

Appendix J
Section 408 Public Notice, Distribution
List, and Summary of Comments Received

for
DRAFT
ENVIRONMENTAL ASSESSMENT

Dakota Access Pipeline Project
Crossings of Federal Projects and Flowage
Easements

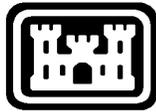
Prepared by:

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1300 Main Street
Houston, TX 77002

Prepared for:

U.S. Army Corps of Engineers
St. Louis District
1222 Spruce Street
St. Louis, MO 63103

August 2016



Public Notice

**US ARMY CORPS
OF ENGINEERS
St. Louis District
Gateway to Excellence**

**Reply To:
U.S. Army Corps of Engineers
Attn: CEMVS-OD-R
1222 Spruce Street
St. Louis, Missouri 63103-2833**

**Permission No.
OD-R-15-009
Public Notice Date
January 05, 2016
Expiration Date
February 05, 2016**

Postmaster Please Post Conspicuously Until:

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

Interested parties are hereby notified that an application has been received for a Department of the Army Section 408 permission for certain work near federally constructed flood protection projects of the United States, as described below and shown on the attached maps.

COMMENTS AND ADDITIONAL INFORMATION: Comments on the described work should reference the U.S. Army Corps of Engineers Public Notice number shown above and 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 should be mailed to the following address:

U.S. Army Corps of Engineers
Readiness Branch
1222 Spruce Street
St. Louis, Missouri 63103-2833
ATTN: Ed Rodriguez

REQUESTER: Dakota Access Pipeline LLC, Attention: Ms. Monica Howard, Director of Environmental Sciences, Energy Transfer

LOCATION: The St. Louis District Office is currently evaluating specific segments of the pipeline that cross the Illinois River navigable channel at Milepost (MP) 901, Coon Run Levee, McGee Creek Levee, and the Carlyle Lake flowage easement.

PROPOSED ACTION: Dakota Access Pipeline LLC is proposing to construct an 1,134-mile, 30-inch diameter pipeline system to carry up to 570,000 barrels per day of U.S. light sweet crude from Bakken and Three Forks production region of North Dakota through the states of North Dakota, South Dakota, Iowa and Illinois terminating at a crude oil hub near Patoka, Illinois, with various potential points of destination along the pipeline. The pipeline crosses four states within the boundaries of three U.S. Army Corps of Engineers Districts (Omaha District, Rock Island District, and St. Louis District). The St. Louis District Office is currently evaluating two segments of the pipeline that cross beneath the Illinois River navigable channel at Milepost (MP) 901 and adjacent levee systems such as Coon Run Levee and McGee Creek Levee. The third segment under review is a pipeline that crosses beneath the Carlyle Lake flowage easement. All of the pipeline segments that lie within the St. Louis District boundary lines are proposed to be buried. The requester is proposing to perform

horizontal direction drillings (HDD) to cross beneath the three locations.

LOCATION MAPS AND DRAWINGS: See Attachments 1 and 2.

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Ed Rodriguez, Project Manager, U.S. Army Corps of Engineers, at (314) 331-8568. Your inquiries may also be sent by electronic facsimile to (314) 331-8741 or by e-mail to edward.c.rodriguezrobles@usace.army.mil.

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). 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 this compliance determination.

EVALUATION: The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That 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 U.S. Army Corps of Engineers 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 project to function as authorized, or 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 U.S. Army Corps of Engineers 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. While ensuring compliance is the responsibility of USACE, the requester is providing all information that the St. Louis District identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis 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 US Army Corps of Engineers project. The scope of analysis for the NEPA and environmental compliance evaluations for the Section 408 review is limited to the area of

alteration and those adjacent areas that are directly or indirectly affected by the alteration. The requester is preparing an Environmental Assessment (EA) document that will include potential impacts limited to the Illinois River navigable channel crossing, two levee systems and the Carlyle Lake flowage easement. The St. Louis District will thoroughly evaluate and approve such document.

4. Environmental Impact Statement. A preliminary determination has been made that an environmental impact statement is not required for the proposed work.
5. Technical Analysis. The St. Louis District is working closely with the requestor to ensure that all technical plans, maps, drawings, specifications are provided and complete. A District-led Agency Technical Review (ATR) is being conducted to determine any potential adverse impacts to the US Army Corps of Engineers flood protection system.

SOLICITATION OF COMMENTS: The U.S. Army Corps of Engineers 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 U.S. Army Corps of Engineers 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 National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUMMARY: 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 St. Louis District Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later than **FEBRUARY 5, 2016**. 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.

This public notice is not a paid advertisement and is for public information only. Issuance of this notice does not imply Corps of Engineers endorsement of the project as described.

FOR THE DISTRICT COMMANDER:

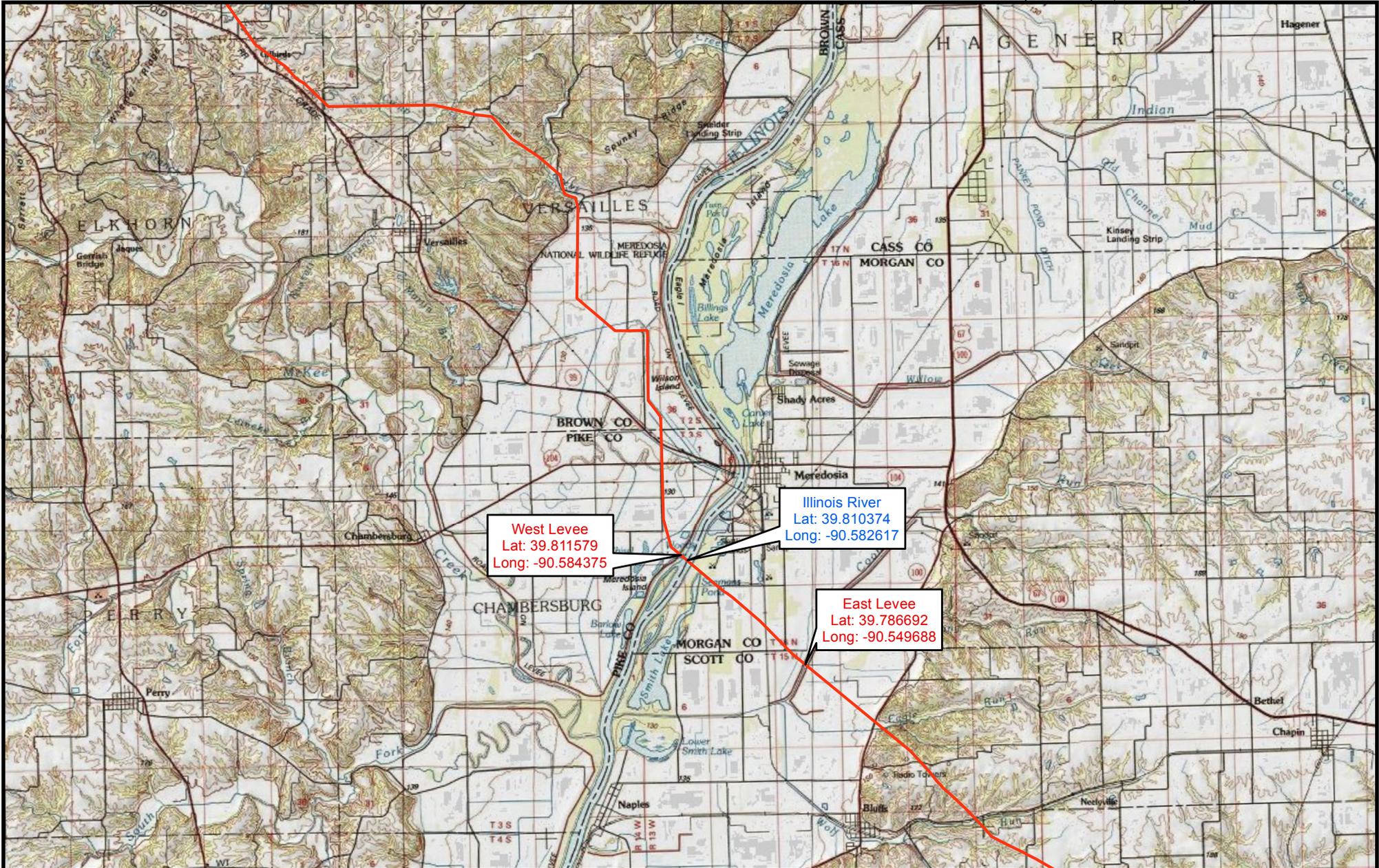
ORIGINAL SIGNED

MATTHEW J.HUNN, P.E.
Chief, Readiness Branch

Attachments

NOTICE TO POSTMASTERS:

It is requested that this notice be conspicuously and continually placed for 21 days from the date of this issuance of this notice.

