



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 23-008
Public Notice Date
October 5, 2023
Expiration Date
November 4, 2023

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: Jeffrey Wells, P.E.
or Jeffrey.M.Wells@usace.army.mil

REQUESTER: Enable Mississippi River Transmission, LLC. Attention: Ms. Kerry Asteris.

LOCATION: The site crosses the Metro East Sanitary District (MESD). The work is located at the approximate coordinates 38°48'27.36"N 90°1'22.34"W in Edwardsville, IL. (Madison County, Illinois).

PROPOSED ACTION: The applicant is requesting to make alterations to the Metro East Sanitary District embankment in Madison County, Illinois. The proposed alterations include the installation of a 4-inch diameter natural gas transmission pipeline system. The purpose of the proposed project is to take the natural gas produced by the Ameresco RNG Facility and transport it to the East Line for use in Mississippi River Transmission's natural gas transmission pipeline system. The Project was designed to route the gas from the Ameresco RNG Facility to MRT's pipeline system in the most direct manner practicable which required a crossing of Metro East Sanitary District's (MESD) levee, which is proposed via horizontal directional drill (HDD).

LOCATION MAPS AND DRAWINGS: See Attachment

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Jeffrey Wells, P.E., St. Louis District 408 Coordinator, U.S. Army Corps of Engineers, at (314) 331-8568. Your inquiries may also be sent by e-mail to Jeffrey.M.Wells@usace.army.mil.

REGULATORY AUTHORITY: The St. Louis District Regulatory Branch has conducted a preliminary review of the proposed project. Based upon review of the project activity description, as well as the location of the work, the Regulatory Branch determined that this activity does not trigger the need for a Department of the Army Permit under Section 404 of the Clean Water Act. If additional infrastructure plans are developed that include impacts to Waters of the U.S., then a permit application would need to be submitted to the Regulatory Branch. It should be noted that although this proposal does not need a Section 404 permit based on submitted plans, any revisions to the applicant's proposal may be subject to permitting.

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 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 is 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.

In compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, lists of species and critical habitat were acquired from the USFWS Information for Planning and Conservation (IPaC) website on 13 June 2023 (Project Code: 2023-0092746) for the Proposed Action Area. MRT submitted a consultation request to the USFWS on February 20, 2023 requesting concurrence with the determination that the Proposed Action would have “*no effect*” on the federally listed threatened decurrent false aster and eastern prairie fringed orchid. Additionally, MRT on behalf of the Federal Energy Regulatory Commission requested concurrence that the Proposed Action is “*may affect, but not likely to adversely affect*” the federally listed Indiana bat, northern long-eared bat, and eastern massasauga rattlesnake, and “*is not likely to jeopardize the continued existence*” of the tricolored bat or the monarch butterfly. The USFWS Southern Illinois Sub-Office provided their concurrence with MRT’s determinations on March 8, 2023.

MRT completed the Ecological Compliance Assessment Tool (EcoCAT) on 16 January 2023, to determine state listed threatened and endangered species that have the potential to occur in the Proposed Action Area. Based on the EcoCAT there are three species with potential to occur in the Proposed Action Area including the Illinois chorus frog (*Pseudacris illinoensis*), the ornate box turtle (*Terrapene ornata*), and the royal catchfly (*Silene regia*). MRT submitted a Conservation Plan for the proposed take of the Illinois chorus frog as a result of the Proposed Action. MRT anticipates an Individual Take Authorization (ITA) from IDNR prior to construction. Based on consultations with the IDNR, impacts to the ornate box turtle can be avoided through the implementation of minimization measures. MRT would restore the Proposed Action Area to pre-construction contours upon the completion of construction; therefore, permanent impacts to royal catchfly habitat are not anticipated.

The Migratory Bird Treaty Act (MBTA) of 1918 provides protection for bird species native to North America. The project area is in the Mississippi Flyway, a bird migration route which follows the Mississippi River, the Missouri River, and the Lower Ohio River in the United States. A variety of migratory birds might occur in the Proposed Project Area, some as migrants and some as breeders, depending on the time of year. Year-round residents would also be present. The nearby William C. Drda Woods, a HeartLands Conservancy conservation easement, Bohm Woods Nature Preserve, and Roy E. Lee Field, are forested or vegetated areas that provide migratory stopover habitat for birds using the Mississippi Flyway and habitat for year-round residents as well. The nearby construction disturbance would cause temporary minor adverse impacts.

