

REQUIREMENTS FOR SUBMITTING EASEMENT REQUESTS

FORT WORTH DISTRICT U.S. ARMY CORPS OF ENGINEERS

Introduction: This document provides an outline of information that will be required for the Corps of Engineers to process an easement request. The applicant must provide this information to the Lake Manager. An easement grants the right to use property for a specific structure or purpose such as public roads, streets, railroads, and major water, sewer and electric lines. Easement areas will be limited to only the land that is necessary for operation of the proposed facility or structure. Easement instruments do not include temporary work areas; such areas will be authorized by a separate license.

A. Preliminary Easement Information - The information in paragraphs B through E shall not be submitted until the preliminary information listed in paragraph A has been evaluated to determine if a proposal is appropriate and will not interfere with lake operations. The preliminary information will also be used to determine if the proposed action will require an Environmental Assessment (EA). The following **preliminary** information shall be submitted to the lake manager:

1. Describe the structure or facility.
2. Provide basic construction methods (e.g. open trench, close trench, etc).
3. Identify the purpose and need for the structure or facility.
4. Justify placement of structure or facility on government property. Include alternative routes and locations, including routes off of government property.
5. Identify Grantee:
 - a. Name, address, and phone number of grantee. Identify to whom instrument will be assigned. (e.g. city, county, Department of Transportation, Water Entity)
 - b. Point of contact for processing (e.g. City Manager, Mayor)
6. State the duration for which the proposed easement is requested. Include the duration of the temporary license if one is needed (usually 1 year).
7. Generally describe the location and dimensions of the requested easement area.

B. General Easement Information - Applicants should provide the following information (paragraphs B-E) after the Corps has determined that an easement **may** be feasible and an EA is not required.

1. Provide certification that the structure or facility will be constructed, operated, and maintained in compliance with all Federal, State, local laws and regulations
2. Provide concurrence from third parties which may be effected by the structure or facility. (e.g. other existing outgrants or easements)
3. Provide other agency concurrence regarding legal or regulatory requirements where necessary (e.g. Texas Natural Resources Conservation Commission (TNRCC), water purveyor or Texas Railroad Commission).

C. Description of Project

NOTE - A temporary real estate instrument will be required prior to conducting any on-the-ground survey activities

1. Provide a general description of the structure or facility including basic construction methods.
2. Provide a physical description (length and width) of proposed easement. Include construction areas, if applicable.
3. Provide a narrative metes and bounds description of the easement. This description may include the centerline or the actual easement area. Metes and bounds must tie into a known Corps of Engineers property monument. This description is used by the Corps Real Estate Division to write the legal description of the easement.
4. Provide a map which includes the following:
 - a. Location of easement
 - b. Metes and bounds depiction of the easement. This depiction may include the centerline or the actual easement area. Metes and bounds must tie into a known Corps of Engineers property monument.
 - c. Depiction of Corps of Engineers property line adjacent to the proposed action.
 - d. The upper guide contours and elevation intervals appropriate to the terrain.
 - e. Any Corps structures that will be affected (e.g.: fences, roads, monuments, gates, intake structures, natural and environmental resources etc.)
 - f. Profile for all affected government property.
5. Calculate the acreage of the proposed easement and/or license.
6. Stake the centerline of the permanent easement on government property, if requested by the lake manager.
7. Identify portions of project affecting restricted areas around Corps primary facilities (e.g.: drilling or blasting near the dam and spillway).

8. Utilize existing Corps of Engineers tract maps to list the tracts within the proposed easement and identify if they are fee simple, flowage easement, or both.

D. Natural and Cultural Resources

1. **Natural Resources** - Provide a description of the direct and indirect adverse environmental effects, as well as any beneficial impacts that the project might cause.

a. **Wildlife Habitat Analysis** – Quantify the acreage and quality of each biological community (such as forests and woodlands, range and grasslands, riparian areas, and others) to be affected by the proposed project. Quality of habitat shall be described in terms of successional stage, uniqueness and relative abundance, vegetative species diversity, and structural diversity components (such as fallen logs, thickets, rocky crevices, and thick grass cover). The use of the Wildlife Habitat Appraisal Procedure developed by the Texas Parks and Wildlife Department is an acceptable method of describing habitat. Note: Wetlands shall be described as set forth in subparagraph c of this section.

b. **Tree Inventory** - In developed park areas, along property boundaries bordering developed private property, and other areas where trees provide shade, screening, or other utilitarian functions, and for small areas (less than an acre of impact) identify and map any trees that will be removed by listing diameter, species and numbers of trees greater than 3 inches Diameter at Breast Height. In areas where commercial timber value is a consideration, applicants must coordinate with the Lake Manager for timber inventory requirements.

c. **Wetlands and Section 404 Permits** - The Corps of Engineers has been assigned responsibility for administering the Section 404 permitting process under the Clean Water Act. The Corps Regulatory Branch is responsible for administering the Section 404 permitting process. It is important for applicants to understand that the Section 404 permitting process is separate from the real estate easement process. However, the Lake Manager and technical support staff will insure that applications for easements are coordinated internally with all Corps of Engineers elements to assure compliance with the Clean Water Act. All wetland information concerning a request shall first be submitted through the Lake Manager. The following wetland information shall be submitted:

- 1) A vicinity map (e.g., county map, USGS quad sheet, etc.) showing the location of the project, including any borrow or disposal site(s) or other outlying features.
- 2) A delineation and description of wetlands and other waters of the United States in the area that would be affected by the proposed work. Delineation of wetlands must be conducted using the "Corps of Engineers Wetland Delineation Manual", USACE Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987 (on-line edition available at <http://www.wes.army.mil/el/wetlands/wlpubs.html>).
- 3) The purpose of, and need for, the project.