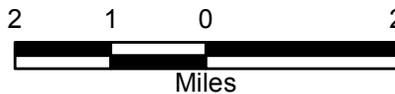


West Levee
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Long: -90.584375

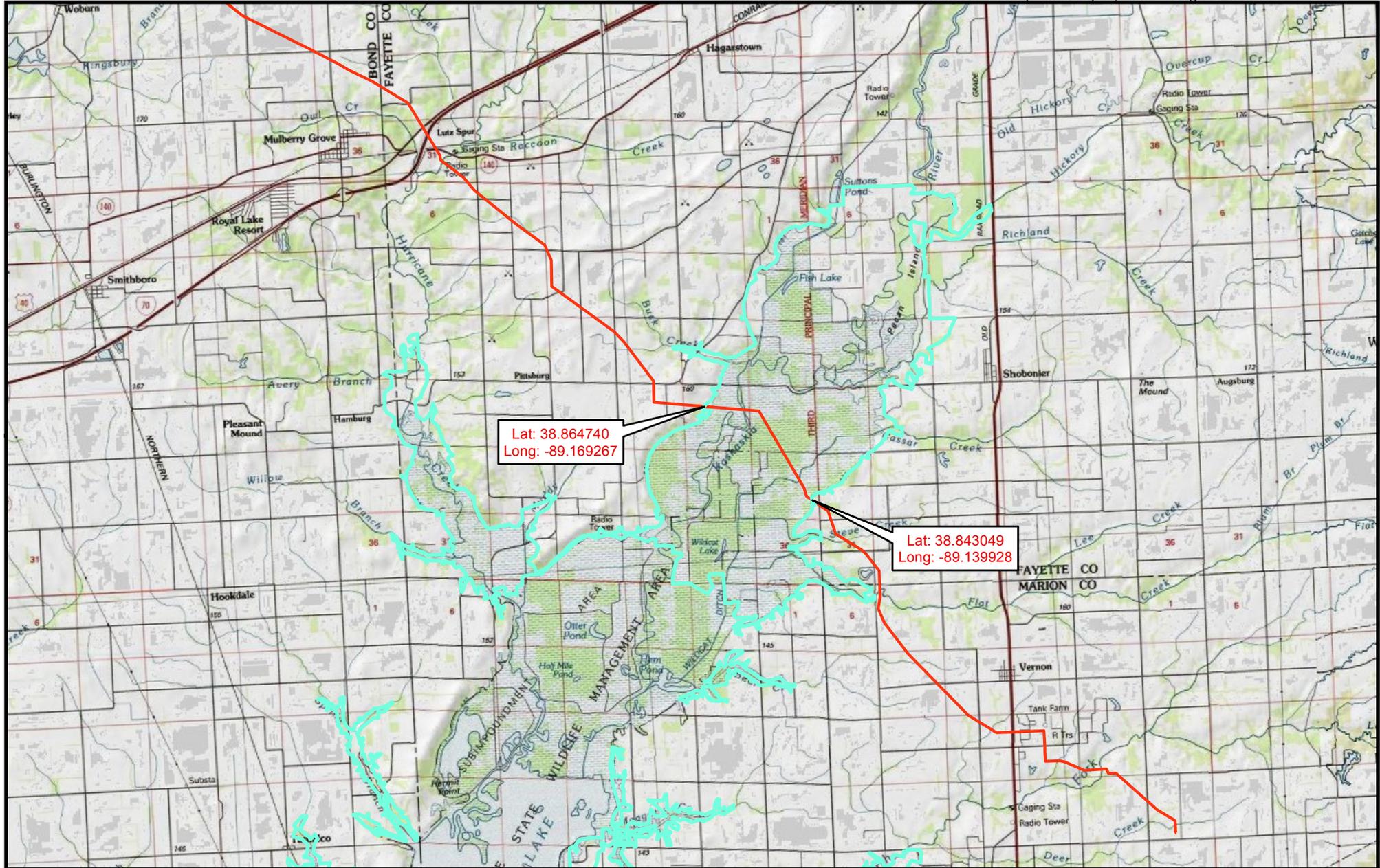
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Long: -90.582617

East Levee
Lat: 39.786692
Long: -90.549688

— Proposed Pipeline

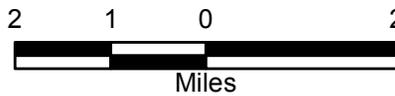


Dakota Access Pipeline Project
Dakota Access, LLC
Section 408 Review Area
Illinois River and Protection Levees



Proposed Pipeline

Lake Carlyle Flowage Easement



Dakota Access Pipeline Project
Dakota Access, LLC
Section 408 Review Area
Lake Carlyle Flowage Easement

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U.S. Army Corps of Engineers – St. Louis District
Dakota Access Pipeline – Section 408 Public Notice (OD-R 15-009) – Summary of Comments Received

Comment Number	Comment	Response
1-1	The Agencies have improperly limited the scope of the environmental analysis within the draft. We question the Corps preliminary determination that this environmental impact statement is not required for the proposed work.	EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. A preliminary determination does not preclude the preparation of an Environmental Impact Statement (EIS), if it is determined that one is needed at a future time.
1-2	<p>From the Army Corps' own website on Environmental Operating Principles...</p> <p>"self-examination includes how the Corps considers environmental issues in all aspects of the corporate enterprise. In particular, the strong emphasis on sustainability must be translated into everyday actions that have an effect on the environmental conditions of today, as well as the uncertainties and risks of the future."</p> <p>...Federally regulated oil and gas pipelines are not required to use the best automatic shut off technologies. However, even with additional inspection requirements, it often takes a year for the results of the inspections are delivered to the company. Corrosive materials, such as unrefined Bakken oil, may deteriorate pipes quicker than expected. This hardly seems like a safe way to protect our watersheds and drinking water for millions of people in the Midwest.</p> <p>With a lack of oversight from PHMSA (Pipeline and Hazardous Materials Safety Administration), regulating</p>	<p>USACE EOPS state that "The Environmental Operating Principles relate to the human environment and apply to all aspects of Corps business and operations. They apply across Military Programs, Civil Works, Research and Development, and across the Corps". The Corps' EOPs cannot be imposed on external entities.</p> <p>The DAPL project is designed to meet or exceed current Department of Transportation (DOT) requirements outlined in 49 CFR 195.</p>

	<p>pipelines or the materials pumped thru such long distance over many watersheds and drinking water sources, is of little consolation when faced with the probability of statistics...</p>	
1-3	<p>Adhere to Orders: "Preparing the United States for the Impacts of Climate Change".</p> <p>This comment pertains to the repetitive nature of the our request for an environmental analysis for this project. As a federal agency, the Corp is on the receiving end of the implications of a climate change scenarios and what happened upstream will undoubtedly affect your agency and the territory it is responsible for. Climate based incidences threatens to alter the very landscape and infrastructure of our communities; such as the flooding that occurred in Southern Illinois in December 2015 and January 2016, degradation of wetlands and waterways due to pollution and infrastructure expansion projects, should be scrutinized for the overall impact on the environment, as a cooperating agency that should be able to provide a system of accountability to the system of government.</p> <p>We implore the all federal agencies to heed the President's "Executive Order -- Preparing the United States for the Impacts of Climate Change" and deny Dakota Access LLC easement across three North Dakota USFWS designated grasslands in Mountrail County, five protected wetland easements in North Dakota and 109 wetland easements through South Dakota...</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>
1-4	<p>Mitigating pollution and minimizing habitat destruction for the sake of preserving intact ecosystems to counteract climate disruption and potential flooding. How will this pipeline project ultimately affect the districts under the Army Corps purview, with regard to</p>	<p>EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. A preliminary determination does not preclude the</p>

	upstream degradation? How is it possible the Corps has determined an environmental impact assessment is unnecessary?	preparation of an Environmental Impact Statement (EIS), if it is determined that one is needed at a future time.
1-5	<p>Allowing permits and easements for fossil fuels when transition to renewables is inevitable in order to mitigate climate concerns.</p> <p>“Injurious to the Public Interest Determination: Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest.” All the facts of Climate science point to treacherous conditions and the importance of leaving nearly all remaining hydrocarbons sequestered to mitigate the biofeedback cycle of the building carbon inner atmosphere. The cumulative impacts of moving 570,000 barrels of oil a day to market is huge issue for this and future generations and must take into account the public safety and health of citizens the true cost of carbon.</p>	Comment noted. The Corps is processing this application under the guidelines of EC 1165-2-216 pursuant to 33 USC 408 and is in compliance with all applicable laws and regulations.
2-1	<p>Section B - Dakota Access is a Major Federal Action Triggering NEPA As the Corps acknowledges in the Public Notice, the issuance of a Section 408 is a major federal action pursuant to 40 C.F.R. § 1508.18, which requires compliance with the NEPA: “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.”</p> <p>Therefore, the NEPA regulations apply, and the Corps must analyze all direct, indirect, and cumulative impacts of the Dakota Access Pipeline; the project’s purpose and need; and all reasonable alternatives to the project. The scope of the EA/EIS must include all connected/cumulative federal approval actions, as well as non-federal connected/cumulative actions.</p>	EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. Direct and indirect impacts to relevant resources are discussed throughout the NEPA document. Cumulative Impacts are specifically addressed in Section 4 of the EA.

