



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, ROCK ISLAND DISTRICT
PO BOX 2004 CLOCK TOWER BUILDING
ROCK ISLAND, ILLINOIS 61204-2004

Engineering and Construction Division

PUBLIC NOTICE

**REQUEST FOR PERMISSION TO MODIFY A
U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408**

TITLE: Marion County Levee Superiority (**Public Notice ID #408-MVR-2018-0007**)

PUBLIC NOTICE COMMENT PERIOD:

Begins: 21 December 2018

Expires: 4 January 2019

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for certain work at or near a federally authorized flood risk management project of the United States, as described below and shown on attached figures. Written comments are being solicited from anyone having an interest in the requested alteration. Comments will become part of the U.S. Army Corps of Engineers' (USACE) administrative record and will be considered in determining whether to approve the request. Comments supporting, opposing, or identifying concerns that should be considered by the USACE in its decisions process are all welcome. Comments providing substantive information or a rationale for the commenter's position are the most helpful.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply USACE endorsement of the project as described.

REQUESTER: In compliance with 33 USC 408 (Section 14 of the Rivers and Harbors Act of 1899; hereinafter Section 408), Marion County Drainage District has requested permission to modify the Marion County Drainage District Levee, an existing federally authorized flood risk management project.

LOCATION: The proposed project would raise a 1,410 foot section of levee along the South Fabius River. Material will be placed between levee stations 12+00 to 26+10. The proposed project is located near the Central Stone Mining Facility, near the intersection of County Road 344 and U.S. Highway 24/61 in near Taylor, Marion County, Missouri.

LOCATION MAP(S)/DRAWING(S): See Figures 1 and 2.

REQUESTER'S PROPOSED ACTION: The proposed project would raise 1,410 foot section of the Marion County Drainage District Levee with 30,000 cubic yards of impervious fill. The Marion County Drainage District proposes this project to provide superiority to the upstream portion of the levee, protecting the Marion County Drainage District Pipeline.

REGULATORY AUTHORITY: This request will be reviewed according to the provisions of Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408). A requestor has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program

under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC Section 1344) and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413). The compliance determination for any Section 10/404/103 permit decision associated with the proposed alteration is separate from and will not be included in the Section 408 compliance determination. An approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION: The decision whether to grant the requested permission for project modification under Section 408 is based on several factors which are outlined in Engineering Circular (EC) 1165-2-216. The decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification will be reviewed by a USACE technical review team considering the following factors:

1. *Impair the Usefulness of the Project Determination.* The review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. The decision whether to approve a request for modification would be based on a determination of no impairments.
2. *Injurious to the Public Interest Determination.* Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Evaluation of the probable impacts that the proposed alteration to the USACE project may have on the public interest requires a careful weighing of all those factors that are relevant in each particular case. Factors that may be relevant to the public interest depend upon the type of USACE project being altered and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.
3. *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. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the Rock Island District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. ***Based on information provided by the applicant to date, current Corps regulations governing NEPA implementation, and/or the contents of existing NEPA documentation if available, it is likely that the proposed action will be determined to be categorically excluded (CATEX) from the need to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS). This determination will be finalized following completion of agency coordination and prior to project implementation.***
 - a. The project proponent provided the Corps with a copy of the Missouri State Historic Preservation Office's (SHPO) Section 106 Review one-page form, signed by the SHPO on March 14, 2018, whereby the SHPO determined there

will be “no historic properties” affected by this project. The Corps requires additional information before making a Federal adverse effect determination. Specifically, the proponent must provide the Corps with the same information it provided the SHPO, documenting that the proposed Sec. 408 permission area has been subjected to Phase I archeological survey or can otherwise be documented as lacking the potential to contain historic properties.

4. *Technical Analysis.* The Rock Island District is working closely with the requestor to ensure that all required technical plans, maps, drawings, and specifications are provided and complete. A District-led Agency Technical Review (ATR) is being conducted to determine any potential adverse impacts to the USACE-authorized flood protection system.

SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition or deny a permission for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. **Comments are considered in making a final determination whether the proposed action will be categorically excluded (CATEX) from the need to prepare further NEPA documentation.** Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Rock Island District Corps of Engineers, Office of Counsel.

