

USACOE Levee Permit

- + General Requirements
- + Application

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Exhibit 9-4 I

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SECTION 3

GENERAL

3-1. GENERAL. The successful functioning of the flood protection system can be assured by following the procedure set forth in this manual. By so doing, all of the benefits and protection against floods can be secured. Failure to maintain and operate the project properly can result in severe property losses, in loss of life and in irreparable loss of confidence by the citizens in the levee system.

3-2. PURPOSE OF MANUAL. Proper maintenance and operation requires that responsible local persons have a thorough understanding of the functions of the various units of the system, of maintenance required during normal river stages, and of operation procedure during flood emergencies. It is with this purpose in mind that this manual has been prepared for the guidance of the Local Flood Control Authority in the maintenance and operation of the flood protection project. The manual undertakes to assemble and correlate all of the details essential for satisfactory maintenance and operation of the project.

3-3. REGULATIONS FOR MAINTENANCE AND OPERATION. A copy of The Code of Federal Regulations, as promulgated in Chapter II - Corps of Engineers, Department of the Army, Section 208.10 - Flood Control Regulations for local flood protection works; maintenance and operation of structures and facilities is contained in Appendix A. These regulations were issued under authority of Sec. 3, 49 Stat. 1571, as amended; 33 U.S.C. 701c (9 F.R. 999, Aug. 17, 1944); 9 F.R. (10203, Aug. 22, 1944).

3-3.1 The general requirements of the regulations for the maintenance and operations of local flood protection works provide as follows:

"(1) The structures and facilities constructed by the United States for local flood protection shall be continuously maintained in such a manner and operated at such times and for such periods as may be necessary to obtain the maximum benefits.

"(2) The State, political subdivision thereof, or other responsible local agency, which furnished assurance that it will maintain and operate flood control works in accordance with regulations prescribed by the Secretary of the Army, as required by law, shall appoint a permanent committee consisting of or headed by an official hereinafter called the 'Superintendent', who shall be responsible for the development and maintenance of, and directly in charge of, an organization responsible for the efficient operation and maintenance of all the structures and facilities during flood periods and for continuous inspection and maintenance of the project works during periods of low water, all without cost to the United States.

"(3) A reserve supply of materials needed during a flood emergency shall be kept on hand at all times.

"(4) No encroachment or trespass which will adversely affect the efficient operation or maintenance of the project works shall be permitted upon the rights-of-way for the protective facilities.

"(5) No improvement shall be passed over, under, or through the walls or levees, ---- nor shall any excavation or construction be permitted within the limits of the project right-of-way, nor shall any change be made in any feature of the works without determination by the District Engineer of the Department of the Army or his authorized representative that such improvement, excavation, construction, or alteration will not adversely affect the functioning of the protective facilities. Such improvements or alterations as may be found to be desirable and permissible under the above determination shall be constructed in accordance with standard engineering practice. Advice regarding the effect of proposed improvements or alterations on the functioning of the project and information concerning methods of construction acceptable under standard engineering practice shall be obtained from the District Engineer or, if otherwise obtained, shall be submitted for his approval. Drawings or prints showing such improvements or alterations as finally constructed shall be furnished the District Engineer after completion of the work.

"(6) It shall be the duty of the Superintendent to submit a semiannual report to the District Engineer covering inspection, maintenance, and operation of the protective works.

"(7) The District Engineer or his authorized representatives shall have access to all times to all portions of the protective works.

"(8) Maintenance measures or repairs which the District Engineer deems necessary shall be promptly taken or made.

"(9) Appropriate measures shall be taken by local authorities to insure that the activities of all local organizations operating public or private facilities connected with the protective works are coordinated with those of the Superintendent's organization during flood periods.

"(10) The Department of the Army will furnish local interests with an Operation and Maintenance Manual for each completed project, or separate useful part thereof, to assist them in carrying out their obligations under this part."

3-4. LOCAL RESPONSIBILITY. The regulations established the responsibilities for the Local Flood Control Authority with respect to the proper maintenance and operation of the Flood Protection Project. The Local Flood Control Authority shall be responsible for the development of an organization capable of providing for the efficient operation and maintenance of the project during flood periods and the

necessary maintenance of the work during normal stages of the river. The regulations have been made sufficiently general to cover practically all types of local flood protection works. They are supplemented in this manual by technical data and instructions pertinent to the local flood control project which are necessary for its efficient maintenance and operation.

3-5. PERMITS FOR USE OF RIGHTS-OF-WAY. The rights-of-way of flood protection projects have been procured and protective works have been constructed thereon for the protection of life and property in times of flood inside the inclosed area. The legitimate use of the rights-of-way for crossing by gas lines, oil lines, and utilities or other uses of a similar nature should be allowed only under the terms of a permit. In order to establish a standard procedure for processing and approving requests to construct, maintain, or operate nay feature on, over, or through the levees, and for any excavation or construction within the project right-of-way, this office has established a permit system to facilitate the carrying out of the intent of the instructions as contained in paragraph 5 of the Regulations of the Secretary of the Army. This permit system greatly expedites the processing of these requests both by the Local Flood Control Authority and the Federal Government.

3-6. PERMIT FORMS. There are contained in the appendices of this manual, the Regulations of the Secretary of the Army, a copy of a suggested permit form designed by this office that has been used successfully by a number of cities and levee communities, and the minimum specifications of this office for the installation of pipe lines or conduits across completed levees.

