



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:** Lee County Horizontal Directional Drill Anhydrous Ammonia Pipeline (**Public Notice ID #2022-0038**)

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: 23 March 2023

Expires: 22 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 on 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), NuStar Energy, L.P. has requested permission to modify the Green Bay Levee District No. 2, an existing federally-authorized local flood protection project.

**LOCATION:** The proposed project will extend from an existing pipeline southwest of Fort Madison, Iowa to a fertilizer production plant near Wever, Iowa. A portion of the project will involve Horizontal Direction Drilling (HDD) the pipeline under Lost Creek and the Green Bay Levee in Lee County, IA.

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

**REQUESTER'S PROPOSED ACTION:** The proposed project would include construction of a pipeline that will transport anhydrous ammonia. The project will involve horizontal directional drilling a 6" pipeline under Lost Creek and the Green Bay Levee. The approximately 14-mile-long pipeline will deliver anhydrous ammonia at approximately 40 tons per hour. The pipeline will be constructed of welded metal with a nominal diameter of 6.625" and a maximum allowable operating pressure of 1480 psi.

**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 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. A USACE technical team will review the requests for modification 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 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 or not to approve an alteration will be determined by considering 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 USACE, Rock Island District (District), identifies as necessary to satisfy all applicable Federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analyses completed in order to comply with the other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project.
  - a. The project proponent, NuStar Energy, L.P., is responsible for preparing and submitting necessary environmental compliance documentation. NuStar Energy, L.P. submitted a draft Environmental Assessment (EA) to the District for review. The District will review the EA, ensuring it complies with ER 200-2-2, *Procedures for Implementing the National Environmental Policy Act*, and all required environmental statutes. Any comments received during this public notice period will be incorporated into the EA and considered prior to the District determining if a Finding of No Significant Impact may be signed.
  - b. The Federal interest portion of the project area is being evaluated for cultural resources-related concerns. The District anticipates consultation with the State Historic Preservation Officer, tribes, and other interested parties under Section 106 of the National Historic Preservation Act (NHPA; 54 USC § 306108).
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 a 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 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 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 2022-0038. Comments must reach this office no later than 22 April 2023. Comments or requests for additional information should be mailed or emailed to the following address:

Email: [MVR408@usace.army.mil](mailto:MVR408@usace.army.mil)

