

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Standing Operating Procedure (SOP), Processing Major Outgrants

1. References:

- a. ER 405-1-12, Real Estate Handbook, Chapter 8 (Change 30 September 1994; original document 20 November 1985).
- b. ER 1130-2-550, Project Operations, Recreation Operations and Maintenance Guidelines and Procedures (15 November 1996, as amended).
- c. EP 1130-2-550, Project Operations, Recreation Operations and Maintenance Guidelines and Procedures (15 November 1996, as amended).
- d. ER 200-2-2, Policy and Procedures for Implementing NEPA (4 November 1988).
- e. ER 1130-2-540, Project Operations, Environmental Stewardship Operations and Maintenance Policies (15 November 1996, as amended).
- f. EP 1130-2-540, Project Operations, Environmental Stewardship and Maintenance Guidance and Procedures (15 November 1996, as amended).
- g. Nashville District, Guidelines and Policy for the Review of Cut and Fill Proposals Below Maximum Flood Pool Elevations on Corps of Engineers Lakes and Interests in Lands (11 December 2002).
- h. Major Outgrants Issuance and Inspections, Process Action Team Report (December 1997).
- i. AR 405-80, Management of Title and Granting Use of Real Property (10 October 1997).
- j. ER 200-1-5, Environmental Quality - Policy for Implementation of the USACE Environmental Operating Principles and Doctrine (30 Oct 2003).
- k. Standing Operating Procedure(SOP), Mitigation Policy for Issuing Real Estate Outgrants (13 August 2002).
- l. Real Estate Division Information Paper, Information Regarding Interaction Between Real Estate and Natural Resources in Processing Outgrants and Other Issues (27 June 2000).
- m. Council on Environmental Quality (CEQ), Regulations for Implementing the National Environmental Policy Act, 40 CFR Chapter V, Part 1500-1508 (1 July 1987).

n. Advisory Council on Environmental Quality (CEQ), Regulations on Protection of Historic Properties Implementing Section 106 of the National Historic Preservation Act (NHPA), 36 CFR 800 (August 5, 2004).

o. Non-Recreational Outgrant Policy (30 March 2009).

p. Nashville District Projects' Master Plans, Shoreline Management Plans, and Operational Management Plans (as updated).

2. Purposes. This SOP sets forth the policies, processes, responsibilities and procedures for processing major outgrants in the Nashville District. This SOP supersedes the previous version dated 14 January 2008.

3. Applicability. This SOP applies to the processing of all major outgrants at Nashville District Projects.

4. Definitions.

a. Minor Outgrant. Minor outgrants include licenses for non-potable waterlines and water withdrawals, electrical lines, access steps, etc., issued in connection with shoreline use permits.

b. Major Outgrant. Major outgrants are any that do not qualify as a minor outgrant. They generally include such actions as parks and recreation leases; commercial concessions leases; agricultural leases; leases for quasi-public uses such as group camps; easements for communication uses, roadways, public utility lines, and pipelines for potable waterlines and water withdrawal; fish and wildlife licenses; National Guard licenses; and permits to other Federal agencies.

c. Consent to easement. Consent to easement involves non-fee lands and flowage easement where the Corps only has right to flood. These requests are processed the same as Major Outgrants discussed above.

5. Policy. Once the Resource Manager (RM) receives a complete application package, it is the goal of the Nashville District to process all outgrant applications within 120 days. More complex applications requiring additional agency coordination may require additional time. No land disturbing activities will be allowed on public lands or consent to easement lands prior to completing outgranting process and all necessary approvals issued. The District will deny applications that do not conform with Corps policies, plans, or programs; cause unacceptable environmental impacts; or conflict with overall public use of the project. Applications will be reviewed for compatibility with all project purposes, environmental impacts and concerns, cultural resources effects and compliance, fish and wildlife, endangered species, public sentiment and the overall public interest. After execution, outgrants are monitored to ensure all activities on the outgranted area(s) are in strict compliance with the requirements of the outgrant document.

6. Responsibility. A database will be maintained on the Nashville District shared drive for all district elements to provide input as well as track application status as it is coordinated among offices. Each District element will be responsible for logging when it receives a complete package as well as when that office completes its review.

