US Army Corps
of Engineers®
Pittsburgh District

Planning and Environmental Branch
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Public Notice Date: 5 June 2018
Expiration Date: 19 June 2018

# NOTICE OF AVAILABILITY

**Draft Environmental Assessment**

**Section 408 Request to Alter the Dubois Local Protection Project for Beaver Drive Sidewalk Construction in Clearfield County, PA**

The U.S. Army Corps of Engineers, Pittsburgh District (USACE) is evaluating a proposed alteration to the Dubois Local Protection Project.

The USACE invites submission of comments on the environmental impact of the approval of the Section 408 request. The USACE will consider all submissions received before the expiration date of the public comment period. The nature or scope of the proposal may be changed upon consideration of the comments received.

The draft Environmental Assessment and draft Finding of No Significant Impact are available electronically at:

http://www.lrp.usace.army.mil/Missions/Planning-Programs-Project-Management/

**Comments can be submitted to the address posted at the top of this notice or to Erin.Stuart@usace.army.mil. Comments must be received by 19 June 2018 to ensure consideration.**

# Draft ENVIRONMENTAL ASSESSMENT

## Section 408 Request to Alter the Dubois Local Protection Project for the Beaver Drive sidewalk construction in Clearfield County, PA
## June 1, 2018

**Prepared By:** Environmental and Cultural Resources Section
Planning and Environmental Branch
U.S. Army Corps of Engineers Pittsburgh District

**1. Name of Requestor:** City of Dubois, Pennsylvania

**2. Authority:** Proposed alterations to U.S. Army Corps of Engineers (USACE) federally-authorized civil works projects require USACE permission. USACE authority to grant permission for temporary or permanent alterations is contained in Section 14 of the Rivers and Harbors Act of 1899 (Taking possession of, use of, or injury to harbor or river improvements), which states: "*It shall not be lawful for any person or persons to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States, or any piece of plant, floating or otherwise, used in the construction of such work under the control of the United States, in whole or in part, for the preservation and improvement of any of its navigable waters or to prevent floods, or as boundary marks, tide gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works: Provided, That the Secretary of the Army may, on the recommendation of the Chief of Engineers, grant permission for the temporary occupation or use of any of the aforementioned public works when in his judgment such occupation or use will not be injurious to the public interest: Provided further, That the Secretary may, on the recommendation of the Chief of Engineers, grant permission for the alteration or permanent occupation or use of any of the aforementioned public works when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.*" 33USC 408.

**3. Location of the Proposed Alteration:** Between Beaver Drive and Beaver Meadow Trail on the Dubois LPP levee crest adjacent to Beaver Run in the City of Dubois, Clearfield County, Pennsylvania. (41.119545° N, -78.743397° W)

**4. Federal Project Proposed to be Altered:** The Dubois Local Protection Project (LPP) was authorized by Section 204 of the Flood Control Act of 1965. Two units were constructed by USACE. Unit 1 was constructed between 1972 and 1973 and turned over to the local sponsor, the City of Dubois, in December 1973 for operation and maintenance. Unit 2 was constructed between 1974 and 1977 and turned over to the local sponsor, the City of Dubois, in September 1977 for operation and maintenance. The LPP's features include major channel improvements (deepening, widening, and

straightening) on Sandy Lick Creek and Falls Creek and a levee adjacent to Beaver Run.

**5. Requested Alteration:** The City of Dubois proposes to construct an American with Disabilities Act (ADA) compliant asphalt sidewalk, 7,700 feet in length and 5 feet wide, 1,400 feet of which are planned to be constructed on the levee crest, between Beaver Drive and Beaver Meadow Trail on top of the existing Dubois LPP levee adjacent to and west of Beaver Run (Figures 1 and 2). No wetland or stream impacts are proposed.

