



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: 408-MVR-2020-0016 Dubuque Bee Branch Pump Station Replacement (**Public Notice ID #2020-0016**)

PUBLIC NOTICE COMMENT PERIOD:

Begins: 20 July 2021

Expires: 19 August 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. All comments supporting, opposing, or identifying concerns that should be considered by the USACE in its decisions process are 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 the 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 Dubuque, IA, with funding from the Economic Development Administration (EDA), has requested permission to replace the Bee Branch Pumping Station, part of the Dubuque, Iowa Flood Control Works Levee system, an existing federally authorized flood risk management project.

LOCATION: The proposed project is located at the Bee Branch Pumping Station on Kerper Blvd, in Dubuque, Iowa.

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

REQUESTER'S PROPOSED ACTION: The City of Dubuque, with EDA funding, proposes to construct a new culvert inlet structure and stormwater pumping station on the 16th Street Detention Basin side of the existing culverts. The project would be located in Section 19 of T89N, R03E, Dubuque County, Iowa, within the limits of the City of Dubuque, Iowa. The City has evaluated five alternative options and has decided on the preferred alternative, a new structure and pumping station on the detention basin side of the existing culverts and levee. The

new structure would consist of a concrete structure of approximately 145 feet by 53 feet in length and width and varying depth with the tallest part of the structure being approximately 40 plus feet in height. Work will also include new trash racks, culverts, sluice gates, and pumps. This option provides the City with the greatest flexibility for various situations with water levels in the detention basin and the Mississippi River. The project also provides flood control during construction and would provide flexibility with the potential for future expansion if the storm events continue to increase in intensity.

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 U.S.. Section 1344) and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C 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 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, 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 the USACE is responsible for ensuring compliance, the requester is providing all information the Rock Island District identifies as necessary to satisfy all applicable Federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analyses completed 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 EDA prepared an Environmental Assessment and Finding of No Significant Impact (FONSI) titled, “City of Dubuque Stormwater Improvements”, dated 3/4/2019. Prior to signing the FONSI, the EDA conducted a public review to solicit comments to satisfy NEPA requirements. No comments were received.
 - b) The EDA coordinated a no historic properties affected determination for this project with the Iowa State Historic Preservation Office and received concurrence on 2/27/2019. Rock Island District Archeologist concurs with the EDA determination. Further evaluation under Section 106 of the National Historic Preservation Act (54 USC § 306108) is not warranted.
 - c) The City of Dubuque contracted a freshwater mussel survey in 2016 to help inform design plans. The EDA used this data, along with data for U.S. Fish and Wildlife Service’s Information for Planning and Consultation (IPAC), to make “no effect” determinations for all species protected by the Endangered Species Act (ESA).
 - d) According to EC 1165-2-220, Districts are strongly encouraged to adopt and/or incorporate by reference any NEPA documentation that may already exist or may already be in development for the Federal project. The Rock Island District believes the Environmental Assessment, Public Review, FONSI, and other compliance documentation prepared by the EDA adequately satisfy NEPA requirements for the Section 408 request. If no new information is provided during this public notice, the Rock Island District plans to adopt the EDA’s Environmental Assessment and FONSI.
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 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 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 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:

