



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVENUE
NEW ORLEANS, LA 70118

May 28, 2020

PUBLIC NOTICE
REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS
PROJECT PURSUANT TO 33 U.S.C. SECTION 408

PUBLIC NOTICE/FILE NUMBER: 20-0036, Phillips 66 Alliance H2PL, LLC

Interested parties are hereby notified that a request for permission to alter U.S. Army Corps of Engineers (USACE) projects pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 408) has been received and will be evaluated by the New Orleans District.

Written comments, including any objections to the proposed alteration, stating reasons therefor, are being solicited from anyone having an interest in the requested alteration of USACE projects. This Public Notice solicits comments only on the proposed alteration of the eight federal projects and fourteen federal easements described below and depicted on the attached drawings.

Comments must be mailed or emailed by or before the last day of the comment period and must reference the file number of this public notice. Comments will become part of the record and will be considered in the decision on the request. See below for contact information and address.

The proposed action crosses the following federal projects: Davis Pond Freshwater Diversion Project (Levees and Easements), West Bank and Vicinity Hurricane Protection Project Mitigation Tracts, Gulf Intracoastal Waterway, Barataria Waterway, and the Future West Plaquemines Parish Levee.

COMMENT PERIOD EXPIRES: June 12, 2020

REQUESTED ALTERATION: Phillips 66 Alliance H2PL, LLC proposes to construct the Alliance Hydrogen Pipeline Project (Project), an approximately 36 mile, 12-inch diameter hydrogen pipeline from an existing facility in Luling Louisiana to the Alliance refinery in Belle Chasse, Louisiana. Specifically, the line will be installed via horizontal direction drill (HDD) under the Davis Pond Temporary Construction Easement, up and over the West Guide/Pump Station Levee and Davis Pond West Guide Levee, and via open trench with the push-pull method across the Davis Pond Flowage Easements. An HDD is proposed to cross the West Bank and Vicinity Hurricane Protection Projects Mitigation Easement Tracts with the HDD commencing on the northern most end of these tracts and ending south of the southern tract with an approximate depth of 80 feet below grade. HDDs are also proposed to install the pipeline beneath the Gulf

Intracoastal Waterway and Barataria Waterway at depths of approximately 84 feet and 34 feet, respectively. The pipeline will be installed via open trench at the location of a proposed T-wall in the future West Plaquemines Parish Levee and across the proposed borrow canal for the levee.

The attached figures and table provide the location and details of the proposed project.

REQUESTER: Phillips 66 Alliance H2PL, LLC, 2231 City West Blvd, Houston, Texas 77042.

PERMISSION AUTHORITY: The authority to grant permission for temporary or permanent use, occupation or alteration of any USACE civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 USC 408 ("Section 408"). Section 408 authorizes the Secretary of the Army to grant permission for the alteration or occupation or use of a USACE project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project.

ADDITIONAL INFORMATION: Phillips 66 Alliance H2PL, LLC has submitted an application for a Rivers and Harbors Act Section 10 and Clean Water Act Section 404 permit to the USACE Regulatory Branch for the proposed action. That evaluation (MVN-2019-0343-EPP) will be a separate process from the evaluation of the request for permission to alter the USACE projects. **This Public Notice solicits comments only on the proposed alteration of the USACE projects and easement.**

LOCATION OF PROPOSED ACTION: As shown on the attached drawings, the proposed action occurs beneath the following USACE projects and easement:

- **Davis Pond Temporary Construction Easement (St. Charles Parish);**
Tract 115E-2; Lat: 29° 55' 15.41", Long: -90° 19' 25.46"
- **Davis Pond West Guide/Pump Station Levee (St. Charles Parish):**
Tract 110E-2; Lat: 29° 54' 52.47", Long: -90° 19' 11.81"
- **Davis Pond Flowage Easements (St. Charles Parish):**
Tract 110E-3; Lat: 29° 54' 49.19", Long: -90° 19' 08.28"
Tract 200E-2; Lat: 29° 53' 29.37", Long: -90° 19' 00.85"
- **Davis Pond West Guide Levee (St. Charles Parish):**
Levee Tract 200E-1; Lat: 29° 52' 57.90", Long: -90° 18' 59.73"
Non-levee Crossing Tract 200E-1; Lat: 29° 52' 43.01", Long: -90° 18' 59.21"
- **West Bank and Vicinity Hurricane Protection Project Mitigation Easements (St. Charles Parish):**
Tract 100-1; Lat: 29° 52' 51.93", Long: -90° 18' 59.52"
Tract 100-2; Lat: 29° 52' 41.64", Long: -90° 18' 59.16"
- **Gulf Intracoastal Waterway (Jefferson Parish):**
Lat: 29° 41' 18.68", Long: -90° 11' 10.70"
- **Barataria Waterway (Jefferson Parish):**
Lat: 29° 42' 04.08", Long: -90° 06' 05.10"
- **Future West Plaquemines Parish Levee (Plaquemines Parish):**