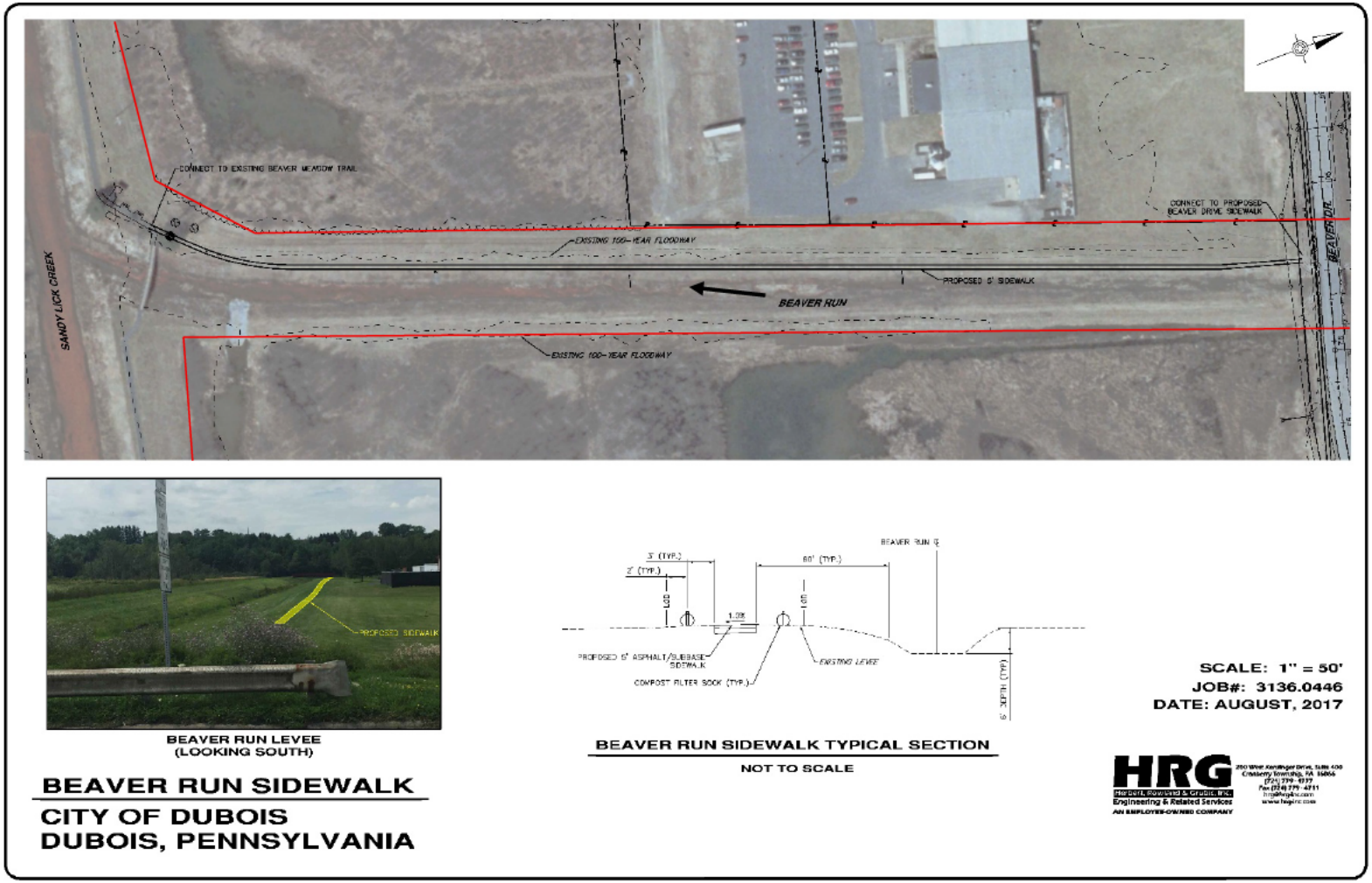


*Figure 1. Proposed sidewalk graphic with the approximate LPP extent in the project area shown as solid red outline (based on as-built permanent easement extents). The LPP continues to the North and South beyond the project area shown.*