- 4) Plan, profile, and cross-section views of all work, both permanent and temporary, in or adjacent to waters of the United States, including wetlands.
- 5) The type, source, and volume of material proposed to be discharged into and/or excavated from waters of the United States. In cases where the activity may result in a change to pre-construction contours or drainage patterns, provide the reasons why the changes are necessary and a description of the anticipated outcome of the changes.
- 6) The width and depth of the water body and the waterward distance of any structures from the existing shoreline if located on a navigable water or a USACE lake project.
- 7) A description of the project's likely temporary and permanent impact on the aquatic environment.
- 8) A description of actions in project design to avoid and minimize adverse impacts to the aquatic environment and to compensate for unavoidable adverse impacts to the aquatic environment.
- 9) Project schedule.
- 10) A statement disclosing whether or not the proposed project will jeopardize the continued existence of any federally (or state) listed threatened or endangered species; or will destroy or adversely modify their critical habitat. Direct coordination with the Fish and Wildlife Service concerning the potential impact of the entire project on threatened and endangered species is strongly encouraged.
- 11) Any other relevant information, including available information on cultural resources and hydrology.

d. **Endangered Species** – Provide a statement disclosing whether or not the proposed project will jeopardize the continued existence of any federally (or state) listed threatened or endangered species; or will destroy or adversely modify its critical habitat. Direct coordination with the U.S. Fish and Wildlife Service and Texas Parks & Wildlife Department concerning the potential impact of the entire project on federal or state-listed threatened and endangered species is strongly encouraged.

e. **Cultural Resources** - The applicant shall coordinate with the Fort Worth District Operations Archeologist to determine the requirements for a survey and/or proper mitigation. The archeologist may require a written archaeological survey report of all areas to be disturbed. If a historic property will be adversely affected, activities should be relocated to miss the property. If the historic property cannot be avoided, a mitigation plan must be developed and submitted.

f. **Storm Water Requirements** - Applicants shall provide a Storm Water Pollution Prevention Plan if any earth-disturbing activities are performed. This plan shall include means by which erosion and sedimentation will be controlled to protect the drainage courses. For activities that will disturb areas greater than or equal to 1 acre, a Notice of Intent shall be submitted to the Texas Commission of Environmental Quality.

g. **Hazardous Materials** - Describe the proposed use of hazardous materials and/or the generation of hazardous wastes in the easement area (e.g.: identify hazardous substances, quantify amounts, purpose, etc.)

2. **Flood Storage** - Quantify impact of flood storage to include projected loss or gain of flood storage capacity. Additionally show all calculations of cut and fill which will occur below the upper guide contour.

3. **Mitigation Plans** - Provide mitigation plans for damaged natural resources (including wetlands) and/or loss of flood storage. The mitigation plan must be closely coordinated with the Lake Manager to insure that damaged or lost natural resources are fully mitigated and that no flood storage capacity is lost. Mitigation generally requires wildlife habitat improvement and vegetative plantings on the area of actual disturbance and on additional areas.

E. **Requirements for Specific Structures** - In addition to the above requirements

1. **Electric Power and Communication Lines, and Structures and Facilities for Radio, Television, and other Communication Services**

a. Easement term shall not exceed 50 years.

b. Specify line heights, voltage, cutoff locations and elevations

c. Submitted plans must be certified by an engineer as being in compliance with the National Electric Safety Code requirements, ER-1110-2-4401, 30 May 97, (Clearances For Electric Power Supply Lines and Communication Lines Over Reservoirs) and the National Electric Code.

2. **Sewer Line**

An engineer must certify plans as being in compliance with SWFOM 1165-2-2 and TNRCC regulations

3. **Major Water Lines** - An engineer must certify plans as being in compliance with TNRCC regulations.

4. **Water Intake Structure**

- a. Submit plans showing any effects on Corps prime facilities (e.g. structures, embankments, etc.)
 - b. Provide written documentation showing permission has been procured from the water purveyor.
5. **Storm Sewers and Outfalls** - Storm sewers and outfall structures are not allowed on Corps of Engineers fee-owned land unless, for technical reasons, they cannot be located on private land and there is an overriding public need for the facility. Any stormwater outfall that is approved for placement on Corps of Engineers land must be designed to prevent litter, trash, and petroleum products from being deposited on Corps of Engineers land.
6. **Fuel Carrying Pipelines** (ER-405-1-12 Chapter 8)
 - a. **Disclosure of Ownership** - If a partnership, corporation, association, or other business entity applies for an easement, the application shall disclose, where applicable:
 - 1) Name and address of each partner
 - 2) Name and address of each shareholder owning 3 percent or more of the shares; the number and percentage of any class of voting shares of the entity.
 - 3) Name and address of each affiliate of the entity. If the entity controls affiliate, include the number of shares and percentage of any class of voting stock of that affiliate; if, however, the affiliate controls the entity, include the number of shares and percentage of any class of voting stock of the entity.
 - 4) If this information is already on file, and current, in the District Engineer's office, or in local Bureau of Land Management or Federal Regulatory Commission offices, references may be made to it; the applicant need not file repetitious disclosure documents with successive applications.
 - b. **Technical and Financial Capability** - The District Engineer will make a determination and finding of the applicant's technical and financial capability to construct, operate, maintain, and terminate the project for which the permit or right-of-way is requested.