Proposed T-wall; Lat: 29° 41' 04.46", Long: -89° 59' 26.31"
Proposed Canal; Lat: 29° 40' 57.33", Long: -89° 59' 14.17"

WRITTEN COMMENTS MAY BE MAILED TO: (Please note that due to COVID-19, emailed comments are preferred)

Department of the Army
Corps of Engineers, New Orleans District
ATTN: Howard Ladner (CEMVN-PDC)
7400 Leake Ave.
New Orleans, Louisiana 70118

WRITTEN COMMENTS MAY BE EMAILED TO: howard.w.ladner@usace.army.mil

ALL comments must contain the full name and address of the individual commenting and must be received by the USACE by the expiration of the public notice period.

EVALUATION: This request will be reviewed pursuant to Section 408 and USACE Engineering Circular (EC) 1165-2-216, which provides policy and procedural guidance for processing requests to alter USACE civil works projects.

The decision whether to grant permission for the requested alteration will be based on several factors. The benefits that reasonably may be expected to accrue from the proposal will 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) Potential to Impair the Usefulness of the Project. Proposed alterations will be reviewed to determine whether the alteration would limit the ability of the USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. If USACE determines that the usefulness of the authorized project would be impaired, the request will be denied.
- 2) Potential to be Injurious to the Public Interest. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. 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. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. 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 is subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. USACE is preparing a NEPA document evaluating the potential impacts of the proposed alteration on important resources. Comments received on this public notice will be used in the evaluation. The EA will not be published for public comment as this notice fulfills NEPA requirements for public participation. Any comments regarding the proposed alteration should be submitted during the current public comment period.

While ensuring environmental compliance is the responsibility of USACE, the requester is responsible for providing all information that USACE identifies as necessary. Environmental compliance factors that will be considered in this evaluation include but are not limited to the following:

- a. Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) directs all Federal agencies to insure that any action they authorize, fund, or carry-out does not jeopardize the continued existence of an endangered or threatened species including adverse modification of their critical habitat. The USACE will complete consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service for compliance under Section 7 of the ESA act, as necessary.
- b. The requester received Water Quality Certification WCQ 200109-01 from the Department of Environmental Quality confirming that the proposed project is in compliance with Section 401 of the Clean Water Act.
- c. Compliance with Clean Water Act, Section 404(b)(1) guidelines, as well as Section 10 of the Rivers and Harbors Act will be evaluated through a separate USACE permit review process. EC 1165-2-216 specifies that the Section 408 request must be evaluated independent of the above referenced USACE permit evaluations.
- d. In accordance with Section 106 of the National Historic Preservation Act (NHPA), the USACE is required to take into account the effects of any permitted action to historic properties, which includes both archaeological resources on the surface or below ground, as well as historic buildings and structures that are listed in or are eligible for listing in the National Register of Historic Places. On December 12, 2019 the State Historic Preservation Office issued a letter concurring that the proposed project is not likely to adversely affect cultural resource or historic properties. The USACE is also consulting with Indian Tribes in accordance with Section 101(d)(6)(B) of the NHPA, the USACE Tribal Consultation Policy, and Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments."

All factors that may be relevant to the proposal will be considered, including the potential cumulative effects associated with the proposed project. The review will consider the potential impact to the usefulness of the Federal projects and whether the proposed alterations would be injurious to the public interest. Policy and legal compliance will also be considered.

USACE is soliciting comments from interested parties to evaluate the potential impacts of the proposed alterations. Comments will be considered to assess impacts on the public interest factors listed above, as well as endangered species, historic properties, water quality, and general environmental effects. Comments will be used for environmental compliance coordination as required by NEPA.

COORDINATION: This public notice will be coordinated with the relevant State, Federal and Tribal entities as appropriate.

Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

If you have any questions, please contact Howard Ladner, by telephone at 504-862-2021 or via email at howard.w.ladner@usace.army.mil.

FOR THE DISTRICT COMMANDER



Marshall K. Harper
Chief, Environmental Planning Branch

Enclosures