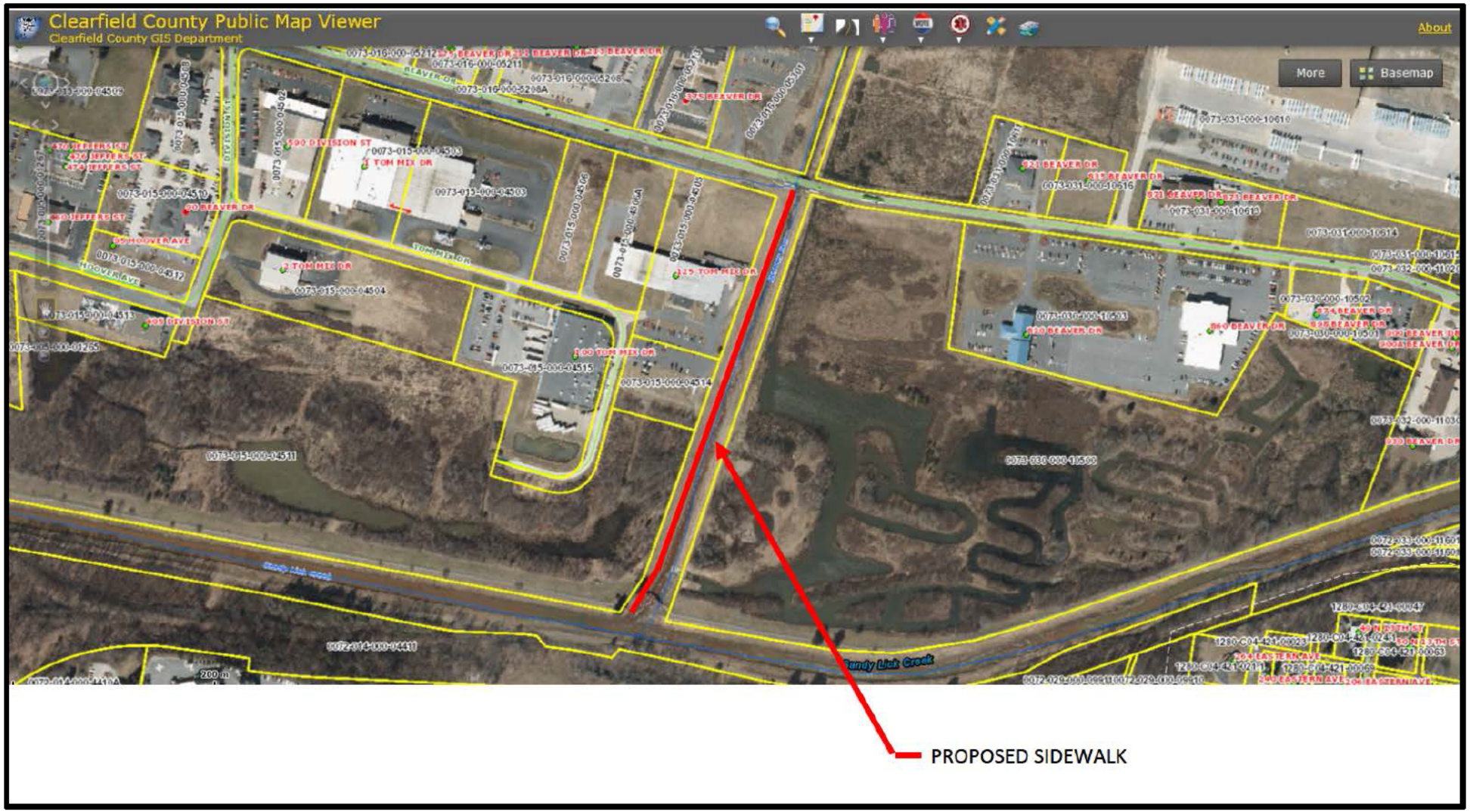


*Figure 2. Proposed sidewalk location within the City of Dubois.*

**6. Alternatives:**

a. No Action: Denial of the Section 408 request. Denial of the request would not permit construction of the sidewalk.

**b.** Action Alternative - Requester's Preferred Alternative: Approval of the Section 408 request allowing the alteration of the Dubois LPP for sidewalk construction.

**7. Environmental Setting:** The Dubois LPP is located along Sandy Lick Creek and Falls Creek in the city of Dubois within Clearfield County, Pennsylvania. The project area is located on the levee adjacent to Beaver Run (Figure 3). The project area is located in uplands.