<p>2-2</p>	<p>Section C - The Corps' EA/EIS Must Analyze All Connected Federal Actions</p> <p>NEPA requires federal agencies to analyze a project and all of its connected, cumulative, and similar actions together in a single EIS before the project is allowed to proceed. 40 C.F.R. §1508.25(a). Connected actions are defined as actions that: “(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; or (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.” 40 C.F.R. § 1508.25 (a)(1)...</p>	<p>Actions connected to the Federal Actions of authorizing the installation of a 30-inch diameter crude oil pipeline under federal levees, navigation channels, and federal flowage easements on private property, are limited to the project components necessary to complete these crossings. These actions are described throughout the EA (Proposed Action Areas/ Connected Action Areas). A Cumulative Impact Analysis is provided in Section 4.0 of the EA.</p>
<p>2-3</p>	<p>Section D. - The Various Connected Federal Actions on Dakota Access Pipeline</p> <p>...The Corps must prepare a NEPA analysis analyzing the environmental impacts of its decision to verify the Dakota Access water crossings under NWP 12 if/when it finishes Section 7 consultation with FWS and implements an incidental take statement allowing the take of endangered species; the Corps must prepare a NEPA analysis for its grant of easements across federal property and flowage easements; the FWS must prepare a NEPA analysis for its grant of easements across grasslands.</p> <p>Each of these (and any other) sections of the Dakota Access Pipeline that require federal approval and/or would come within federal jurisdiction are “connected” actions that must be analyzed together in a single NEPA analysis pursuant 40 C.F.R. § 1508.25 (irrespective of whether the non-federal sections of the pipeline are included in that NEPA analysis as described below), as no individual part of the Dakota Access Pipeline would have independent utility apart from the other federally-approved parts of the pipeline.</p>	<p>EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. A Cumulative Impact Analysis is provided in Section 4.0 of the EA.</p>

	<p>They are each interdependent parts of the Dakota Access Project, and thus they must be analyzed in a single NEPA document.</p> <p>In addition, as discussed below in section III.E, a NEPA analysis that includes all connected federally-approved sections of the pipeline should also include all non-federal parts of the pipeline as cumulative actions, 40 C.F.R. § 1508.25(a)(2), and/or cumulative impacts, 40 C.F.R. § 1508.7....</p>	
<p>2-4</p>	<p>Section D.1. - Clean Water Act §404 Permits</p> <p>...NWP 12 requires the Corps district offices to evaluate the cumulative environmental effects of overall utility lines, including all “single and complete projects” along a linear project’s length, and make a determination as to whether the cumulative environmental effects would be more than minimal: “In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects... For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP.” 77 Fed. Reg. 10287...</p> <p>...The Corps district offices should not use NWP 12 for the Dakota Access Pipeline, as the potential environmental impacts will cause more than “minimal adverse environmental effects” as measured at individual water crossings, and cumulatively among the</p>	<p>The Corps is evaluating this project under NWP 12 since less than 5% of the line requires authorization from this office. In addition, the majority of impacts are temporary in nature. There will be no loss of WOUS for the entire project. Therefore, even when viewed under the umbrella of cumulative impacts, the impacts for the project are minimal in nature.</p>

	<p>many water crossings along the pipeline route and in certain watersheds. 33 U.S.C. § 1344(e)(1). Therefore, NPW 12 is inappropriate and the Corps should evaluate the Dakota Access Pipeline through the individual permitting mechanism. 33 U.S.C. § 1344(a). That process should include public notice and comment, and a NEPA analysis to inform the agency decision...</p> <p>...Regardless of whether the Corps evaluates the pipeline under §404(a) or 404(e) and NWP 12, it must prepare a NEPA analyses if/when it consults with FWS pursuant to ESA §7 and implements an incidental take statement. That requirement is discussed in the following section.</p>	
<p>2-5</p>	<p>Section D.2. - Endangered Species Act Consultation</p> <p>The Endangered Species Act requires federal agencies, through consultation with the United States Fish and Wildlife Service, to “insure that any action authorized, funded, or carried out by the agency . . . is not likely to jeopardize the continued existence of” any listed species or adversely modify its critical habitat. 16 U.S.C. § 1536(a)(2)...</p> <p>...The result of the interagency consultation process is a biological opinion that evaluates impacts to listed species to determine if the action is likely to jeopardize the species’ existence or adversely modify critical habitat. If the conclusion of the opinion results in a determination of jeopardy or adverse modification, then the opinion identifies changes to the action to avoid these effects. 16 U.S.C. § 1536(b).</p> <p>The Service may also issue, along with the biological opinion, an incidental take statement, which provides for a specified level of “incidental take” of listed species in</p>	<p>Comment noted. Impacts to listed, proposed, and candidate species are addressed in Sections 3.5 and 4.3.2 of the EA. Additionally, a separate Biological Assessment for this project was prepared for Section 7 Consultation with the USFWS. Per a letter dated 2 May 2016 (Appendix K), Section 7 Consultation with the USFWS is complete for species associated with the Illinois River and associated levee crossing, the Kaskaskia River crossing, and Carlyle Lake flowage easement crossings within the boundaries of the St. Louis District of the USACE.</p>

	connection with the proposed action. 16 U.S.C. § 1536(b)(4)...	
2-6	<p>Section D.3. - FWS' EA For Easements Across Federal Grasslands</p> <p>The Dakota Access Pipeline crosses grassland and wetland easements managed by FWS in North Dakota and South Dakota. FWS must issue a special use permit pursuant to the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. § 668dd-668ee); 50 CFR Part 29.</p>	Comment noted. This EA only address those federal actions associated with the Illinois River and associated levee crossings, the Kaskaskia River crossing, and Carlyle Lake flowage easement crossings within the boundaries of the St. Louis District of the USACE.
2-7	<p>Section D.4. - Corps Easements</p> <p>The Dakota Access Pipeline would also cross federally-owned lands and federal flowage easements managed by the Corps in North Dakota.</p>	Comment noted. This EA only address those federal actions associated with the Illinois River and associated levee crossings, the Kaskaskia River crossing, and Carlyle Lake flowage easement crossings within the boundaries of the St. Louis District of the USACE.
2-8	<p>Section E - The Corps Must Evaluate All Cumulative Actions/Impacts</p> <p>In addition to “connected actions” discussed above, the scope of a NEPA analysis must also include cumulative actions, “which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.” 40 C.F.R. § 1508.25(a)(2)...</p> <p>All sections of the pipeline requiring federal approval must be analyzed together in a single EIS as cumulative actions pursuant to 40 C.F.R. § 1508.25(a)(2); and/or as projects that would have cumulative impacts pursuant to 40 C.F.R. § 1508.7. In addition, all of the nonfederal components of the Dakota Access Pipeline—that is, the sections that fall outside of federal jurisdiction must also be analyzed in a single EA or EIS</p>	Comment noted. The DAPL project in its entirety is not under federal jurisdiction, and appropriate authorizations are being sought in accordance with the regulations. A Cumulative Impact Analysis is provided in Section 4.0 of the EA.

