



**US Army Corps
of Engineers**®
Memphis District

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PUBLIC NOTICE

**U.S. Army Corps of Engineers
Memphis District**

U.S.C. Chapter 33, Section 408 Permission Evaluation

TITLE: Section 408 Permission Evaluation for the Pemiscot County Port Authority, Pemiscot County, Missouri.

INTRODUCTION: The authority to grant permission for temporary or permanent alterations of any U.S. Army Corps of Engineers (USACE) federally authorized civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408. The Pemiscot County Port Authority proposes to raise approximately 45-acres near river mile 849, Pemiscot County, Missouri (Figure 1).

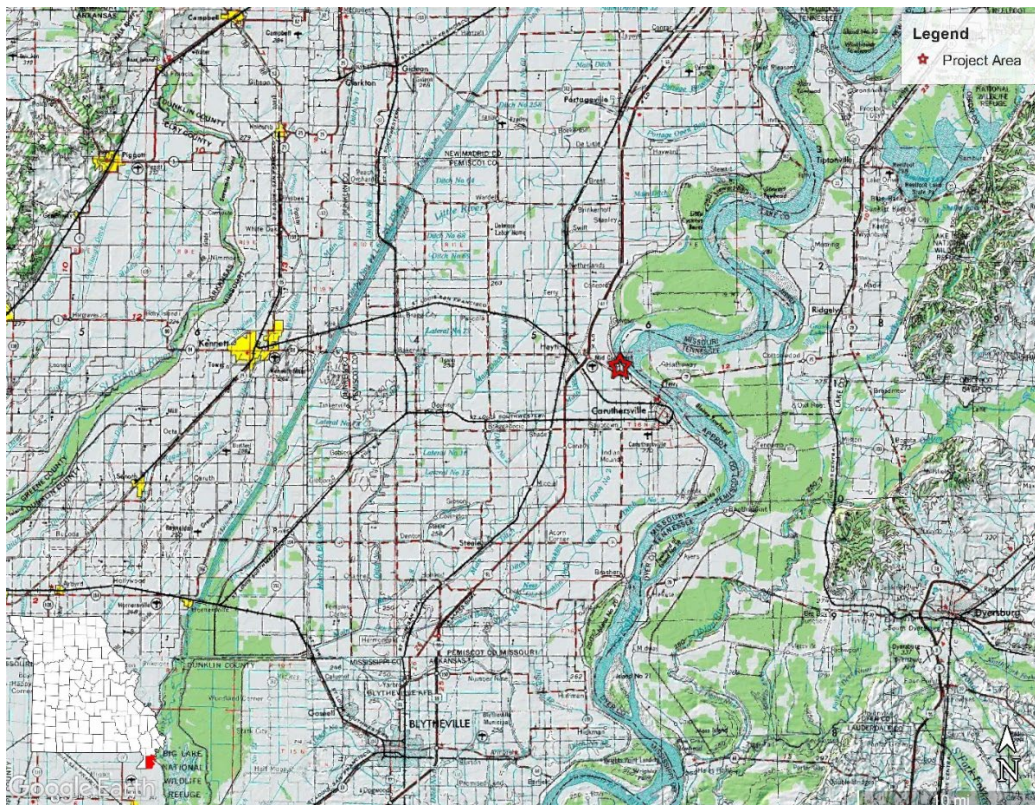


Figure 1. Location of proposed Pemiscot County Port Authority site improvements, Pemiscot County, Missouri.

PROJECT DESCRIPTION: Section 408 authorizes USACE to grant permission for the alteration or occupation or use of the project if USACE determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The Mississippi River Channel Improvement Project and the Mississippi River mainline levee (MRL), the federally authorized civil works projects proposed for alteration, provide for channel improvement to increase the flood carrying capacity and reduce flood heights, to stabilize alignment and prevent bank caving, to provide an aligned navigation channel, and to maintain the mainline levee to provide for reduced flood risk. The proposed request involves raising approximately 45-acres riverside of the MRL to roughly 286-feet, relocating an existing dredge spoil containment basin south of the raised site on an approximate 53-acre tract, and installation of a concrete driveway on the landside of the MRL to convey traffic to the raised site. Mitigation in anticipation of proposed impacts has been purchased and features implemented according to the mitigation plan.

ENVIRONMENTAL COMPLIANCE: A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. The scope of analysis for the NEPA and environmental compliance evaluations for the Section 408 review should be limited to the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration. The proposed alterations are encompassed in the Section 404(b)(1) permit request currently being processed by USACE, Memphis District (MVM), Regulatory Division (MVM 2022-153). On 7 November 2022, the Missouri Department of Natural Resources issued Water Quality Certification for the proposed project. As the proposed project would occur within the known ranges of the federally listed Northern Long-Eared Bat (*Myotis septentrionalis*), Indiana Bat (*Myotis sodalis*), and Gray Bat (*Myotis grisescens*) a seasonal tree clearing restriction (i.e., tree clearing will only occur during the bat inactive season from 1 November to 31 March) has been included. Therefore, it has been determined that the project may affect, but not likely to adversely affect, the aforementioned bat species or their critical habitat. The U.S. Fish and Wildlife Service concurred with the determination on 9 December 2022. Additionally, as the proposed Section 408 alteration is within the USACE project footprint, no known historic properties would be affected. The decision on this Section 408 request is being analyzed in accordance with the National Environmental Policy Act (NEPA) and is limited to the Section 408 boundaries described herein.

PUBLIC INTEREST REVIEW: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; Native American Tribes; and other interested parties. Comments received within 15 days of this publication will be used in the evaluation of potential impacts of the proposed action on important resources. All comments will be considered in preparing environmental documentation pursuant to NEPA. USACE has jurisdiction under 33 USC 408, only over the specific activities that have the potential to alter existing USACE projects. Please limit comments to the area of the alteration and those adjacent areas that are directly or indirectly affected by the alteration to the federally authorized civil works project described herein. **Comments may be submitted to joshua.m.koontz@usace.army.mil and should be received by January 24, 2023.**

Sincerely,



Edward P. Lambert
Chief, Environmental Compliance Branch
Regional Planning and Environmental Division South