



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
100 W. OGLETHORPE AVENUE
SAVANNAH, GEORGIA 31401-3604

FEBRUARY 21, 2024

SPECIAL PUBLIC NOTICE

PROPOSAL TO ACCEPT FUNDS FROM THE GEORIGIA PORTS AUTHORITY TO EXPEDITE SECTION 408 PERMISSION APPLICATION REVIEW

COMMENT PERIOD:

Begins: February 21, 2024

Ends: March 7, 2024

This Special Public Notice announces the preliminary intent of the U.S. Army Corps of Engineers' (USACE) Savannah District, to accept funds contributed by the Georgia Port Authority ("the requester") in order to expedite processing of their Section 408 requests, subject to a series of limitations below:

Section 214 of the Water Resources Development Act of 2000 (WRDA 2000, Public Law No.106-541), as amended by Public Law 113-121, provides:

- (a) FUNDING TO PROCESS PERMITS. -
(2) Permit Processing. - The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity or a public utility company or natural gas company to expedite the evaluation of a permit of that entity or company related to a project or activity for a public purpose under the jurisdiction of the Department of the Army.
- (b) EFFECT ON PERMITTING. -
(1) IN GENERAL. - In carrying out this section, the Secretary shall ensure that the use of funds accepted under sub-section (a) will not impact impartial decision making with respect to permits, either substantively or procedurally.

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Savannah District, U.S. Army Corps of Engineers.

Interested parties are hereby notified that a request for permission to alter a U.S. Army Corps of Engineers (USACE) project pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 408) will be evaluated by the Savannah District. Written comments, including any objections, stating reasons therefor, are being solicited from anyone having an interest in the intent to accept and/or expend funds provided by the requester. Comments will become part of the USACE administrative record and will be considered in determining whether it would be in the public interest to proceed with this action. Comments must be mailed or emailed by or before the last day of the comment period and must reference the file number of this public notice.

If the District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with the Act and is not otherwise contrary to the public interest, then Savannah District will implement Section 214 of WRDA 2000, as amended, through a signed memorandum of agreement and accept the funds from the requester.

EXPENSE OF FUNDS: The USACE Section 408 Program is funded as a congressionally appropriated line item in the annual Federal budget. Additional funds received from the requester would be used to augment the budget of the Corps' Savannah District Section 408 Program and expedite review of Section 408 requests from the requester, in accordance with the provisions of Section 214 of WRDA 2000, as amended. The USACE Savannah District would establish a separate account to track receipt and expenditure of the funds. Savannah District employees would charge their time against such account when working on the requester's Section 408 permission request.

Funds would be expended primarily to the USACE Deep Draft Center of Expertise and Savannah District for processing the requester's Section 408 permission request. The USACE Deep Draft Center of Expertise will evaluate the overall impact to the existing traffic/terminals associated with the new container yard using a HarborSym simulation model. Savannah District will conduct the administrative actions associated with coordination and request processing. Such processing activities would include, but would not be limited to, the following: application completeness review, site visits, preparation of public notices, preparation of correspondence, meetings, coordination and consultation with other agencies, public interest review, distribution of public notices, analysis of navigational impacts, preparation of environmental assessments, preparation of decision documents, and application compliance.

Further detail on the Section 408 permission request can be found at <https://www.sas.usace.army.mil/Portals/61/docs/Regulatory/publicnotices/20231120-SAS-2013-00406-Chatham-SP-JPN-Ext-SEW.pdf?ver=fwuAwPxWRZyfADe-TEeLuQ%3d%3d>.

IMPARTIAL DECISION-MAKING: To ensure the funds will not impact impartial decision-making, the following procedures would apply:

- (a) In order to preserve impartial decision making, the funds cannot be used by the final decision-maker for his or her review, recommendations, or decision concerning a Section 408 request.
- (b) All final 408 decisions for requests where these funds are expended will be made available at [Savannah District > About > Divisions and Offices > Planning Division > Plans and Reports \(army.mil\)](#).
- (c) The Corps will not eliminate any procedures or decisions that would otherwise be required for that type of project and permission application under consideration.
- (d) The Corps will comply with all applicable laws and regulations.
- (e) Funds will only be expended to provide priority review of the requester's permission request.

The USACE Savannah District does not expect priority review of the requester's projects to negatively impact the Section 408 program or to increase the time for evaluations of other projects since additional staff may be hired to augment these priority reviews.

SUBMITTING COMMENTS: Written comments, referencing Identification Number 408-SAS-2023-0023 must be submitted to the office listed below on or before March 7, 2024.

WRITTEN COMMENTS MAY BE MAILED TO:

Department of the Army
Corps of Engineers, Savannah District
ATTN: Pamela Backus
100 West Oglethorpe Avenue
Savannah, Georgia 31401

WRITTEN COMMENTS MAY BE EMAILED TO: cesas-planning@usace.army.mil

ALL comments must contain the full name and address of the individual commenting and must be received by the USACE by the expiration of the public notice period.

SECTION 408 PERMISSION REQUEST

PERMISSION 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 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.

LIMITS OF SECTION 408 AUTHORITY: A 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 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. Section 1344). 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.

PROJECT PURPOSE AS PROPOSED BY REQUESTER: The applicant's stated project purpose is "to increase the Port of Savannah capacity."

Requester: Mr. Christopher Novack
Georgia Ports Authority
Post Office Box 2406
Savannah, Georgia 31402

Agent: Mr. Brandon Wall
Sligh Environmental Consultants, Inc. (SECI)
31 Park of Commerce Way, Suite 200B
Savannah, Georgia 31405

LOCATION OF PROPOSED ACTION: All work occurring within the USACE area of responsibility is discussed in the public notice released October 26, 2023.

<https://www.sas.usace.army.mil/Missions/Regulatory/Public-Notices/Article/3569503/sas-2013-00406-sp-sew/>

REGULATORY APPLICATION NUMBER: SAS-2013-00406

EVALUATION: This request will be reviewed pursuant to Section 408 and USACE Engineering Circular (EC) 1165-2-220, which provides policy and procedural guidance for processing requests to alter USACE civil works projects.

The decision whether to grant permission for the requested alteration will be based on the potential to impair the usefulness of the Federal project, to be injurious to the public interest, and environmental compliance. The benefits that reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable detriments.

Enclosures



Figure 1: Aerial Imagery of Project Site