*Figure 3. Area of proposed sidewalk on levee looking south. (Photo provided by HRG.)*

**8. Environmental Effects of the Proposed Action:** Per EC 1165-2-216, *Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects,* the USACE has jurisdiction under Section 408 only over the specific activities or portions of activities that have the potential to alter the USACE project. Therefore, if a proposed alteration is part of a larger project (and/or its associated features) that extends beyond the USACE project boundaries, only those portions or features of the larger project over which USACE has sufficient control and responsibility are to be included in the USACE environmental review. The scope of analysis for the NEPA and environmental compliance evaluations for the subject request are limited to the area of the alteration and those adjacent areas that are directly or indirectly affected by the alteration.

The City of Dubois must acquire all other necessary permissions or authorizations required by federal, state, and local laws or regulations, including required permits from the USACE Regulatory Program (Section 10/404 permits). These permits will consider impacts beyond the LPP footprint commensurate with their scope. In addition, an approval under Section 408 does not grant any property rights or exclusive privileges.

*Table 1. Anticipated impacts of the proposed Section 408 activity.*

| Environmental Parameter | No-Action Alternative | Action Alternative |
|---|---|---|
| Land Use & Socio-Economic Conditions | **No Effect.** Denial of the request would maintain the status quo. | **Minor Effect.** The current land use patterns would not be significantly affected by this project. The local socio-economic conditions may even improve slightly during construction and possibly after construction with any increase in local recreation. |
| Vegetation and Wildlife Habitat | **No Effect.** Denial of the request would maintain the status quo. | **Minor Effect.** The site is predominantly herbaceous vegetation and some vegetated area will be lost after construction of the sidewalk. No significant impacts are expected. |
| Water Quality and Fisheries | **No Effect.** Denial of the request would maintain the status quo. | **No Effect.** No stream impacts are proposed. Erosion control measures will be used to protect water quality during construction. |
| Floodplains | **No Effect.** Denial of the request would maintain the status quo. | **Minor Effect.** The project is located within the floodplain. Temporary effects to the floodplain will occur during construction. The proposed sidewalk will be constructed at |

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|---|---|---|
| | | grade. Minor permanent effects from the increase in impervious surface may occur but are not expected to be significant. |
| Noise | **No Effect.** Denial of the request would maintain the status quo. | **Minor Effect.** Sidewalk construction would temporarily increase noise in the area during construction. An increase in recreation in the area would create a slight, periodic increase in human presence and associated noise, however this is not expected to be a significant impact on noise in the area. |
| Aesthetics | **No Effect.** Denial of the request would maintain the status quo. | **Minor Effect.** The presence of construction equipment and supplies during construction will have a temporary impact on aesthetics. The aesthetics of the new sidewalk are not expected to have a significant impact. |
| Recreation | **No Effect.** Denial of the request would maintain the status quo. | **Moderate Effect.** The proposed sidewalk will connect to the Beaver Run Trail and a beneficial effect to recreation is expected. |
| Endangered Species | **No Effect.** Denial of the request would maintain the status quo. | **No Effect.** A PNDI search (PNDI-634464) showed that there are no effects to threatened or endangered species nor to designated critical habitat. |
| Historic and Archaeological Resources | **No Effect.** Denial of the request would maintain the status quo. | **No Effect.** The area has been previously disturbed by the construction of the LPP. The Pennsylvania Historical and Museum Commission (PHMC) issued a statement to the consultant for the City of Dubois (Herbert, Rowland & Grubic, Inc.) dated 22 August 2017 that the proposed project will have no effect on historic properties. |
| Traffic | **No Effect.** Denial of the request would maintain the status quo. | **Minor Effect.** Minor temporary effects to traffic may occur during sidewalk construction. |

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|---|---|---|
| | | No permanent traffic effects are expected. |
| Public Safety | **No Effect.** Denial of the request would maintain the status quo. | **No Effect.** The Section 408 engineering review is under separate cover and found no objection to the 408 request. No change in the flood risk reduction benefit that would impact public safety is anticipated. |
| Hazardous Wastes | **No Effect.** Denial of the request would maintain the status quo. | **No Effect.** Clean fill will be used and proper waste disposal will occur. |

**9. Cumulative Effects:** Routine operation and maintenance of the LPP by the City of Dubois is anticipated. The USACE 2017 inspection report of the LPP noted several maintenance and repair items within the immediate vicinity of the proposed sidewalk, including areas of shoaling (sediment deposition), vegetation removal, culvert maintenance and levee settlement repair.