	<p>pursuant to 40 C.F.R. § 1508.25(a)(2) and 40 C.F.R. § 1508.7.</p>	
<p>2-9</p>	<p>Section F - The Corps, FWS, and Other Agencies Must Choose a Lead Agency to Prepare an EA or EIS</p> <p>If one or more federal agencies are “involved in the same action” or are “involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity,” a lead agency “shall supervise the preparation of an environmental impact statement.” 40 C.F.R. §1501.5(a)...</p> <p>Here, multiple Corps and FWS offices are “involved in the same action” – the approval of Dakota Access Pipeline- and/or are “involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.” Therefore, they must choose a lead agency to coordinate their NEPA reviews. The agencies are therefore in violation of 40 C.F.R. §1501.5.</p> <p>...the FAST (Fixing America's Surface Transportation) Act requires the identification of a lead / facilitating agency to coordinate the NEPA review of pipeline projects. The lead agency must: (a) identify all Federal and non-Federal agencies and governmental entities likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project and invite them to become participating/cooperating agencies in the environmental review/authorization management process; (b) maintain a “permitting dashboard,” which is an online searchable database to track the status of environmental reviews/authorizations for covered projects; (c) post</p>	<p>EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project.</p> <p>DAPL argues that it has not been designated as such "covered project" and therefore the FAST Act does not apply to it. The general premise that DAPL is not currently a "covered project" appears to be correct. The FAST Act requires an inventory of such "covered projects" to be developed and posted on the Permitting Dashboard website. However, no such list has been posted. Additionally, the "Notice of Initiation" form, a document that would be required to be submitted by the project sponsors for determination of "covered project" has not been developed by the Council. Given that the FAST Act has not been implemented by the responsible agency, the Permitting Improvement Steering Council, and that the DAPL has not been declared a "covered project," the FAST Act does not apply at this time.</p>

	links to the applications and supporting documents, and a description of any Federal agency action taken or decision made that materially affects the status of a covered project; and (d) consult with any coordinating/participating agencies to establish a concise plan (Coordinated Project Plan) for coordinating public and agency participation in, and completion of, any required Federal environmental review/authorization for the project...	
2-10	<p>Section G - The EA or EIS Must Analyze All Direct, Indirect, and Cumulative Impacts of the Dakota Access Pipeline</p> <p>The Corps must analyze all direct, indirect, and cumulative impacts associated with the construction and operation of Dakota Access Pipeline. The Corps cannot look at the Section 408 portion of the project in a vacuum, but must look at the project as a whole and discuss its impacts within the context of the overall pipeline.</p>	Comment noted. An EA is being prepared to analyze direct, indirect, and cumulative impacts of the DAPL Project at Proposed Action Areas/Connected Action Areas within the Corps St. Louis District.
2-11	<p>Section G.1. - The Corps must analyze the climate impacts of Dakota Access, including its cumulative climate impacts.</p> <p>The Corps must analyze the climate impacts associated with the extraction, processing, transportation, refining, and end-use combustion of the crude oil that will be transported by Dakota Access.</p> <p>The Obama Administration rejected the Keystone XL pipeline after finding it would not serve the national interest because of its contribution to climate pollution. A similar test should be used in deciding whether to approve Dakota Access. Climate change threatens the</p>	Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.

	<p>nation’s communities with extended periods of heat, greater numbers of heavy downpours, more regional drought, increased wildfires in parts of the American West, permafrost thawing in Alaska, ocean acidification, and sea-level rise in coastal communities...</p>	
2-12	<p>Section G.2. - The Corps must analyze the risk of oil spills from Dakota Access, including worst-case scenario discharges and response capabilities.</p> <p>...The Corps must also analyze the impacts of spills pursuant to the Corps’ § 404 regulations. For example, 40 C.F.R. § 230.10 (c) requires that “no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States. Findings of significant degradation related to the proposed discharge shall be based upon appropriate factual determinations, evaluations, and tests...”</p> <p>...Similarly here, the Corps must undergo a thorough analysis pursuant to Corps’ regulations and require special prevention, protection, and mitigation measures to ensure that such an accident does not occur in sensitive areas...</p>	<p>Comment noted. Potential spills are addressed in Section 3.12 of the EA - Reliability and Safety. Under Section 404 regulations, only deposition of fill and dredged material into WOUS is evaluated. The Corps’ regulatory program only applies to fill and not to the operation and maintenance of projects after construction. Therefore, any impacts to WOUS during construction were evaluated under Section 404 of the Clean Water Act and found to be minimal.</p>
2-13	<p>Section G.3. - The Corps must analyze the impacts to endangered species.</p> <p>Sierra Club has learned that the Corps is in the process of consulting with the Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act. As set forth in detail above, a NEPA analysis must analyze the direct, indirect, and cumulative impacts to those species and their habitat from the Dakota Access Pipeline...</p>	<p>Concur. Impacts to listed, proposed, and candidate species are addressed in Sections 3.5 and 4.3.2 of the EA. Additionally, a separate Biological Assessment for this project was prepared for Section 7 Consultation with the USFWS. Per a letter dated 2 May 2016 (Appendix K), Section 7 Consultation with the USFWS is complete for species associated with the Illinois River and associated levee crossing, the Kaskaskia River crossing, and Carlyle Lake flowage easement crossings within the boundaries of the St. Louis District of the USACE.</p>

<p>2-14</p>	<p>Section G.4. - The Corps must analyze on-the-ground impacts to wetlands and waterways (e.g., forested wetlands), and alternatives.</p> <p>Construction of oil pipelines require the clearing of a 80-110 foot-wide right-of-way (ROW) through everything in the pipeline’s path for its entire length, grading, trenching, installation of the pipe, backfilling, and then permanent maintenance of the ROW. That means that high quality wildlife habitat, forests, and wetlands are permanently removed and prohibited from returning to their natural states...</p> <p>...Regardless of whether the Corps considers the permanent removal of high-quality forested wetlands a “loss of waters of the United States,” the direct, indirect, and cumulative impacts of that practice must be considered in the Corps’ NEPA analysis...</p>	<p>Dakota Access has worked, as is required, to avoid, minimize, and mitigate for any impacts to WOUS. Specifically, after construction only a 35’ wide ROW will maintained by mowing in forested wetlands. In addition, they have purchased areas to create forested wetlands to mitigate for the conversion of this type of water. All of this has been coordinated with The Corps’ and will be documented in the file.</p>
<p>2-15</p>	<p>Section G.5. - The Corps must analyze the air and water pollution from refining Dakota Access’s crude oil.</p> <p>The Corps must also analyze and disclose the impacts that the Dakota Access pipeline will have on air and water quality due to the refining of crude oil in receiving refineries, including but not limited to the BP Whiting refinery and other regional refineries. Refining increasing amounts of crude oils in the Midwest will cause negative air quality impacts, and will cause emissions of higher amounts of sulfur dioxide, metals, and organics pollution.</p>	<p>Comment noted. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project.</p>
<p>2-16</p>	<p>Section G.6. - Impacts to waterways from hydraulic fracturing.</p> <p>An EA/EIS for Dakota Access must also analyze the upstream impacts of oil development in the Bakken</p>	<p>Comment noted. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. This EA only address those federal actions associated with the Illinois River and associated levee crossings, the Kaskaskia River crossing, and Carlyle Lake flowage</p>

	<p>Region, including the impacts associated with hydraulic fracturing.</p>	<p>easement crossings within the boundaries of the St. Louis District of the USACE.</p>
<p>3-1</p>	<p>Injurious to the Public Interest. This entire project is injurious to the public interest because the pipeline will carry up to 570,000 barrels per day of U.S. light sweet crude from Bakken and Three Forks production region of North Dakota through the states of North Dakota, South Dakota, Iowa and Illinois terminating at a crude oil hub near Patoka, Illinois. A large proportion of this crude oil will then be either exported as crude oil or refined and subsequently exported. This will be of no benefit to the citizens of Illinois or any other state through which the pipeline passes. Burning this much crude oil will cause materially significant damage to the environment through an increase in global warming gases, health damage due to particulate emissions, particularly as much of this crude oil will be turned into high sulphur diesel fuel overseas that would not meet US standards. There is a high probability that over its life the pipeline will leak and cause significant damage to the environment. There is a particular risk from the proposed section of the pipeline that crosses beneath the Illinois River navigable channel at Milepost (MP) 901 and beneath adjacent levee systems such as Coon Run Levee and McGee Creek Levee where the requester is proposing to perform horizontal direction drillings (HDD). A leak or pipeline burst anywhere near or beneath the Illinois River will cause incalculable damage to the drinking water supplies of millions of citizens and cause extensive interrupts to the flow of marine and recreational traffic on the Illinois River. The Illinois River and the other rivers into which it flows including the Mississippi River serve as the primary source of drinking water for millions of people. They also serve as major sources of irrigation water that is</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project.</p>