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

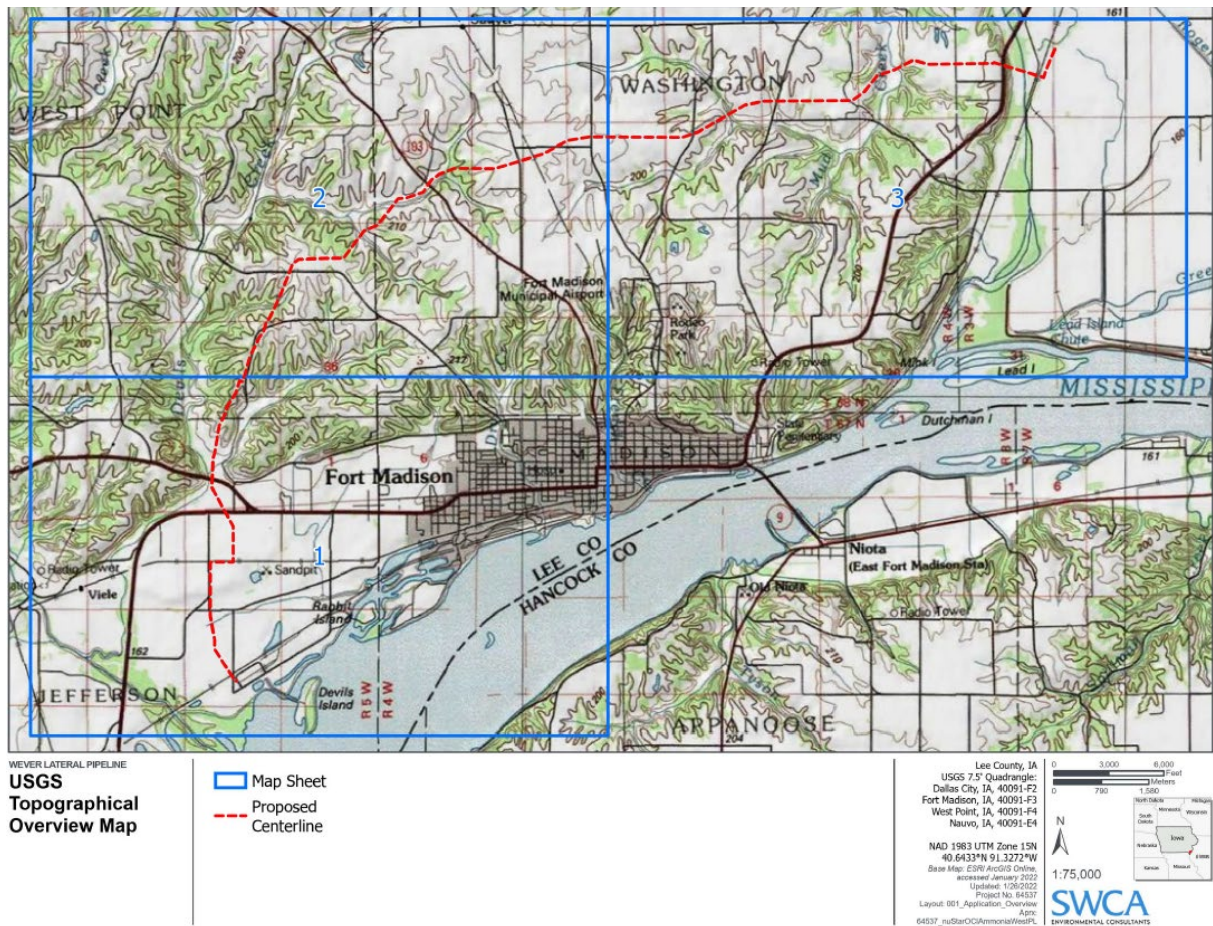


Figure 1. Project Area Vicinity.



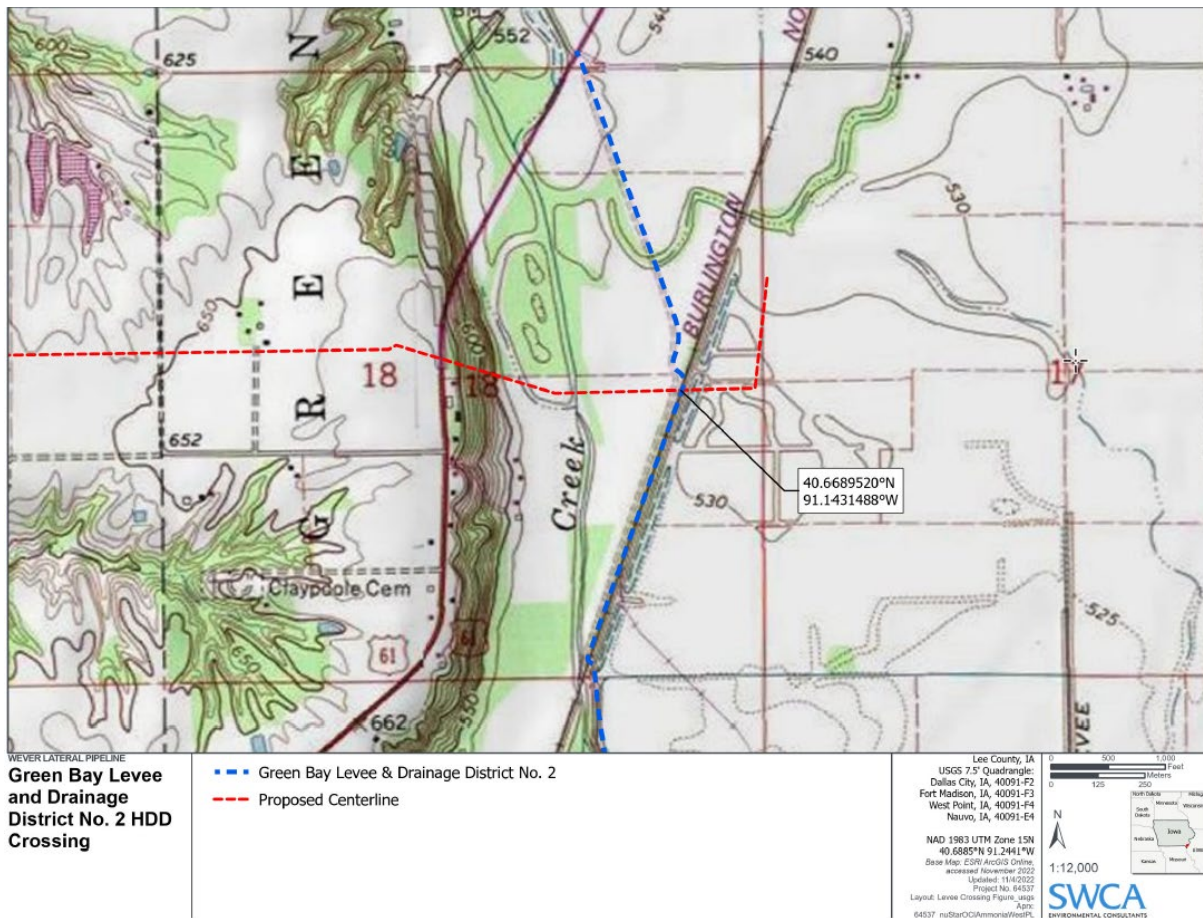


Figure 2. Project Site Map, Green Bay Levee Crossing.