Cumulative impacts result from the incremental impacts of an action, when added to other past, present, and reasonably foreseeable future actions - regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Following review of the proposed project's scale, the resources considered in Table 1, and information made available to the agency, no significant cumulative effects of the proposed alteration within the Section 408 authority are anticipated. Temporary construction-related increases in noise, emissions and traffic, and temporary minor impacts to land use, vegetation, floodplains, and aesthetics would not be significant, even if they occur simultaneous to expected repairs/maintenance of the LPP. Permanent minor impacts to vegetation and floodplains are not expected to be significant even when added to any expected repairs/maintenance of the LPP in the future.

**10. Coordination:** USACE will provide a copy of this report to the appropriate agencies during the public comment period. A 15-day public comment period will occur from 5 June 2018 to 19 June 2018.

**11. Principal Environmental Laws and Executive Orders considered, where applicable, in conjunction with NEPA.**

**Public Laws:**

American Indian Religious Freedom Act, 42 U.S.C. 1996 et seq.
Archeological and Historic Preservation Act, 16 U.S.C. 469 et seq.
Archeological Resources Protection Act, 16 U.S.C. 470aa-11, et seq.
Bald and Golden Eagle Protection Act, 16 U.S.C. 668, et seq.
Clean Air Act, as amended, 42 U.S.C. 1857h-7, et seq.

Clean Water Act, 33 U.S.C 1251 et seq.
Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 – 9675.
Endangered Species Act, 16 U.S.C. 1531 et seq.
Farmland Protection Policy Act, 7 U.S.C. 4201, et seq.
Fish and Wildlife Conservation Act, 16 U.S.C. 2901-2911, et seq.
Fish and Wildlife Coordination Act, 16 U.S.C. 661, et seq.
Historic Sites Act, 16 U.S.C. 461-467, et seq.
Land and Water Conservation Fund Act, 16 U.S.C. 460/-460/-11, et seq.
National Environmental Policy Act, 42 U.S.C. 4321, et seq.
National Historic Preservation Act, 16 U.S.C. 470a, et seq.
Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq.
Noise Control Act of 1972, 42 U.S.C. 4901-4918.
Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.
Rivers and Harbors Act 33, U.S.C. 401 et seq.
Safe Drinking Water Act 42 U.S.C. 300 et seq.
Toxic Substances Control Act, 15 U.S.C. 2601 – 2671.
Wild and Scenic Rivers Act, 16 U.S.C. 1271, et seq.

**Executive Orders (EO):**

11514 Protection and Enhancement of Environmental Quality
11593 Protection and Enhancement of the Cultural Environment
11988 Floodplain Management
11990 Protection of Wetlands
12088 Federal Compliance with Pollution Control Standards
12114 Environmental Effects Abroad of Major Federal Actions
12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

**Regulations:**

Advisory Council on Historic Properties, Protection of Historic and Cultural Properties (36 CFR Part 800 et seq.).
Council on Environmental Quality, Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508).
U.S. Army Corps of Engineers, Procedures for Implementing NEPA (33 CFR 230).
U.S. Army Corps of Engineers, EC 1165-2-216, Water Resources Policies and Authorities, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects, Pursuant to 33 USC 408.
U.S. Department of Agriculture, Regulations for Implementing the Farmland Protection Policy Act (7 CFR 658).
U.S Environmental Protection Agency, Clean Air Act Implementing Regulations (40 CFR Part 50 et seq.).
U.S. Environmental Protection Agency, Criteria and Standards for the National Pollutant Discharge Elimination System (40 CFR Part 125).

**12. Summary/Conclusion:** Based on the above analysis, USACE permission for the City of Dubois to alter the Dubois LPP, in the manner described above, is not a major

Federal action significantly affecting the quality of the human or natural environment, and therefore does not require preparation of an environmental impact statement.