Although the bald eagle (*Haliaeetus leucocephalus*) was removed from the federal list of threatened and endangered species in 2007, it continues to be protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). The BGEPA prohibits unregulated take of bald eagles, including disturbance. The U.S. Fish and Wildlife Service developed the National Bald Eagle Management Guidelines to provide landowners, land managers, and others with information and recommendations regarding how to minimize potential project impacts to bald eagles, particularly where such impacts may constitute disturbance. Field investigations did not identify bald eagles or their nests within the Proposed Action Area. If a bald eagle nest is found in the project area, or in the vicinity of the project area,

then the USFWS shall be contacted immediately and the National Bald Eagle Guidelines shall be implemented.

St. Louis District Archaeologists conducted a Historic Property Preliminary Review on 3 August 2023. There are no known archeological sites or historic properties within the project area. The Federal Energy Regulatory Commission is the lead agency for Section 106 of the National Historic Preservation Act of 1966. Perennial Environmental Services, LLC performed a cultural resource survey for the project in 2023. No cultural resources were found in the Section 408 permit area. A determination of “No Historic Properties Affected” was found for the project.

All actions taken were in accordance with the National Historic Preservation Act of 1966, as amended (NHPA). In the unlikely event that, earthmoving activities associated with the proposed work did impact potentially significant archeological/historic remains, all construction activities and earthmoving actions in the immediate vicinity of the remains would be held in abeyance until the potential significance of the remains could be determined. The precise nature of such investigations would be developed by the Saint Louis District in concert with the professional staff of the Illinois SHPO.

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 Technical Review 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 taken into consideration 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 **November 4, 2023**. 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.