3-7. PERMIT APPLICATION. Applications for use of the rights-of-way should be addressed to the Board of Flood Control Commissioners of the City of Indianapolis and Marion County, Indiana. The Local Flood Control Authority will then forward the application to eh District Engineer, Corps of Engineers, P.O. Box 59, Louisville, Kentucky 40201, with its recommendation. A draft copy of the proposed permit should be included on which is stated the exact use for the rights-of-way, for which permission is being requested, together with any condition or restriction or the permit. A drawing or sketch should also be furnished showing the exact location and proposed method of construction. If approval is recommended by the Local Flood Control Authority and this office has no objection, the draft form of the permit will be returned for preparation in final form. Five copies of the final permit, bearing the signature of the applicant and an official of the Local Control Authority, should then be forwarded to his office. Three copies will be returned after being signed by the District Engineer. This will enable each party concerned to have a fully executed copy of the permit.

3-8. PERMIT BOND. In any case where a permit is requested for any purpose which might cause disfigurement or damage to the flood protection right-of-way or structures in its erection, use, or removal, it is suggested that the applicant be required to post a bond of sufficient amount to protect the Local Flood Control Authority form

any cost of repair or removal, and the guarantee faithful performance of the permit conditioner. In such cases the permit should state the amount and conditions of the bond. In the event that the application for a permit for proposed work is disapproved by the Local Flood Control Authority, it will not be necessary to forward the rejected application to the District Engineer for review.

3-9. PERMIT ISSUANCE. The flood protection works and the rights-of-way are under the jurisdiction of the Local Flood Control Authority, and will be operated and maintained by them in accordance with the Regulations of the Secretary of the Army, therefore, any permit to use any part of the right-of-way will be issued by the Local Flood Control Authority, with the restriction that no permit will be issued without the prior approval of the District Engineer, Louisville, Kentucky.

3-10. ADJACENT CONSTRUCTION BY OTHERS. When owners of property adjacent to the floodwall initiate new construction, particularly if it involves deep excavation, the Local Flood Authority shall take such action as it may be necessary to assure that there is no encroachment on right-of-way, that adequate shoring is used to prevent disturbing flood protection foundations, and that the work insofar as possible is performed outside the flood periods. The District Engineer, Louisville, Kentucky, shall be consulted if necessary.

3-11. DUTIES OF THE SUPERINTENDENT. The duties of the Superintendent shall include the operation and maintenance oversight, records keeping, and correspondence with the District Office. He should have available names, addresses, and telephone numbers of all his key men, and a reasonable number of substitutes therefore. These key men should have similar information on all of the men that will be required for assistance in the discharge of their duties. These men should include the following:

(1) An assistant to act in the Superintendent's place in case of his absence of indisposition.

(2) Sector foremen in sufficient number to oversee maintenance and patrol of the entire levee during flood operations. High quality leadership ability and responsibility are necessary for these positions.

3-11.1 The superintendent should be well familiar with his manual in its entirety and should ascertain that all of his key men have read those portions of the manual that pertain to their duties.

PERMIT

(Name of Operating Commission, City or State)

(Location)

Permission is hereby given to:

(Name of Firm or Individual)

(Address)

TO: (Describe in these spaces the proposal, including kind and type of construction purpose intended, location by stationing. Indicate passageway provided by means of gates, etc. Use separate sheets if necessary, identifying each by reference herein.)

Provided That:

Upon termination or expiration of this permit (whether by voluntary relinquishment by the permittee, by revocation by the permitter or otherwise) the permittee shall remove all structures, improvements, or appurtenances which may have been erected or constructed under this permit, and shall repair or replace any portion of the flood protection structure or right-of-way which may have been damaged by his operations (including grading and seeding, or sodding, if necessary), to the satisfaction of the permitter.

The structure or operation for which this permit is issued shall be maintained by the permittee in such manner as shall not injure or damage the flood protection structure, or interfere with its operation and maintenance in accordance with regulations of the Secretary of the Army.

The structure or operation covered by this permit may be damaged, removed or destroyed by the permitter in time of flood emergency if such action is determined by the permitter to be necessary in order to preserve life or property or prevent damage or impairment to the use or safety of the flood protection structure, and the permitter shall not be liable to the permittee for such damage or destruction.

Unless otherwise specifically provided herein, this permit may be cancelled at any time by the permitter upon 10 days written notice mailed to the address shown above. During such 10-day period, (or such other period as may be provided herein), the permittee will be permitted to remove any property or improvements installed under this permit, and to repair or replace any damage to the flood protection right-of-way or structures resulting from his use or operations. At the end of such period, the permitter shall have the right to possess and dispose of any such property or improvements remaining upon its right-of-way, and may proceed to repair or replace any such damage, and the permittee herein shall be liable to the permitter for the full cost of such repairs or replacements.

The construction, installation and maintenance of the structure or structures covered by this permit shall be subject to inspection by representatives of the permitter and the United States at all reasonable times.

In the event the work covered by this permit consists of or includes major construction, the cost of inspection thereof by the permitter and/or the United States shall be paid by the applicant.

Permittee agrees that it will not use the area or facilities covered by this permit, or permit such area to be used, for any purpose other than is specifically covered by this permit. (Use these spaces for special conditions applicable to this permit.)

THIS PERMIT SHALL NOT BE VALID UNTIL APPROVED BY THE DISTRICT ENGINEER, CORPS OF ENGINEERS, U.S. ARMY, OR HIS AUTHORIZED REPRESENTATIVE.

Signature on behalf of local interest

(Title)

(Date)

Terms of this permit are hereby accepted.

Signature (Permittee)

(Date)

Approved:

District Engineer
Louisville District
Corps of Engineers

(Date)

By: _____