	<p>essential for agriculture and industry along the river. This is especially important as the Midwest is suffering from severe drought conditions brought on by climate change and global warming. These conditions are likely to last for many more years, so it is foolish if not criminal to consider any action that will increase the damage from climate change or risk endangering the clean and safe water supplies from these important rivers.</p>	
3-2	<p>Environmental Compliance. I object to the conclusion of the USACE that in considering this request only the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration need be considered. On the contrary, this request is part of a huge project that should be subject to the National Environmental Policy Act, other federal laws, executive orders, regulations, policies, and ordinances and other environmental statutes (e.g. Endangered Species Act). You must consider the full impact of the Dakota Access Pipeline in its entirety and the extent to which it complies with all laws and regulations. It is a perversion of the law to pretend that you can protect the public interest by looking at tiny segments of the pipeline independently and ignoring the impact that these sections and others have as part of the total pipeline.</p>	<p>Comment noted. The Corps is processing this application under the guidelines of EC 1165-2-216 pursuant to 33 USC 408 and is in compliance with all applicable laws and regulations. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project.</p>
3-3	<p>Environmental Impact Statement. In view of the previous comments, I strongly urge you to reconsider your decision that an environmental impact statement is not required for the pipeline as a whole or for the river crossings that are the subject of this request. The potential damage done in the area during the construction of these crossings and the potential damage done to the river from a leak from this pipeline warrant an Environmental Impact Statement...</p>	<p>Comment noted. EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. A preliminary determination does not preclude the preparation of an Environmental Impact Statement (EIS), if it is determined that one is needed at a future time.</p>
4-1	<p>The project area has not been surveyed and may contain prehistoric/historic archaeological resources. Accordingly, a Phase I archaeological reconnaissance</p>	<p>Comment noted. Cultural resources are addressed in Section 3.9 of the EA - Cultural and Historic Resources and</p>

	<p>survey to locate, identify, and record all archaeological resources within the project areas will be required. This decision is based upon our understanding that there has not been and large scale disturbance of the ground surface (excluding agricultural activities) such as major construction activity within the project area which would have destroyed existing cultural resources prior to your project. If the areas has been heavily disturbed prior to your project, please contact our office with the appropriate written and/or photographic evidence.</p> <p>The areas(s) that need(s) to be surveyed include(s) all area(s) that will be developed as a result of the issuance of the federal agency permit(s) or the granting of the federal grants, funds, or loan guarantees that have prompted this review. In addition to archaeological survey please provide clear photographs of all structures in, or adjacent to, the current project area as part of the archaeological survey report.</p>	<p>Native American Consultations and Appendix K for coordination correspondence.</p>
5-1	<p>Crossing site is roughly IL River, RM 69.5, not Milepost (MP) 901.</p>	<p>Comment noted. The MP 901 is the milepost of the DAPL project, not the river mile.</p>
5-2	<p>There is infrastructure for a loading/unloading facility on the left descending bank that will need to be considered.</p>	<p>Comment noted. Facility is approximately 0.25 miles south of the HDD crossing location of the IL River. There will be no impact to the identified infrastructure.</p>
5-3	<p>The is nothing in the permit about depth below, and/or distance from the bankline for the pipeline. We should be requesting dimensions that will help minimize any impacts for the navigation channel (e.g., at or below elevation xx, and xx feet landward from both banklines.).</p>	<p>Comment noted. Plan and profile drawings have been submitted to the Corps to facilitate Section 408 review.</p>
6-1	<p>Please advise when the Section 14 review will occur.</p>	<p>Dakota Access filed an application for authorization pursuant to Section 14 of the Rivers and Harbors Act, codified as 33 USC 408 (Section 408) on June 22, 2015.</p>

<p>7-1</p>	<p>Public Interest Considerations</p> <p>The proposed pipeline resulting from this project modification is extremely likely to experience leaks or spills that will be highly injurious to the public interest and so the requested permission for project modification should not be granted.</p> <p>A year ago, the FracTracker Alliance calculated that there was an average of 1.6 pipeline incident per day in the United States. That figure remains accurate, with 2,452 recorded incidents between January 1, 2010 and March 3, 2014, a span of 1,522 days...</p> <p>...The best modern leak detection systems cannot detect leaks of less than 2% of a pipeline's flow. Because this pipeline will carry so much oil, 2% represents thousands of gallons per day. 80% of leaks larger than 42,000 gallons go undetected by remote leak systems. Sensor systems detect fewer leaks than the general public and employees at the scenes.</p>	<p>Comment noted. Potential leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
<p>7-2</p>	<p>Climate Change generating projects are not in the Public Interest</p> <p>The proposed pipeline resulting from this project modification is not in the public interest due to the enormous damage that the oil transported by the pipeline will do to the climate.</p> <p>...Any pipeline project that facilitates the extraction and burning of fossil fuels is causing global warming and climate change. The impact of climate change will be felt throughout the country and across the planet. Nothing that results in climate change can be considered in the public interest.</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>

	<p>This pipeline will transport as much as 570,000 barrels of crude oil per day. An average barrel of crude oil will produce 317 kg of Carbon dioxide when consumed, so each day the Dakota Access pipeline will result in the generation of 180,000 metric tons of Carbon dioxide per day. That is the equivalent of about 14 Million cars...</p>	
7-3	<p>Public Interest of Citizens of Illinois</p> <p>In order to be in the public interest, this project modification's benefits to the citizens of Illinois must exceed the very substantial risks the resultant pipeline will create from spills and leaks as well as the adverse impact it will have on the climate of Illinois and the planet, as a result of the global warming gases it will generate when the crude oil it carries is burned.</p> <p>The benefits that this pipeline will create for Illinois are insignificant in comparison to the risks it will create. Most of the crude oil that this pipeline will transport is destined to be sold as crude oil now that the ban on exports of crude has been lifted, or will be exported as refined products. Thus none of the products it will carry will benefit Illinoisans. On the contrary, Illinoisans now benefit from the oversupply of crude oil which reduces the price that Illinoisans will pay for it. By making it easier to transport the crude oil so it can be exported directly or refined and exported the price of oil to Illinoisans and other Midwestern states will increase. The benefits of this pipeline will not offset the very considerable risks that it will create. Thus it is not in the public interest of Illinoisans for this project modification to be approved.</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project.</p>
8-1	<p>Injurious to the Public Interest. This entire project is injurious to the public interest because the pipeline will carry up to 570,000 barrels per day of U.S. light sweet crude from Bakken and Three Forks production region</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant</p>

<p>of North Dakota through the states of North Dakota, South Dakota, Iowa and Illinois terminating at a crude oil hub near Patoka, Illinois. A large proportion of this crude oil will then be either exported as crude oil or refined and subsequently exported. This will be of no benefit to the citizens of Illinois or any other state through which the pipeline passes. Burning this much crude oil will cause materially significant damage to the environment through an increase in global warming gases, health damage due to particulate emissions, particularly as much of this crude oil will be turned into high sulphur diesel fuel overseas that would not meet US standards. There is a high probability that over its life the pipeline will leak and cause significant damage to the environment. There is a particular risk from the proposed section of the pipeline that crosses beneath the Illinois River navigable channel at Milepost (MP) 901 and beneath adjacent levee systems such as Coon Run Levee and McGee Creek Levee where the requester is proposing to perform horizontal direction drillings (HDD). A leak or pipeline burst anywhere near or beneath the Illinois River will cause incalculable damage to the drinking water supplies of millions of citizens and cause extensive interrupts to the flow of marine and recreational traffic on the Illinois River. The Illinois River and the other rivers into which it flows including the Mississippi River serve as the primary source of drinking water for millions of people. They also serve as major sources of irrigation water that is essential for agriculture and industry along the river. This is especially important as the Midwest is suffering from severe drought conditions brought on by climate change and global warming. These conditions are likely to last for many more years, so it is foolish if not criminal to consider any action that will increase the damage</p>	<p>permission for the alteration or occupation or use of a USACE civil works 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. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project.</p>
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	from climate change or risk endangering the clean and safe water supplies from these important rivers.	
8-2	Environmental Compliance. I object to the conclusion of the USACE that in considering this request only the area of alteration and those adjacent areas that are directly or indirectly affected by the alteration need be considered. On the contrary, this request is part of a huge project that should be subject to the National Environmental Policy Act, other federal laws, executive orders, regulations, policies, and ordinances and other environmental statutes (e.g. Endangered Species Act). You must consider the full impact of the Dakota Access Pipeline in its entirety and the extent to which it complies with all laws and regulations. It is a perversion of the law to pretend that you can protect the public interest by looking at tiny segments of the pipeline independently and ignoring the impact that these sections and others have as part of the total pipeline.	Comment noted. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The Corps is processing this application under the guidelines of EC 1165-2-216 pursuant to 33 USC 408 and is in compliance with all applicable laws and regulations.
8-3	Environmental Impact Statement. In view of the previous comments, I strongly urge you to reconsider your decision that an environmental impact statement is not required for the pipeline as a whole or for the river crossings that are the subject of this request. The potential damage done in the area during the construction of these crossings and the potential damage done to the river from a leak from this pipeline warrant an Environmental Impact Statement...	Comment noted. EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. A preliminary determination does not preclude the preparation of an Environmental Impact Statement (EIS), if it is determined that one is needed at a future time.
9-1	Per 33 USC 408, the Secretary of the Army on the recommendation of the Chief of Engineers must, in his judgment, determine that the proposed alteration will not be injurious to the public interest before granting permission for the proposed alteration. Based on the rapidly growing body of evidence by the world scientific community and United States	Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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.

