



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

Programs and Project
Management Division

PUBLIC NOTICE

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

TITLE: Davenport Flood Mitigation at 3rd St and Carey Ave. Bettendorf Local Flood Protection Project Levee (**Public Notice ID #2022-0037**)

PUBLIC NOTICE COMMENT PERIOD:

Begins: 29 March 2023
Expires: 12 April 2023

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 in the attached figures. Written comments are being solicited from anyone having an interest in the requested alteration. Comments providing substantive information or a rationale for the commenter's position are the most helpful. All comments supporting, opposing, or identifying concerns the U.S. Army Corps of Engineers (USACE) should consider in its decisions process are welcome. Comments will become part of the USACE administrative record and will be considered in determining whether to approve the request.

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), The City of Davenport has requested permission to modify the Bettendorf Local Flood Protection Project (FPP) Levee, an existing federally-authorized flood risk management project in Scott County, Iowa.

LOCATION: The proposed project is located at the Bettendorf Local FPP Levee along East River Drive in the area between 3rd Street and Carey Avenue in Davenport, Iowa.

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

REQUESTER'S PROPOSED ACTION: The proposed project would consist of disconnecting two existing storm intakes from a double barrel box culvert adjacent to the Mississippi River (the "Government Box", built by the Corps in 1936), installing two gatewells to prevent Mississippi River backflow from flooding River Drive, and

maintaining the existing connection point of two storm sewers to the Government Box, but increasing the diameter of those connections.

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) 1165-2-220, *Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to Section 408*. The decision will reflect the national concern for both the 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 District 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 if it 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, including the National Historic Preservation Act and the Endangered Species Act. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the U.S. Army Corps of Engineers, Rock Island District (District) identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. ***Based on the information provided by the applicant to date, current USACE 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 from the need to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS).***
 - a. According to ER 200-2-2 Paragraph 9 (a) dated 4 March 1988, "Activities at completed Corps projects which carry out the authorized project purposes. Examples include routine operations and maintenance actions, general administration equipment purchases, replacement of existing structures and facilities, such as new buildings, roads, levees, groins, and utilities, and installation of new buildings utilizes, or roadways in developed areas," this action is categorically excluded from NEPA documentation.
 - b. There are no documented historic properties within the project area. The land on which construction is proposed has been subject to heavy industrial use and development since at least the late-1930s. In about 2014, the City of Davenport began developing the property into the River Heritage Park that exists on site today. The possibility of encountering intact cultural resources with sufficient integrity to be considered eligible for the National Register of Historic Places is negligible. As such, USACE finding of effects for this project is No Historic Properties Affected. Further review under Section 106 of the National Historic Preservation Act (54 USC § 306108) is not warranted.
4. *Technical Analysis.* The District is working closely with the requestor to ensure all required technical plans, maps, drawings, and specifications are provided and complete. A District-led Agency Technical Review 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 USACE to determine whether to issue,

modify, condition, or deny permission for this proposal. To make this decision, comments will be used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments will be used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the NEPA. Comments are also used to determine the need for a public hearing and the overall public interest in 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 Corps of Engineers Rock Island District, Office of Counsel.

It is presumed that all parties receiving this Public Notice will wish to respond to it; 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 2022-0037. Comments must reach this office no later than 12 April 2023. Comments or requests for additional information should be mailed or emailed to the following address:

Email: MVR408@usace.army.mil

District Engineer
US Army Corps of Engineers, Rock Island District
Attn: Leo Keller (PM-M)
Clock Tower Building
P. O. Box 2004
Rock Island IL 61204-2004



Figure 1. Project Area Vicinity

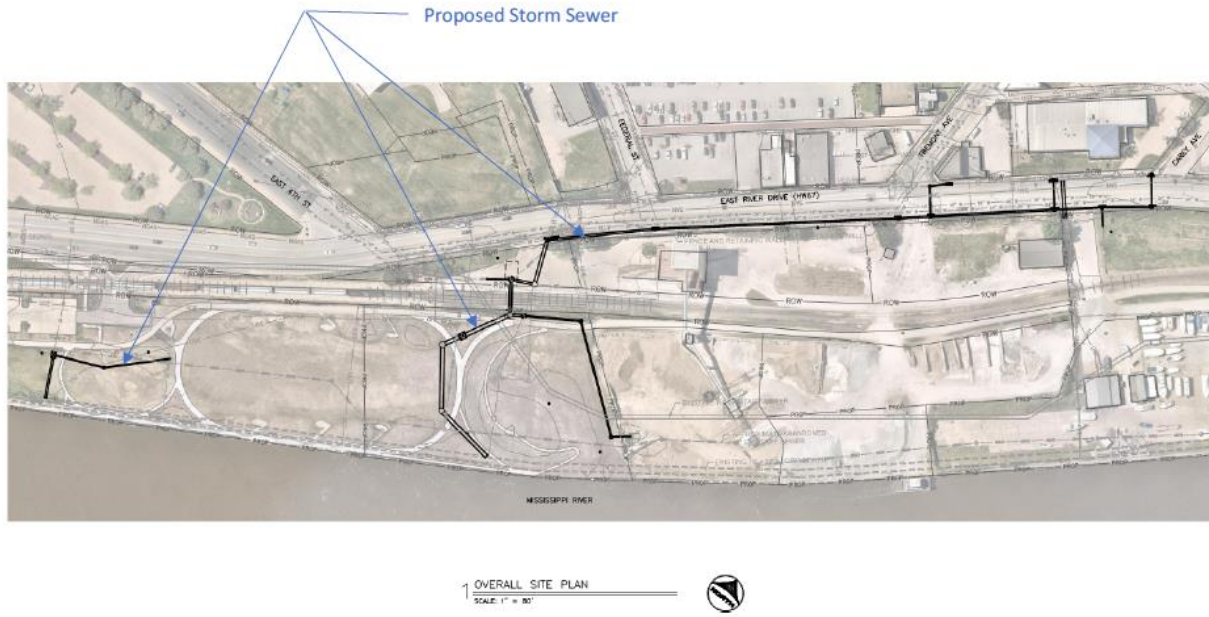


Figure 2. Project Site Map