The following outlines the responsibilities of the various District elements:

a. The Resource Manager (RM) is the initial point of contact (POC) for the applicant and must make the initial decision on the availability of the project land and/or water areas for proposed uses. The RM can, and should, deny applications that do not conform with Corps policies, plans, or programs; cause unacceptable environmental impacts; conflict with overall public use of the project; or are incompatible with project purposes. The RM should explain to the applicant that the outgrant process involves various other District elements (such as an OP-F permit, cut and fill balancing, National Environmental Policy Act (NEPA) review, cultural resources and endangered species compliance, etc.). The RM is also encouraged to initiate early coordination and preliminary discussion with other District elements, if necessary, to aid in processing of outgrant requests.

b. OP-R. Natural Resources Management Branch is responsible for concurrence with availability of project lands and water areas. If there is a conflict in the Master Plan, and the proposal is supported, the Plan is supplemented or modified to reflect the proposed land-use classification. OP-R will coordinate Master Plan Supplements with other appropriate District elements. OP-R will assure applications are thorough and comprehensive.

c. RE-O. Operations Support Branch of the Real Estate Division has overall responsibility for negotiating, preparation, processing, issuing, administering and managing all District outgrants. RE-O becomes primary contact to the RM and applicant. Any additional coordination should go through RE-O. The assigned Realty Specialist will keep project and District elements informed of follow-on discussion. The Chief of Real Estate maintains the overall responsibility for the official Real Estate file and overall administration of the outgrant.

d. PM-P. Environmental Section in Planning, Programs and Project Management Division is responsible for the environmental, cultural resources and endangered species compliance associated with a particular outgrant or request. Notification of environmental compliance is coordinated with RE-O.

e. OP-F. Regulatory Branch of Operations Division is responsible for Department of Army (DA) permit(s) which may be required with major outgrants. OP-F will review applications and will coordinate with the RM when Corps lands may be involved. If a real estate instrument is necessary, OP-F will coordinate with the project and inform the applicant to contact the Resource Manager's Office. Existing policies determine environmental compliance responsibilities, in most cases, between OP-F and PM-P. Early coordination (phone call/email) is made and documented, to avoid duplication, regarding responsibility on this issue when there is overlap on specific projects. OP-F will usually take lead when project scope is predominantly a Section 404 and/or Section 10 Action. PM-P will usually take lead when project scope

primarily involves project or consent to easement lands. Issuance of permit is provided to RE-O for transmittal to the applicant and other necessary agencies. In the event that OP-F has no action involving Corps lands, a “no permit required” notice will be forwarded to RE-O.

f. EC-H. Hydraulics and Hydrology Branch of Engineering Construction Division is responsible for reviewing applications and determining if the proposed outgrant may affect reservoir storage (i.e., cut and fill issues), project structures, or water storage agreements. Notification of determination is coordinated with RE-O. When there is a request for water storage and/or water storage agreements with municipalities, these requests will be processed under a separate procedure. Water storage agreements must be in place before a real estate outgrant can be issued.

g. OP-N. Navigation Branch of the Operations Division is responsible for reviewing applications and determining if the proposed outgrant may affect navigable river channels and/or navigational aids, such as buoys, markers or landings. Notification of maintaining safe passage of traffic on the waterways is coordinated with RE-O.

7. Procedures. The following depicts the normal flow of an application for a Major Outgrant:

a. The Resource Manager (RM) will receive and review all applications, ensure they are complete and in order, and ensure proposals and/or project recommendations are in accordance with project Master Plan, Shoreline Management Plan (where applicable), and Operational Management Plans. The RM will include any qualifying remarks as appropriate in the transmittal to OP-R. The following will be included in the application transmittal: computer generated mapping with site coordinates; Real Estate tract numbers; completed Report of Availability (ROA) (ENG 405-1-12); part A; Outgrant Environmental Evaluation (ORN Form 463); site specific conditions; written requests from applicants with detailed plans/drawings; list of existing outgrants affected; any known Hazardous, Toxic, Radioactive Wastes (HTRW) issues; DA permit application; and any other information the Project deems applicable or would assist District elements in application reviews and processing. Technical drawings, such as CADD or Microstation, will be provided on disc when applicable. The RM will also provide photographs when at all possible to assist District elements with application review and processing. When an action involves use of non-Corps lands, such as borrow areas for fill material and/or disposal areas for materials removed, information regarding these sites must also be included in the application package, and these sites must receive environmental clearance from PM-P. Early pre-application submittal conferences or onsite visits are encouraged. In the transmittal memorandum (to RE-O through OP-R), the RM will include a statement verifying the proposal has been evaluated against the project Master Plan and note whether or not a Master Plan Supplement would be necessary. If a Master Plan Supplement is recommended, an unsigned ROA will be provided. After the RM completes his/her review and forwards packet to OP-R, he/she is responsible for logging status on the database maintained on the Nashville District shared drive.

b. OP-R will address concurrence with the proposed application and forward the packet to RE-O for overall coordination and processing of the outgrant. OP-R will update status of the