	<p>Government agencies, it is no longer acceptable for the Secretary of the Army to judge any alteration of public works for the construction of a crude oil pipeline to not be injurious to the public interest without weighing the consequences of the extraction and consumption of the oil transported by the pipeline and the consequences of a spill from that pipeline.</p>	<p>This EA analyzes the potential direct, indirect and cumulative effects that may result from the proposed Project within the Federal Action Areas. The scope of the EA is limited to the portion of the proposed Project that the Federal Decision would affect - the Proposed Action Areas/Connected Action Areas as defined in the EA.</p> <p>Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
<p>9-2</p>	<p>In its Jan. 20, 2016 16-008 press release, NASA states “Earth’s 2015 surface temperatures were the warmest since modern record keeping began in 1880, according to independent analyses by NASA and the National Oceanic and Atmospheric Administration (NOAA).” Quoting GISS Director Gavin Schmidt the press release states “2015 was remarkable even in the context of the ongoing El Niño,” and “Last year’s temperatures had an assist from El Niño, but it is the cumulative effect of the long-term trend that has resulted in the record warming that we are seeing.” Finally, in the press release, NASA makes the amount and cause of the temperature rise clear. “The planet’s average surface temperature has risen about 1.8 degrees Fahrenheit (1.0 degree Celsius) since the late-19th century, a change largely driven by increased carbon dioxide and other human-made emissions into the atmosphere.” (See “NASA, NOAA Analyses Reveal Record-Shattering Global Warm Temperatures in 2015” http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in-2015 <http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in2015> last visited January 30, 2016.)</p> <p>The United States Department of Defense, in its May 27, 2015 report to Congress states “The Department of</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>

	<p>Defense sees climate change as a present security threat, not strictly a long-term risk. We are already observing the impacts of climate change in shocks and stressors to vulnerable nations and communities, including in the United States, and in the Arctic, Middle East, Africa, Asia, and South America.” (See ”National Security Implications of Climate-Related Risks and A Changing Climate” Generated on 2015May27 Ref ID: 8-6475571, http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-of-climate-change.pdf?source=govdelivery <http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-ofclimate-change.pdf?source=govdelivery> last visited January 30, 2016.)</p>	
<p>9-3</p>	<p>One of the 2016 goals of the United States Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) is to “Reduce the number of hazardous liquid pipeline spills with environmental consequences to between 65-81 per year”. (See “Mission & Goals”, http://www.phmsa.dot.gov/about/mission last visited January 30, 2016.) However, FracTracker Alliance, using PHMSA data, reported that between January 1, 2010 and March 3, 2014 there were 2,452 recorded pipeline incidents including 1,511 hazardous liquid incidences. (“See Pipeline Incidents Updated and Analyzed”, http://www.fractracker.org/2014/04/pipeline-incidents/ last visited January 30, 2016.) Using those data, there were 1.6 pipeline incidences per day with one incident per day involving hazardous liquids (primarily crude oil). The proposed alteration with its resulting crude oil pipeline is clearly not consistent with PHMSA goals.</p>	<p>Comment noted. PHMSA regulations are addressed in Section 3.12 of the EA - Reliability and Safety. The DAPL project is designed to meet or exceed current PHMSA regulations.</p>

<p>10-1</p>	<p>Per 33 USC 408, the Secretary of the Army on the recommendation of the Chief of Engineers must, in his judgment, determine that the proposed alteration will not be injurious to the public interest before granting permission for the proposed alteration.</p> <p>Based on the rapidly growing body of evidence by the world scientific community and United States Government agencies, it is no longer acceptable for the Secretary of the Army to judge any alteration of public works for the construction of a crude oil pipeline to not be injurious to the public interest without weighing the consequences of the extraction and consumption of the oil transported by the pipeline and the consequences of a spill from that pipeline.</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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.</p> <p>This EA analyzes the potential direct, indirect and cumulative effects that may result from the proposed Project within the Federal Action Areas. The scope of the EA is limited to the portion of the proposed Project that the Federal Decision would affect - the Proposed Action Areas/Connected Action Areas as defined in the EA.</p> <p>Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
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	<p>Temperatures in 2015” http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in-2015 <http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in2015> last visited January 30, 2016.)</p> <p>The United States Department of Defense, in its May 27, 2015 report to Congress states “The Department of Defense sees climate change as a present security threat, not strictly a long-term risk. We are already observing the impacts of climate change in shocks and stressors to vulnerable nations and communities, including in the United States, and in the Arctic, Middle East, Africa, Asia, and South America.” (See “National Security Implications of Climate-Related Risks and A Changing Climate” Generated on 2015May27 Ref ID: 8-6475571, http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-of-climate-change.pdf?source=govdelivery <http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-ofclimate-change.pdf?source=govdelivery> last visited January 30, 2016.)</p>	
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	<p>Analyzed”, http://www.fractracker.org/2014/04/pipeline-incidents/ last visited January 30, 2016.) Using those data, there were 1.6 pipeline incidences per day with one incident per day involving hazardous liquids (primarily crude oil). The proposed alteration with its resulting crude oil pipeline is clearly not consistent with PHMSA goals.</p>	
11-1	<p>Per 33 USC 408, the Secretary of the Army on the recommendation of the Chief of Engineers must, in his judgment, determine that the proposed alteration will not be injurious to the public interest before granting permission for the proposed alteration.</p> <p>Based on the rapidly growing body of evidence by the world scientific community and United States Government agencies, it is no longer acceptable for the Secretary of the Army to judge any alteration of public works for the construction of a crude oil pipeline to not be injurious to the public interest without weighing the consequences of the extraction and consumption of the oil transported by the pipeline and the consequences of a spill from that pipeline.</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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.</p> <p>This EA analyzes the potential direct, indirect and cumulative effects that may result from the proposed Project within the Federal Action Areas. The scope of the EA is limited to the portion of the proposed Project that the Federal Decision would affect - the Proposed Action Areas/Connected Action Areas as defined in the EA.</p> <p>Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
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	<p>makes the amount and cause of the temperature rise clear. “The planet’s average surface temperature has risen about 1.8 degrees Fahrenheit (1.0 degree Celsius) since the late-19th century, a change largely driven by increased carbon dioxide and other human-made emissions into the atmosphere.” (See “NASA, NOAA Analyses Reveal Record-Shattering Global Warm Temperatures in 2015” http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in-2015 <http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in2015> last visited January 30, 2016.)</p> <p>The United States Department of Defense, in its May 27, 2015 report to Congress states “The Department of Defense sees climate change as a present security threat, not strictly a long-term risk. We are already observing the impacts of climate change in shocks and stressors to vulnerable nations and communities, including in the United States, and in the Arctic, Middle East, Africa, Asia, and South America.” (See “National Security Implications of Climate-Related Risks and A Changing Climate” Generated on 2015May27 Ref ID: 8-6475571, http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-of-climate-change.pdf?source=govdelivery <http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-ofclimate-change.pdf?source=govdelivery> last visited January 30, 2016.)</p>	
<p>11-3</p>	<p>One of the 2016 goals of the United States Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) is to “Reduce the number of hazardous liquid pipeline spills with environmental consequences to between 65-81 per</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a</p>