The USACE invites submission of comments of the environmental impact of the approval the Section 408 request. Comments will be considered in determining whether it would be in the best public interest to proceed with the approval. The USACE will consider all submissions received before the expiration date of the public comment period. The nature or scope of the proposal may be changed upon consideration of the comments received. If significant effects on the quality of the human environment are identified, which cannot be mitigated, the USACE will initiate an Environmental Impact Statement, and afford all of the appropriate public participation opportunities attendant to an EIS.

# DRAFT FINDING OF NO SIGNIFICANT IMPACT

## Section 408 Request to Alter the Dubois Local Protection Project Clearfield County, Pennsylvania

In accordance with the National Environmental Policy Act (NEPA) and implementing regulations, a draft Environmental Assessment (EA) was developed to evaluate potential impacts associated with issuing permission to alter the federal Dubois Local Protection Project (LPP) on the levee crest adjacent to Beaver Run in Dubois, Pennsylvania. The Dubois Local Protection Project (LPP) was authorized by Section 204 of the Flood Control Act of 1965. Two units were constructed by the U.S. Army Corps of Engineers (USACE). Unit 1 was constructed between 1972 and 1973 and turned over to the local sponsor, the City of Dubois, in December 1973 for operation and maintenance. Unit 2 was constructed between 1974 and 1977 and turned over to the local sponsor, the City of Dubois, in September 1977 for operation and maintenance. The LPP's features include major channel improvements (deepening, widening, and straightening) on Sandy Lick Creek and Falls Creek and a levee adjacent to Beaver Run.

The City of Dubois proposes to construct an Americans with Disabilities Act (ADA) compliant asphalt sidewalk, 7,700 feet in length and 5 feet wide, 1,400 feet of which are planned to be constructed on the levee crest, between Beaver Drive and Beaver Meadow Trail on top of the existing Dubois LPP levee adjacent to and west of Beaver Run. The authority to grant permission for temporary or permanent alterations to a federal project is set forth at Section 14 of the Rivers & Harbors Act of 1899 and codified in 33 USC 408 (Section 408). USACE review ensures that proposed alterations are neither injurious to the public interest nor would they affect the federal project's ability to meet its authorized purpose.

Per USACE guidance, the agency analyzed two alternatives including a "No Action" alternative (denial of the Section 408 request) and Alternative 1, the Requester's Preferred Alternative (granting of the Section 408 request). Outside of the 408 process, the City of Dubois must acquire any other necessary permissions or authorizations required by federal, state, and local laws or regulations, including any permits required by the USACE Regulatory Program.

The draft EA determined that the proposed action (granting of the Section 408 request) will not result in significant impacts to the natural or human environment, and does not require the preparation of an Environmental Impact Statement (EIS). All environmental, social, and economic factors that are relevant to the proposal were considered in this assessment. These include, but are not limited to, water quality, noise, wetlands,

wildlife, threatened and endangered species, and cultural resources. Anticipated impacts include temporary and permanent impacts to vegetation and floodplains, temporary impacts to land use, aesthetics, and construction-related increases in noise, emissions, and traffic. Permanent impacts to recreation are expected to be beneficial. Best management practices would be used to minimize effects, including temporary erosion control measures. No effects to public safety, streams, wetlands, cultural resources or to threatened or endangered species are expected. Minor permanent benefits to local economic development would occur with the sidewalk construction. Overall, effects are expected to be non-significant.

A 15-day public comment period will occur from 5 June 2018 to 19 June 2018. The USACE will consider all submissions received before the expiration date of the public comment period. The nature or scope of the proposal may be changed upon consideration of the comments received. If significant effects on the quality of the human environment are identified during public comment which cannot be mitigated, the USACE will initiate an Environmental Impact Statement, and afford all of the appropriate public participation opportunities attendant to an EIS.

After having carefully evaluated all aspects of the Proposed Action and based on the draft EA, I have reasonably concluded that the Proposed Action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required and will not be prepared.

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John P. Lloyd
Colonel, Corps of Engineers
Pittsburgh District Commander

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Date