



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:** Kinder Morgan Pipeline Maintenance Project within the Muscatine Island Levee District (**Public Notice ID #2021-0015**)

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: 17 November 2021

Expires: 17 December 2021

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), Arcadis U.S. Inc. on behalf of Natural Gas Pipeline Company of America (NGPL) and Kinder Morgan, Inc., requests permission to perform construction activities within the Muscatine Island Levee District, an existing federally authorized flood risk management project, Right-of-Way for maintenance of a pre-existing pipeline.

**LOCATION:** The construction access point for the project is located off Maple Grove Road in Muscatine, Iowa.

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

**REQUESTER'S PROPOSED ACTION:** The proposed project will require the modification of the pre-existing natural gas pipeline to accommodate in-line inspection devices, known as "smart pigs", to maintain compliance with U.S. Department of Transportation Pipeline Hazardous Materials Safety Administration pipeline safety regulations. The proposed project activities will involve the excavation of a segment of pre-existing Amarillo No. 2 pipeline, dewatering of the excavation, temporary storage of spoil stockpile, removal of the existing receivers, valve replacement or addition, and changing out of tees. These proposed construction activities will occur within the Muscatine Island Levee District's Right-of-Way. The proposed project workspace limits within levee right-of-way will be approximately 2.71 acres.

**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 requester 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/Notice of Issuance*. 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 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 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 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 or Environmental Impact Statement.***
  - a) EC 1165-2-220 instructs the Corps to broadly interpret real estate grants for rights-of-way, as referenced in 33 CFR 230.9(i), to include either USACE or the non-Federal sponsor if the proposed alteration is within the intended scope of the specific categorical exclusion. The proposed action is similar in scope to those actions covered by Categorical Exclusion 33 CFR 230.9(i)(2), "Real estate grants for rights-of-way which involve only minor disturbances to earth, air, or water: Minor utility distribution and collection lines, including irrigation."
  - b) The proposed actions take place in an area previously disturbed by industrial activities. An archeological site is within the work area but has been determined not eligible for listing on the National Register of Historic Places. The Corps has determined there will be No Historic Properties Affected by the proposed work. Further evaluation under Section 106 of the National Historic Preservation Act (54 USC § 306108) is not warranted
4. *Technical Analysis.* The U.S. Army Corps of Engineers, Rock Island District (District), is working closely with the requester 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 are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are 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, 2021-0015. Comments must reach this office no later than 17 December 2021 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](mailto:MVR408@usace.army.mil)

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

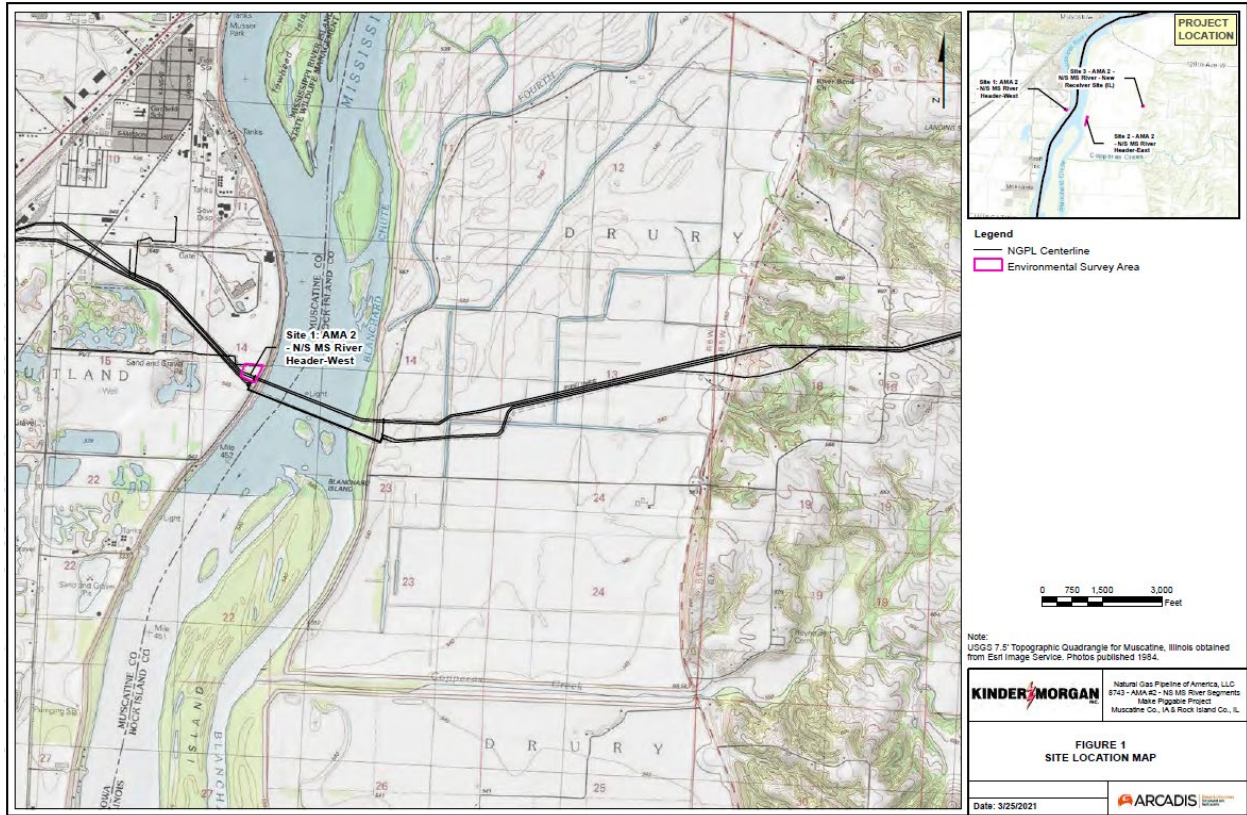


Figure 1. Project area vicinity provided by Arcadis on behalf of Kinder Morgan.





Figure 2. Project site map, provided by Arcadis on behalf of Kinder Morgan, depicting work limits within the Muscatine Island Levee Right-of-Way.