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database located on the Nashville District shared drive. If the proposal is recommended but not addressed in the current Master Plan, OP-R will prepare a Supplement. The Master Plan Supplement will be approved by the Chief, OP, after completion of the NEPA process. OP-R will assure the application is thorough and comprehensive to include ORN Form 463 and computer-generated mapping which depicts all affected tract numbers, etc., for review, coordination, and outgrant purposes. OP-R attaches memorandum for RE-O with any additional information necessary, as well as concurrence and/or additional changes/mitigation, to the application package. A copy of OP-R's concurrence memo will be forwarded to the RM at this time. OP-R will provide RE-O a signed ROA, part A, and a signed copy of the MP Supplement after completion of the NEPA process when a Master Plan Supplement is required.

c. RE-O will transmit and coordinate the complete application package to District elements for corresponding actions with suspense dates for routine outgrants. RE-O will update status of the database located on the Nashville District shared drive. If the application is complicated and/or controversial, a meeting, to include the RM, will be conducted to establish specific responsibilities on issues and suspense dates. This should prevent duplication or the public receiving contradictory comments or positions from the Corps.

d. OP-F will determine if DA permits are required and, if so, complete necessary reviews and public notices as required. OP-F will coordinate with PM-P on environmental and cultural resources issues and RE-O on real estate issues. When OP-F issues public notices for RE actions, coordination will be made with PM-P to ensure all necessary information for full Corps review is included. No DA permit will be issued until this coordination has been documented and all issues addressed. The DA permit will be forwarded to RE to be included in the RE package that is forwarded to the applicant. The permit is not provided separately to the RM or applicant. OP-F will update status of the database located on the Nashville District shared drive.

e. PM-P will determine if the action is covered under existing NEPA documentation or is categorically excluded and non-controversial under NEPA guidelines. If not, it will prepare the required environmental documents. When issuing invitations for public comment, PM-P will ensure all necessary information relative to OP-F review is included. Regardless of the NEPA review, the action, including associated non-Corps lands, must comply with the NHPA and Archaeological Resources Protection Act (ARPA). If the applicant is required to perform an Archeological survey on Corps' fee title property, they must submit an ARPA permit application to PM-P and obtain an ARPA permit from RE-O. When appropriate, the applicant will be informed of these needs and schedules and offered the option to assume responsibility for preparing them, subject to Corps specifications. Mitigation or amendments necessary to applicant's proposal or Project's submittal will be coordinated with RE-O, OP-R, and the RM prior to final submittal to RE-O. Note the mitigation required in accordance with the Corps' cut and fill policy on project lands must be included in the review for NEPA compliance and environmental impacts. Upon completion of environmental and cultural resources assessment, PM-P will provide findings, documentation and a completed ROA part B to RE-O. PM-P will update status of the database located on the Nashville District shared drive. PM-P will include language in NEPA documents that a MP Supplement will be prepared, where applicable to meet ER 1130-2-550 (para. 3-5) requirement for public involvement for Master Plan supplements.

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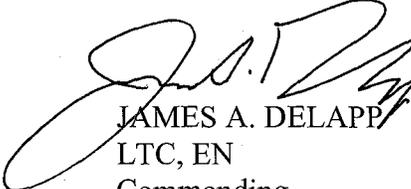
Otherwise, OP-R will evaluate proposals on a case-by-case basis to determine the need for public involvement.

f. EC-H will review applications to determine impacts on project storage, in compliance with the Corps' cut and fill policy on project lands. Applications will also be reviewed to determine effects to project structures. EC-H will provide findings and recommendations to RE-O. EC-H will update status of the database located on the Nashville District shared drive. Changes and amendments necessary to applicant's proposal, in order to meet Nashville District cut and fill policy requirements, will be coordinated with the applicant and the RM prior to final submittal to RE-O.

g. OP-N will review applications to determine effects of the movement of barge traffic and other boating activities and to minimize impacts to waterway users. Applications will also be reviewed to determine effects to navigational aids. If warranted, a "Notice to Navigation Interest" will be distributed in order to communicate caution when transiting near a work area or temporary river closure. OP-N will provide recommendations to RE-O. OP-N will update status of the database located on the Nashville District shared drive.

h. RE-O will prepare Environmental Condition of Property (ECP), as applicable, and mapping and assembling the outgrant package while other District elements are completing required activities. OP-F will provide the DA permit to RE-O to be sent simultaneously under the same transmittal to applicant, when both an executed real estate outgrant and DA permit are required. Three originals are executed with a final package: one is retained by RE-O; one is provided to the applicant; and the third is provided to the RM.

8. POC for this matter is Tadd Potter, Fish and Wildlife Biologist, OP-R, at (615) 736-7807.



JAMES A. DELAPP
LTC, EN
Commanding

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