	<p>year”. (See “Mission & Goals”, http://www.phmsa.dot.gov/about/mission last visited January 30, 2016.) However, FracTracker Alliance, using PHMSA data, reported that between January 1, 2010 and March 3, 2014 there were 2,452 recorded pipeline incidents including 1,511 hazardous liquid incidences. (“See Pipeline Incidents Updated and Analyzed”, http://www.fractracker.org/2014/04/pipeline-incidents/ last visited January 30, 2016.) Using those data, there were 1.6 pipeline incidences per day with one incident per day involving hazardous liquids (primarily crude oil). The proposed alteration with its resulting crude oil pipeline is clearly not consistent with PHMSA goals.</p>	<p>USACE civil works 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.</p> <p>This EA analyzes the potential direct, indirect and cumulative effects that may result from the proposed Project within the Federal Action Areas. The scope of the EA is limited to the portion of the proposed Project that the Federal Decision would affect - the Proposed Action Areas/Connected Action Areas as defined in the EA.</p> <p>Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
12-1	<p>My comments document that the pipeline which these modifications are part of will be injurious to the public interest. The proposed pipeline resulting from this project modification is extremely likely to experience leaks and spills that will be highly injurious to the public interest.</p>	<p>Comment noted. Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
12-2	<p>In addition, the oil transported by the proposed pipeline resulting from this project modification will do enormous damage to the climate.</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>
12-3	<p>Furthermore, The benefits that this pipeline will create for Illinois are insignificant in comparison to the risks it will create. Most of the crude oil that this pipeline will transport is destined to be sold as crude oil now that the ban on exports of crude has been lifted, or will be exported as refined products. Thus none of the products it will carry will benefit Illinoisans.</p>	<p>Comment noted. Benefits from the construction and operation of the proposed action are addressed in Section 3.10 of the EA - Social and Economic Conditions and Environmental Justice.</p>
13-1	<p>First and foremost, the entire Dakota Access Pipeline project is disastrous to the public because after the oil is pumped through this pipeline and refined and then burned for fuel and other uses, the resulting CO2 emissions are causing a blanket in the atmosphere that is trapping heat and raising the global temperatures of</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>

	<p>the planet. This process, known as global warming, is widely recognized by scientists and the military alike and if left unchecked will result in the destabilization of the entire planet. In fact the IPCC says that “Unmitigated climate change would, in the long term, be likely to exceed the capacity of natural, managed and human systems to adapt. {WGII 20.7, SPM}” (Source: Blockedhttp://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf <Blockedhttp://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf>) In fact, coming out of the Paris climate talks, where the world agrees we should try to limit warming to 1.5 °C, scientists say to reach that necessary goal we will need to reach net zero emissions within the next 5-10 years (Source: Blockedhttp://www.thehindu.com/scitech/energy-and-environment/15-degree-climate-ambition-needs-inversion-of-carbon-budget-massivefunding/article7966144.ece <Blockedhttp://www.thehindu.com/sci-tech/energy-and-environment/15-degreecclimate-ambition-needs-inversion-of-carbon-budget-massive-funding/article7966144.ece>). Construction of the DAP pipeline in general is greatly anachronistic and contrary to this agreed upon international goal.</p>	
13-2	<p>There have been 2,452 recorded pipeline spills between January 1, 2010 and March 3, 2014 in the United States, a time of only 1,522 days (Source: Blockedhttp://www.fractracker.org/2014/04/pipeline-incidents/ <Blockedhttp://www.fractracker.org/2014/04/pipeline-incidents/>). The likelihood of a spill is almost certain from this pipeline; it is just a matter of time. In fact, pipeline construction safety has actually gotten worse: "As US rushes to build gas lines, failure rate of new pipes has spiked" (article on Blockedwww.snl.com</p>	<p>Comment noted. The DAPL project is designed to meet or exceed current PHMSA regulations. Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>

	<p><Blockedhttp://www.snl.com> by Sarah Smith published Sep. 9, 2015 and available to subscribers): "The push to build new pipelines to transport abundant shale supplies appears to be having a materially adverse impact on pipeline safety. According to a Pipeline Safety Trust analysis of federal data, new pipelines are failing at a rate on par with gas transmission lines installed before the 1940s. The new pipelines are failing even worse than the oldest pipelines," ... [Carl Weimer, director of Pipeline Safety Trust] said."</p>	
13-3	<p>Dakota Access LLC will likely go bankrupt in the face of inevitable upcoming accidents and not have to pay for the cleanup; the damage mitigation costs will fall on the residents and tax payers.</p>	<p>Comment noted.</p>
13-4	<p>The "public interest" usually refers to the public of the United States, of Missouri; in other words, the people of our country. However, much of the crude passing through the Dakota Access Pipeline is destined for the Gulf Coast where 60% of the crude that reaches there is refined and exported out of the United States. Therefore, for 60% of this crude, none of the public in the United States actually benefits from it; the only ones that "benefit" from 60% of this supply are the shareholders of Dakota Access Pipeline and foreign interests (Source: Blockedhttp://priceofoil.org/2013/03/14/keystone-xl-refineries-already-exporting-60-percent-of-their-gasoline/ <Blockedhttp://priceofoil.org/2013/03/14/keystone-xl-refineries-already-exporting-60-percent-of-their-gasoline/>).</p>	<p>Comment noted.</p>
13-5	<p>I want to go back to the most important point of all; the effect on climate change. As mentioned in the first bullet point, we only really have 5-10 years to get completely off of fossil fuels to avert some really nasty</p>	<p>Comment noted.</p>

	<p>disastrous consequences that will cost billions and billions, if not trillions, of dollars in mitigation efforts that in the end may not even succeed. As a country, we really need to discourage the fossil fuel industry from continued development of anachronistic sources of energy and instead encourage the investment in renewable energy sources such as solar and wind instead. To continue to support the efforts of companies such as Dakota Access Pipeline is a crime against humanity and future generations.</p>	
14-1	<p>Per 33 USC 408, the Secretary of the Army on the recommendation of the Chief of Engineers must, in his judgment, determine that the proposed alteration will not be injurious to the public interest before granting permission for the proposed alteration.</p> <p>Based on the rapidly growing body of evidence by the world scientific community and United States Government agencies, it is no longer acceptable for the Secretary of the Army to judge any alteration of public works for the construction of a crude oil pipeline to not be injurious to the public interest without weighing the consequences of the extraction and consumption of the oil transported by the pipeline and the consequences of a spill from that pipeline.</p>	<p>Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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.</p> <p>This EA analyzes the potential direct, indirect and cumulative effects that may result from the proposed Project within the Federal Action Areas. The scope of the EA is limited to the portion of the proposed Project that the Federal Decision would affect - the Proposed Action Areas/Connected Action Areas as defined in the EA.</p> <p>Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
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<p>assist from El Niño, but it is the cumulative effect of the long-term trend that has resulted in the record warming that we are seeing.” Finally, in the press release, NASA makes the amount and cause of the temperature rise clear. “The planet’s average surface temperature has risen about 1.8 degrees Fahrenheit (1.0 degree Celsius) since the late-19th century, a change largely driven by increased carbon dioxide and other human-made emissions into the atmosphere.” (See “NASA, NOAA Analyses Reveal Record-Shattering Global Warm Temperatures in 2015” http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in-2015 <http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in2015> last visited January 30, 2016.)</p> <p>The United States Department of Defense, in its May 27, 2015 report to Congress states “The Department of Defense sees climate change as a present security threat, not strictly a long-term risk. We are already observing the impacts of climate change in shocks and stressors to vulnerable nations and communities, including in the United States, and in the Arctic, Middle East, Africa, Asia, and South America.” (See “National Security Implications of Climate-Related Risks and A Changing Climate” Generated on 2015May27 Ref ID: 8-6475571, http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-of-climate-change.pdf?source=govdelivery <http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-ofclimate-change.pdf?source=govdelivery> last visited January 30, 2016.)</p>	
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<p>14-3</p>	<p>One of the 2016 goals of the United States Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) is to “Reduce the number of hazardous liquid pipeline spills with environmental consequences to between 65-81 per year”. (See “Mission & Goals”, http://www.phmsa.dot.gov/about/mission last visited January 30, 2016.) However, FracTracker Alliance, using PHMSA data, reported that between January 1, 2010 and March 3, 2014 there were 2,452 recorded pipeline incidents including 1,511 hazardous liquid incidences. (“See Pipeline Incidents Updated and Analyzed”, http://www.fractracker.org/2014/04/pipeline-incidents/ last visited January 30, 2016.) Using those data, there were 1.6 pipeline incidences per day with one incident per day involving hazardous liquids (primarily crude oil). The proposed alteration with its resulting crude oil pipeline is clearly not consistent with PHMSA goals.</p>	<p>Comment noted. PHMSA regulations are addressed in Section 3.12 of the EA - Reliability and Safety. The DAPL project is designed to meet or exceed current PHMSA regulations.</p>
<p>15-1</p>	<p>It will contribute to the burning of fossil fuels, and therefore will contribute to climate change.</p> <p>As a citizen who cares about my fellow citizens and as a grandmother concerned about what kind of a world we are leaving to the next generation, I am alarmed about the climate crisis. I see it to be in the public interest that, as a nation, we stop extracting fossil fuels from the ground. We must switch to renewable energy as quickly as possible. The continued availability of petroleum and natural gas keep us oblivious of the urgency that we must experience if we are to begin the difficult but necessary transition to those renewable sources of energy. George W. Bush himself said that we are addicted to oil. In order to break the grip of that addiction, we need to cut off our own supply...</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>

