planning and Environmental & Cultural
Resources Branch
ATTN: Section 408 Coordinator
4735 E Marginal Way S.
Building 1202
Seattle, WA 98134

Public Notice Date: July 28, 2022
Expiration Date: August 29, 2022
Reference: 408-NWS-2021-0032

PROJECT TITLE: NorthWestern Energy Pole Replacement (Section 408 Reference Number: 408-NWS-2021-0032)

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the NorthWestern Energy (Requester) has requested permission from the U.S. Army Corps of Engineers (USACE) to alter the Clark Fork Area III Levee (Federal Project). The Federal Project was constructed under authority of the 1950 Flood Control Act. The Federal Project includes levees and floodwalls on the right bank of the Clark Fork River.

LOCATION: The Federal Project extends along the right bank of the Clark Fork River within the corporate limits of the city of Missoula, Montana. The proposed alteration is located on the right (north) bank, just southeast of the Higgins Avenue Bridge.

REQUESTER'S PROPOSED ACTION: The Requester's proposed action (NorthWestern Energy Pole Replacement) includes alterations along the Clark Fork Area III Levee. The proposed action entails removing five wood electric transmission structures (eight poles) and replacing them with two steel poles and one engineered glue laminated wood H structure, all within the Clark Fork Area III Levee. The purpose of the work is to support the Missoula City substation rebuild to address reliability issues, optimize system configuration, support load growth, and mitigate representational risk associated with Missoula and the Missoula City substation.

Only project elements that would alter the Federal Project are within the review scope for the Section 408 permission request.

EVALUATION: USACE has determined that the NorthWestern Energy Pole Replacement would entail an alteration to the Federal Project, and therefore requires permission under Section 408.

NATIONAL ENVIRONMENTAL POLICY ACT: The proposed action meets categorical exclusion provisions under 33 CFR § 230.9 (Engineer Regulation 200-2-2 para 9a). The proposed alterations consist of repair and maintenance of an existing federally constructed levee structure and the work is necessary to carry out the authorized project purpose of flood protection. Furthermore, the work to be completed, when considered individually and cumulatively, does not have significant effects on the quality of the human environment. Examples of maintenance work that meets this categorical exclusion include routine operation and maintenance actions, general administration, equipment purchases, custodial actions, erosion control, painting, repair, rehabilitation, replacement of existing structures and facilities such as buildings, roads, levees, groins and utilities, and installation of new buildings utilities, or roadways in developed areas. Much of the environmental documentation and analysis was already completed when the original construction occurred.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation, or alteration of any USACE civil works project is contained in 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, to grant permission for the alteration or occupation or use of a USACE 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. The Secretary of the Army's authority under Section 408 has been delegated to USACE, Chief of Engineers. USACE, Chief of Engineers has further delegated the authority to USACE, Directorate of Civil Works and Division and District Engineers, depending upon the nature of the activity.

LIMITS OF SECTION 408 AUTHORITY: The Requester has the responsibility to acquire all other permissions or authorizations required by Federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC Section 1344), and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413). In addition, an approval under Section 408 does not grant any property rights or exclusive privileges, nor does it authorize any injury to the property or rights of others.

PUBLIC INVOLVEMENT: USACE will accept comments on this Public Notice and make them part of the evaluation record, and they will be considered in USACE's determination whether the proposed alteration would be injurious to the public interest and would impair the usefulness of the Federal Project, as well as assessing the impacts of the proposal on the quality of the human environment. Interested parties may submit in writing any comments concerning this notice. USACE will consider all submissions received before the expiration date of this notice.

USACE will post this Public Notice to the following website:
<http://www.nws.usace.army.mil/Business-With-Us/Section408/>

SUBMITTING COMMENTS: Comments pertaining to this public notice must be submitted via email or conventional mail on or before August 29, 2022 and must include Reference Number 408-NWS-2021-0032. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act, including personally identifiable information such as names, phone numbers, and addresses.

All email comments should be sent to: CENWS-Section408@usace.army.mil.

Conventional mail comments should be sent to: Planning, Environmental and Cultural Resources Branch, ATTN: Section 408 Coordinator, Building 1202, 4735 E Marginal Way S., Seattle, WA 98134

Attachment 1. Overview and Vicinity Map