It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described

COMMENT SUBMISSION AND ADDITIONAL INFORMATION: Written comments on the described work should reference the U.S. Army Corps of Engineers Public Notice number found in the Title heading near the top of this notice. Comments must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments or requests for additional information should be mailed or emailed to the following address:

Email: MVR408@usace.army.mil

U.S. Army Corps of Engineers
Emergency Operations
Clock Tower Building – P.O. Box 2004
Rock Island, Illinois 61204-2004
ATTN: Paul St. Louis

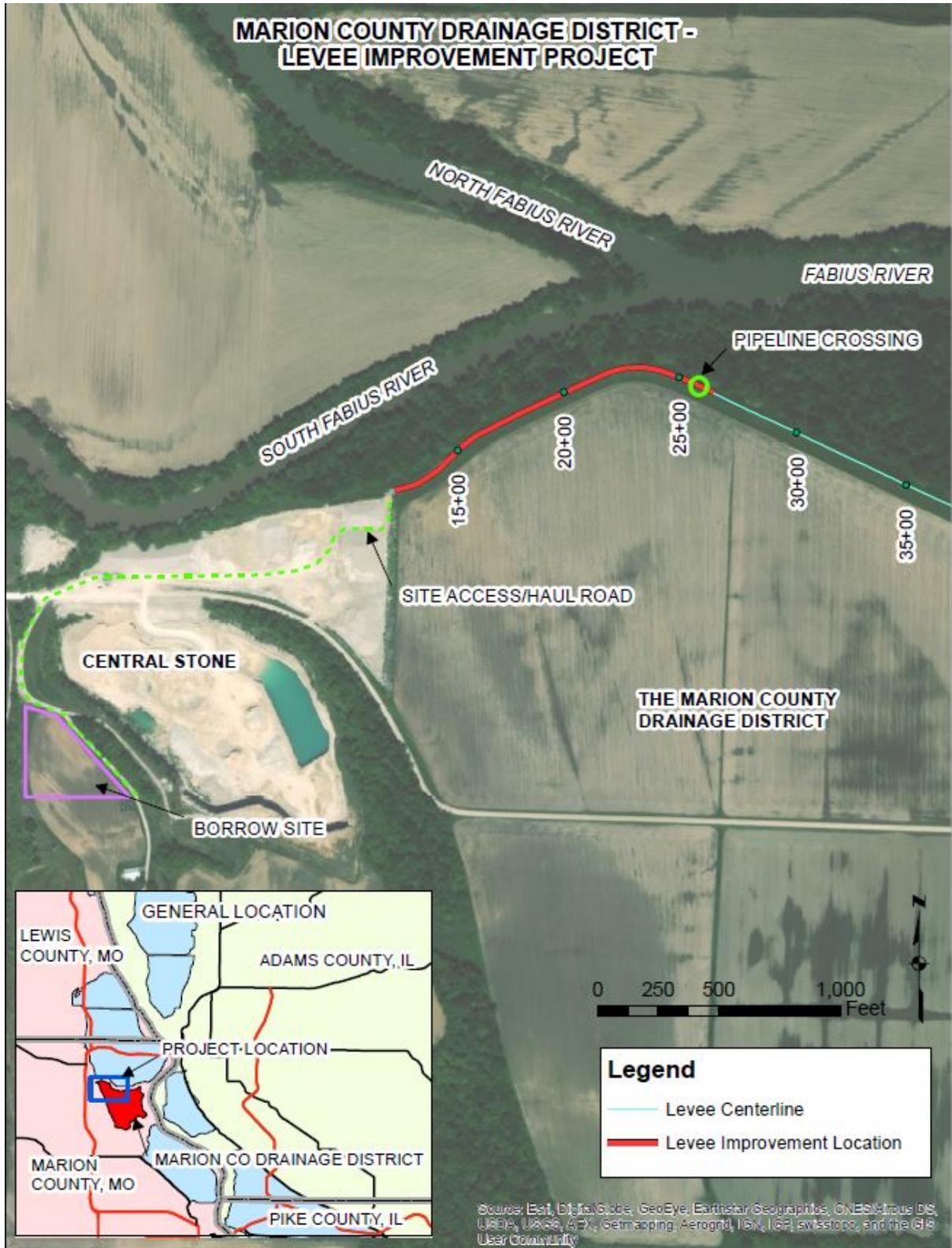


Figure 1. Project location. Provided by project proponent.



Figure 2. Project Detail. Provided by proponent.