	<p>..I believe that the public interest of the citizens of the United States cannot be separated from the public interest of third-world countries. If climate change causes droughts and floods and famines and wars in those parts of the world, the US and European countries will be overwhelmed with desperate migrants who will have a profound moral claim upon us, if our fossil fuel consumption has causes those nightmare conditions in their home countries...</p>	
15-2	<p>I oppose the Dakota Access pipeline because of the likelihood of leaks and spills. Such leaks and spills cause occurrence. The pipeline companies brag about their safety measures, but in fact pipeline "incidents" happen with great frequency.</p>	<p>Comment noted. Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
15-3	<p>The recent lifting of the ban on exporting oil means that significant portions of this oil will be exported for sale on world markets. That fact belies the industry claim that they are building this pipeline to serve the needs of domestic consumers. They will reap significant profits, while American citizens bear the full risk of their projects.</p>	<p>Comment noted.</p>
16-1	<p>I object to these projects on the ground that these works will contribute to the construction of the pipeline that will be injurious to the public interest. The pipeline will adversely impact the citizens of Illinois and will only benefit a pipeline company, oil extracting companies and refiners based in other states, and foreign purchases of the crude oil that the pipe will carry any refined products produced therefrom.</p>	<p>Comment noted.</p>
16-2	<p>Secondly, I object on the grounds that USACE has not fulfilled its obligations with regard to environmental compliance. I do not believe that the USACE has fulfilled its obligations to apply to the maximum extent the National Environmental Policy Act, all other applicable federal laws, executive orders, regulations, policies, and ordinances including the Endangered</p>	<p>Comment noted. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The Corps is processing this application under the guidelines of EC 1165-2-216 pursuant to 33 USC 408 and is in compliance with all applicable laws and regulations.</p>

	Species Act to the pipeline as a whole and to these particular crossings.	
16-3	Thirdly, in light of the incalculable damage that a pipeline leak or burst could have not only on the areas adjacent to the project but to the Illinois River and the rivers it flows and the destruction of drinking water, irrigation and industrial uses of the water that would follow a leak, I disagree with your decision that an Environment Impact Statement is not required. The probability of a leak may be low, but the potential damages it would cause are incalculable so an EIS is essential to properly assess the impact on the environment.	Comment noted. EC 1165-2-216 states that all Section 408 reviews shall adhere to NEPA Compliance. According to EC 1165-2-216, NEPA should be commensurate with the scale and potential effects of the activity that would alter the USACE project. A preliminary determination does not preclude the preparation of an Environmental Impact Statement (EIS), if it is determined that one is needed at a future time. Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.
17-1	When did DAPL submit this request and roughly how long will it take to process?	Dakota Access filed an application for authorization pursuant to 33 USC 408 (Section 408) on June 22, 2015.
17-2	What concerns do you have personally about what they are proposing?	Comment noted.
17-3	If we have concerns do we work with you? or DAPL?	Levee districts are encouraged to coordinate with DAPL and USACE concurrently.
17-4	Do you have any experiences with Bores and what issues have you seen in the past?	Comment noted.
18-1	I would like to register my opposition to the proposed Dakota Access (DA) oil pipeline, because subsequent to the Paris COP21 agreement of 196 countries that greenhouse gas emissions be limited to prevent global warming from increasing, not to 2.0 degrees C but to only 1.5 degrees C, and it has been shown that tar sands piped and/or shipped for use and/or export (international use) has been shown to be at least three times more polluting in terms of greenhouse gas (GHG)	Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.

	emissions and can further increase GHG emissions in a dangerous manner, which is not in the public interest.	
18-2	In addition, “A year ago, the FracTracker Alliance calculated that there was an average of 1.6 pipeline incidents per day in the United States. That figure remains accurate, with 2,452 recorded incidents between January 1, 2010 and March 3, 2014, a span of 1,522 days.”	Comment noted.
18-3	Many scientists agree that we must keep our use of fossil fuels to less than 80% of our proven reserves if we wish to keep our climate livable for ourselves as well as our children.	Comment noted.
19-1	I would like to request a one week notice prior to construction of the pipeline under the Illinois River. This will allow our office to issue a broadcast to mariners advising individuals transiting on the river of the work being conducted in the area. This notice can be sent to SUMRWaterways@uscg.mil or by phone at 314-269-2332.	Concur. DAPL will be directed to notify Coast Guard one week prior to construction.
20-1	Dakota Access Pipeline LLC has been engaged in ongoing coordination with the IDNR regarding the pipeline project. An Incidental Take Authorization is pending completion for the state-listed Illinois chorus frog (<i>Pseudacris illinoensis</i>) and regal fritillary (<i>Speyeria idalia</i>) in Morgan and Scott Counties. The Department has no specific comments regarding the USACE permit given our coordination with the applicant already.	Comment noted.
21-1	Per 33 USC 408, the Secretary of the Army on the recommendation of the Chief of Engineers must, in his judgment, determine that the proposed alteration will not be injurious to the public interest before granting permission for the proposed alteration. Based on the rapidly growing body of evidence by the world scientific community and United States	Comment noted. Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works 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.

	<p>Government agencies, it is no longer acceptable for the Secretary of the Army to judge any alteration of public works for the construction of a crude oil pipeline to not be injurious to the public interest without weighing the consequences of the extraction and consumption of the oil transported by the pipeline and the consequences of a spill from that pipeline.</p>	<p>This EA analyzes the potential direct, indirect and cumulative effects that may result from the proposed Project within the Federal Action Areas. The scope of the EA is limited to the portion of the proposed Project that the Federal Decision would affect - the Proposed Action Areas/Connected Action Areas as defined in the EA.</p> <p>Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety.</p>
<p>21-2</p>	<p>In its Jan. 20, 2016 16-008 press release, NASA states “Earth’s 2015 surface temperatures were the warmest since modern record keeping began in 1880, according to independent analyses by NASA and the National Oceanic and Atmospheric Administration (NOAA).” Quoting GISS Director Gavin Schmidt the press release states “2015 was remarkable even in the context of the ongoing El Niño,” and “Last year’s temperatures had an assist from El Niño, but it is the cumulative effect of the long-term trend that has resulted in the record warming that we are seeing.” Finally, in the press release, NASA makes the amount and cause of the temperature rise clear. “The planet’s average surface temperature has risen about 1.8 degrees Fahrenheit (1.0 degree Celsius) since the late-19th century, a change largely driven by increased carbon dioxide and other human-made emissions into the atmosphere.” (See “NASA, NOAA Analyses Reveal Record-Shattering Global Warm Temperatures in 2015” http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in-2015 <http://www.nasa.gov/press-release/nasa-noaa-analyses-reveal-record-shattering-global-warm-temperatures-in2015> last visited January 30, 2016.)</p>	<p>Comment noted. Contribution factors to climate change and global warming that may result from the Federal Action are addressed in Section 3.14 of the EA – Climate Change.</p>

	<p>The United States Department of Defense, in its May 27, 2015 report to Congress states “The Department of Defense sees climate change as a present security threat, not strictly a long-term risk. We are already observing the impacts of climate change in shocks and stressors to vulnerable nations and communities, including in the United States, and in the Arctic, Middle East, Africa, Asia, and South America.” (See “National Security Implications of Climate-Related Risks and A Changing Climate” Generated on 2015May27 Ref ID: 8-6475571, http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-of-climate-change.pdf?source=govdelivery <http://archive.defense.gov/pubs/150724-congressional-report-on-national-implications-ofclimate-change.pdf?source=govdelivery> last visited January 30, 2016.)</p>	
<p>21-3</p>	<p>One of the 2016 goals of the United States Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) is to “Reduce the number of hazardous liquid pipeline spills with environmental consequences to between 65-81 per year”. (See “Mission & Goals”, http://www.phmsa.dot.gov/about/mission last visited January 30, 2016.) However, FracTracker Alliance, using PHMSA data, reported that between January 1, 2010 and March 3, 2014 there were 2,452 recorded pipeline incidents including 1,511 hazardous liquid incidences. (“See Pipeline Incidents Updated and Analyzed”, http://www.fractracker.org/2014/04/pipeline-incidents/ last visited January 30, 2016.) Using those data, there were 1.6 pipeline incidences per day with one incident per day involving hazardous liquids (primarily crude oil). The proposed alteration with its resulting crude oil pipeline is clearly not consistent with PHMSA goals.</p>	<p>Comment noted. Potential spills and leaks are addressed in Section 3.12 of the EA - Reliability and Safety. The DAPL project is designed to meet or exceed current PHMSA regulations.</p>