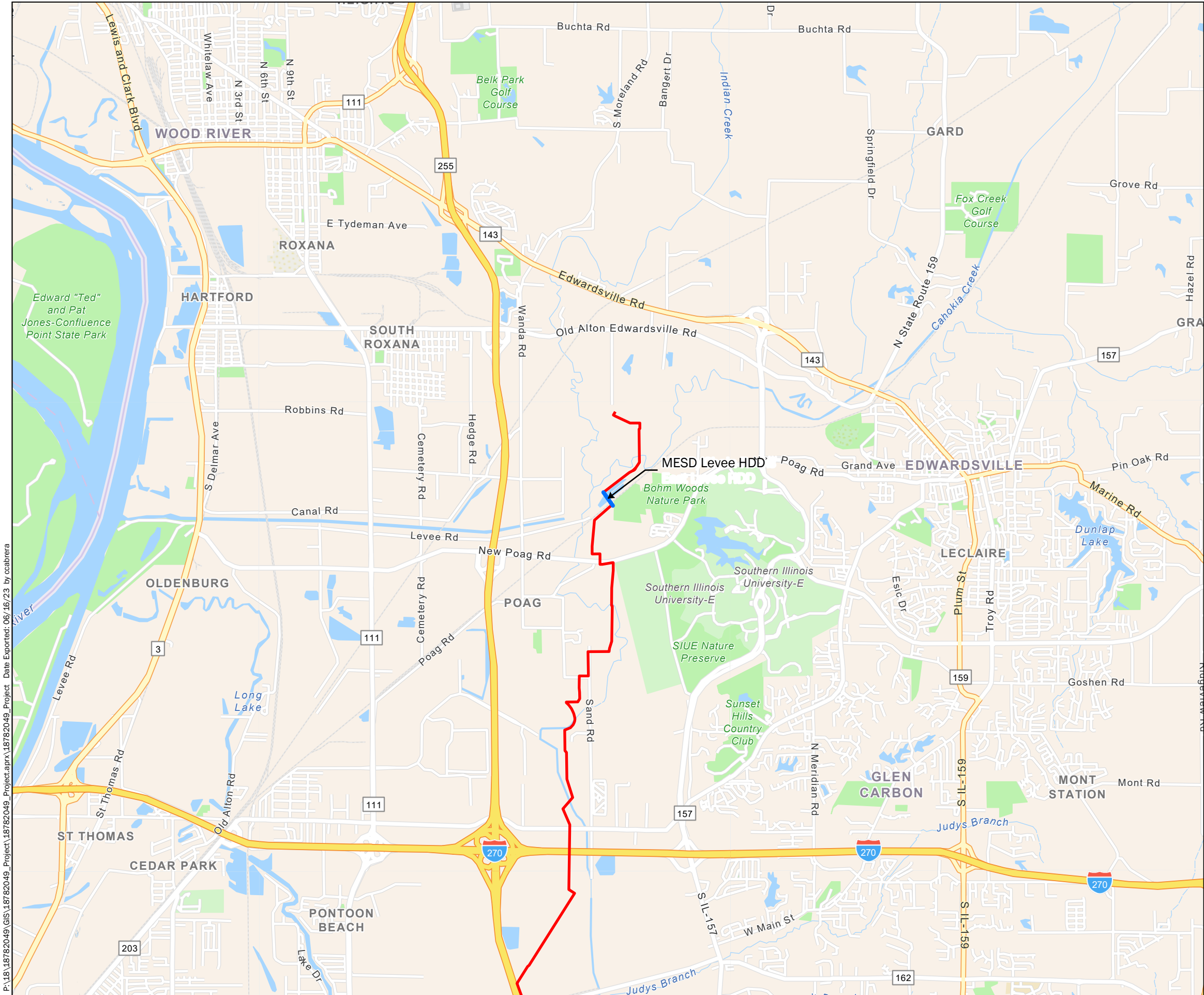
ORIGINAL SIGNED

John L. Osterhage
Chief, Readiness Branch

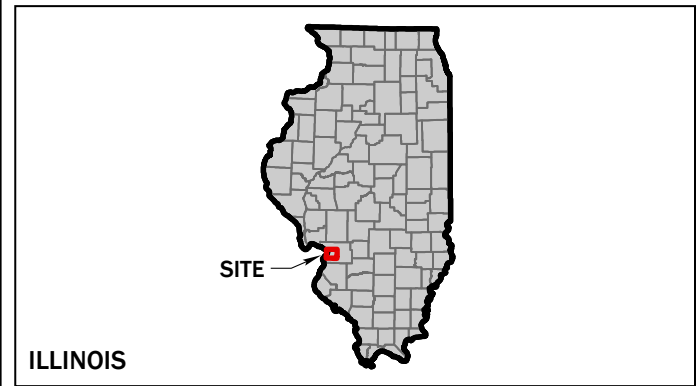
Attachment

NOTICE TO POSTMASTERS:

It is requested that this notice be conspicuously and continually placed for 30 days from the date of this issuance of this notice.



- Legend**
- Centerline
 - Alignment

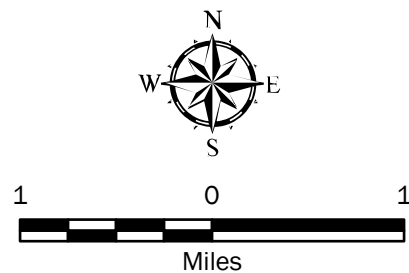


Notes:

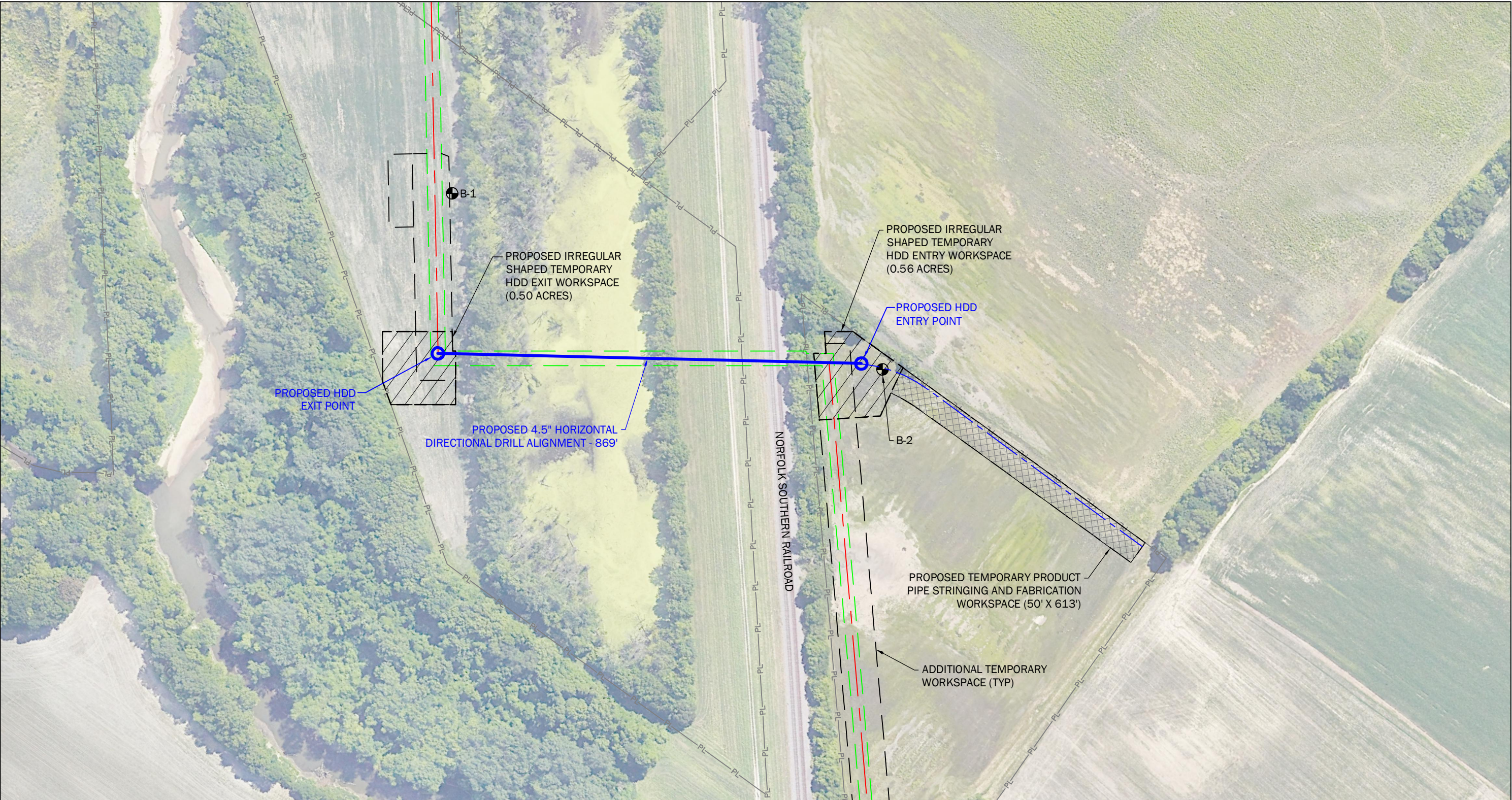
1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. cannot guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

Data Source: ESRI.

Projection: NAD 1983 StatePlane Illinois West FIPS 1202 Feet



VICINITY MAP	
ENABLE MISSISSIPPI RIVER TRANSMISSION, LLC AMERESCO 4-INCH RNG PIPELINE PROJECT MESD LEVEE HDD MADISON COUNTY, ILLINOIS	
GEOENGINEERS	FIGURE 1



NOTES:
1. THE LOCATIONS OF ALL FEATURES SHOWN ARE APPROXIMATE.
2. THIS DRAWING IS FOR INFORMATION PURPOSES. IT IS INTENDED TO ASSIST IN SHOWING FEATURES DISCUSSED IN AN ATTACHED DOCUMENT. GEOENGINEERS, INC. CANNOT GUARANTEE THE ACCURACY AND CONTENT OF ELECTRONIC FILES. THE MASTER FILE IS STORED BY GEOENGINEERS, INC. AND WILL SERVE AS THE OFFICIAL RECORD OF THIS COMMUNICATION.
3. THE UTILITIES SHOWN ON THE DRAWING ARE BASED ON SURVEY DATA PROVIDED BY UNIVERSALPEGASUS INTERNATIONAL. GEOENGINEERS, INC. HAS NOT VERIFIED THE FIELD LOCATION OF THE EXISTING UTILITIES.

REFERENCE: BASE FILES AND GROUND SURFACE SURVEY PROVIDED BY ENABLE MISSISSIPPI RIVER TRANSMISSION, LLC. AERIAL IMAGE TAKEN FROM GOOGLE EARTH PRO © 2023, LICENSED TO GEOENGINEERS, INC., IMAGE DATED 03/16/22.

LEGEND:

	BORING LOCATION
	PROPOSED CENTERLINE
	EASEMENT
	WORKSPACE
	PROPERTY LINE

PLAN

200 0 200

SCALE IN FEET

SITE PLAN

ENABLE MISSISSIPPI RIVER TRANSMISSION, LLC
AMERESCO 4-INCH RNG PIPELINE PROJECT MESD LEVEE HDD
MADISON COUNTY, ILLINOIS

GEOENGINEERS

FIGURE 2