E-mail: 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

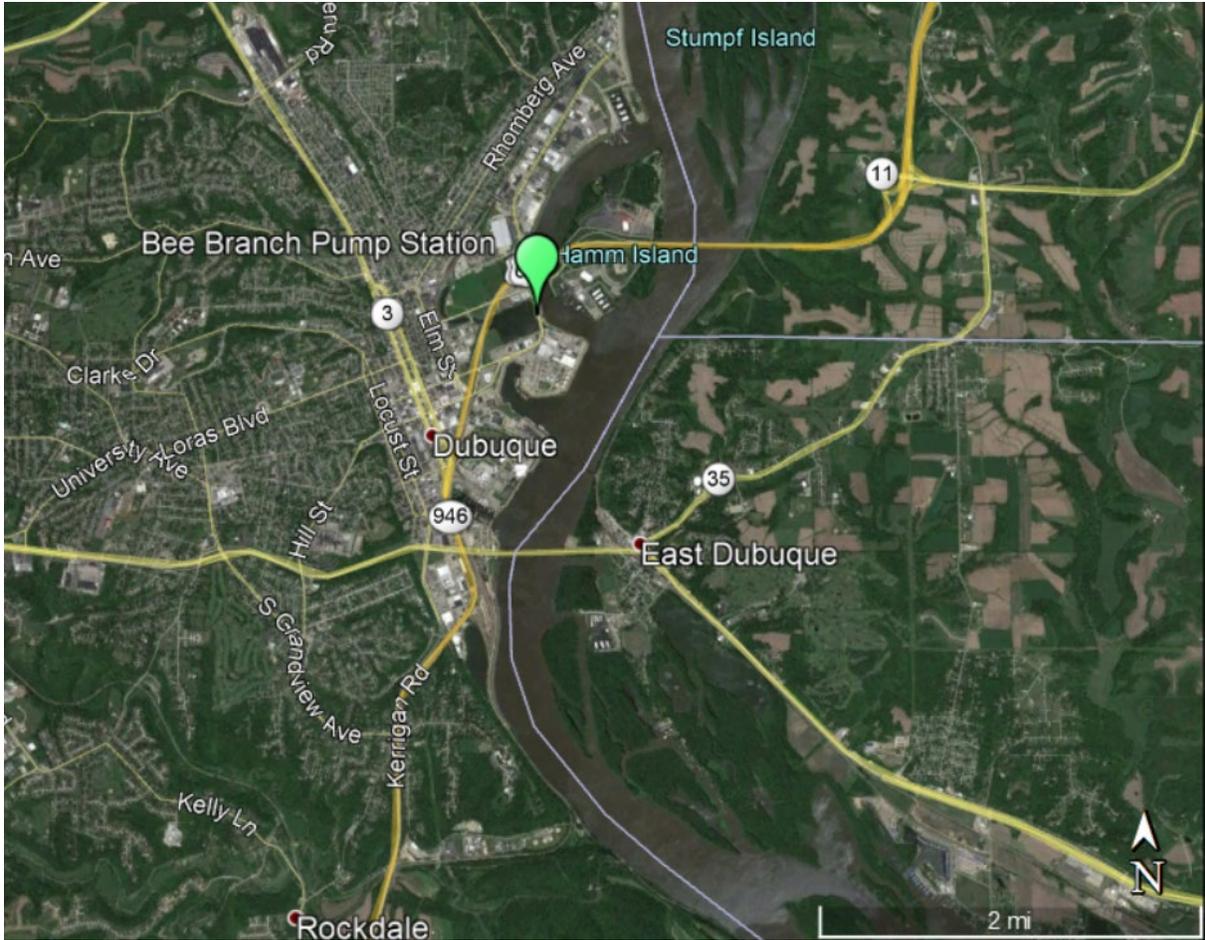


Figure 1. Project area vicinity in Dubuque, Iowa.

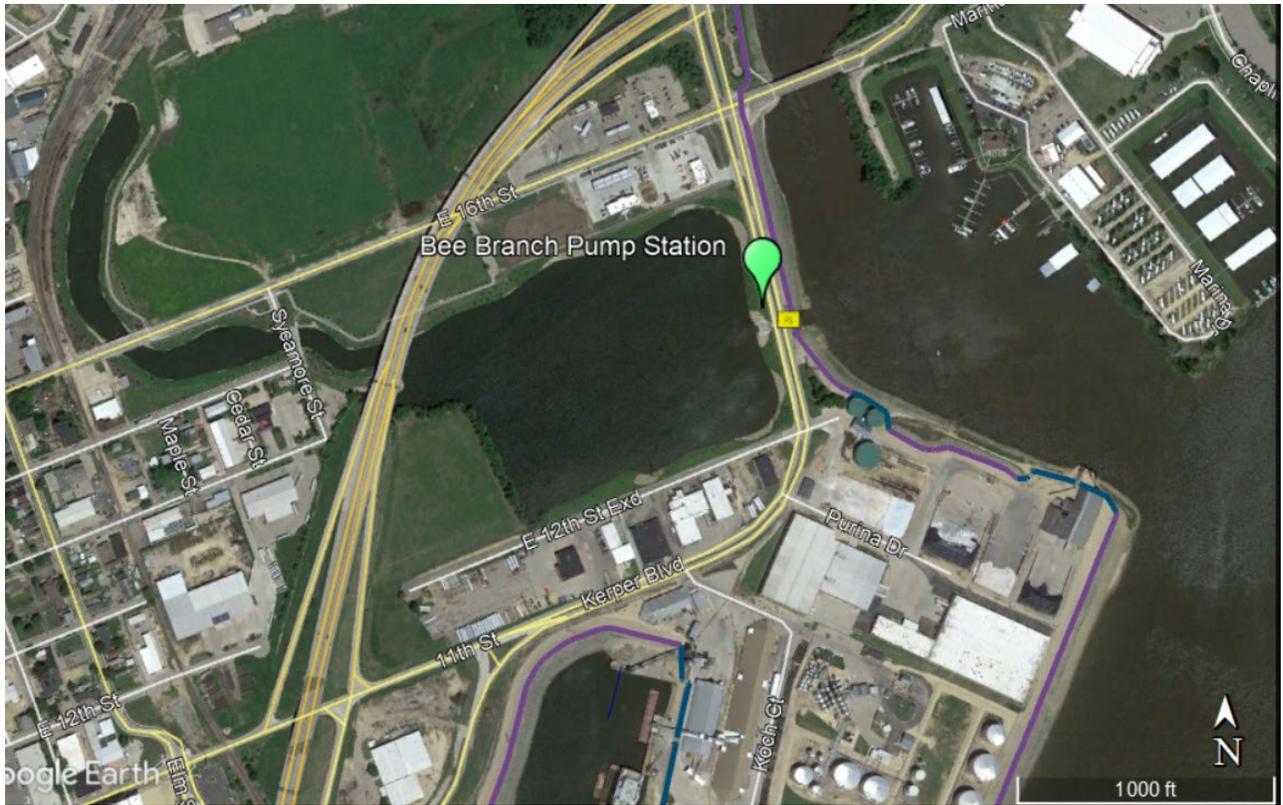


Figure 2. Project Site Map. New Bee Branch Pump Station would be located on the detention basin side of the levee.