



Public Notice

U.S. ARMY CORPS OF ENGINEERS

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Public Notice of Permit Application

Action ID: SPK-2009-00480

Comments Period: September 21, 2009 – October 21, 2009

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Natomas Levee Improvement project Phase 4a, which would result in impacts to approximately 19.76 acres of waters of the United States, including 3.5 acres of wetlands. The proposed project would also result in temporary impacts to 1.0 acres of waters of the U.S.

This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Sacramento Area Flood Control Agency (SAFCA)
1007 7th Street, 7th Floor
Sacramento, CA 95814

LOCATION: The proposed Sacramento Area Flood Control Agency's (SAFCA) Natomas Levee Improvement Program (NLIP) is located in northern Sacramento County and southern Sutter County,. The project area includes the east levee of the Sacramento River between the Natomas Cross Canal (NCC) and the American River, and adjacent lands. The project is located in Townships 9, 10, and 11 North, Ranges 3 and 4 East, on the Sacramento West, Taylor Monument, Gray's Bend, and Verona U.S. Geological Survey 7.5-minute quadrangles. Approximate latitude and longitude coordinates at the north and south ends of the project area are: 39.091N, -121.584302W and 39.0091N, -121.578301W.

PROJECT DESCRIPTION: The NLIP entails improving the levee system that protects the 53,000-acre Natomas Basin. The Natomas Basin is bound by leveed reaches of the NCC on the north, the Sacramento River on the west, the American River on the south, and the Pleasant Grove Creek Canal (PGCC) and Natomas East Main Drainage Canal (NEMDC)/Steelhead Creek on the east. The proposed 4a project comprises the fourth phase of the overall Landside Improvements Project and includes improvements to correct levee freeboard deficiencies and seepage potential along the Sacramento River east levee and related landscape and irrigation/drainage infrastructure improvements in a portion of the Natomas Basin.

The elements of the proposed project include:

► **Levee raising and seepage remediation:** The applicant proposes to construct an adjacent levee, raised in Reaches 10–11B, with cutoff walls, seepage berms, and relief wells, where required, to reduce seepage potential in Reaches 10-15 of the Sacramento River and proposes to install cutoff wall in the adjacent levee from Station 190+00 to 214+00 to provide additional seepage remediation. At the Natomas Central Mutual Water Company's Bennett Pump Station and Northern Main Pump Station, the applicant proposes to raise the NCC south levee, flatten levee side slopes, install cutoff walls, and modify or replace the existing pumps and motors to accommodate raising the discharge pipes above the 200-year design flood elevation.

- ▶ **Improvements to irrigation and drainage infrastructure:** The applicant proposes to extend the relocated Riverside Canal upstream of Powerline Road in Reaches 11B–12B of the Sacramento River, relocate the canal east of the adjacent levee in Reaches 13–15 and east of the adjacent levee, residences, and tree groves in Reaches 15–17, and construct a piped section in Reach 15–18B at the toe of the new adjacent levee.
- ▶ **Borrow site usage:** The applicant proposes to excavate soils from a number of borrow areas and construct haul roads to transport the material for the irrigation and drainage improvements and for construction of the Sacramento River adjacent setback levee.
- ▶ **Habitat development and management:** The applicant proposes to establish a habitat complex in the Fisherman's Lake Borrow Area through creation of approximately 140 acres of agricultural upland habitat; establishment of perennial native grasses on levee slopes, seepage berms, and access and maintenance area; creation of up to 120 acres of managed seasonal and perennial marsh; and establishment of woodlands consisting of native riparian and woodland species at locations along the landside of the Sacramento River east levee.

ADDITIONAL INFORMATION: Pursuant to the National Environmental Policy Act (NEPA) the Corps published a notice in the Federal Register on August 28, 2009, informing the public of the availability of the Draft Environmental Impact Statement/Draft Environmental Impact Report for the Natomas Levee Improvement Program Phase 4a Landside Improvements Project (DEIS/DEIR). The DEIS analyzes the potential effects of implementing each of three alternative scenarios for providing the necessary level of flood protection to the Natomas basin. The alternatives considered in detail in the DEIS/DEIR are: the No-Action alternative, the Proposed Action (described above), and the Raise and Strengthen in Place alternative.

ENVIRONMENTAL SETTING: The Natomas Basin is located at the confluence of the American and Sacramento Rivers. Encompassing approximately 53,000 acres, the basin includes portions of the City of Sacramento and Sacramento and Sutter Counties. The Basin is protected from high flows in surrounding water bodies by an interconnected perimeter levee system. This levee system was originally created to promote agricultural development. Today, however, the Natomas Basin contains Interstate 5, State Route 99/70, and the Sacramento International Airport. About 30% of the basin consists of developed urban uses mostly located south of Elkhorn Boulevard. Approximately 60% of the basin is in some form of agriculture or open space use, including 4,000 acres under the management of the Natomas Basin Conservancy (TNBC).

ALTERNATIVES: The applicant has provided information concerning project alternatives which are described in the DEIS/DEIR.

Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

MITIGATION: The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. To offset the permanent loss of approximately 19.76 acres of waters of the United States associated with the NLIP Phase 4a construction, the applicant is proposing to create approximately 100 acres of upland and aquatic habitat, including at least 20 acres of waters of the United States, in the Fisherman's Lake habitat complex. These features are scheduled to be constructed in 2010 as part of a Conceptual Mitigation, Management, and Monitoring Plan (CMMMP) developed in coordination with the U.S. Fish and Wildlife Service and California Department of Fish and Game to offset project-related impacts to federal and state listed species and sensitive habitats. The CMMMP includes preservation, restoration, and enhancement elements of habitats for the federally listed giant garter snake (GGS) and valley elderberry longhorn beetle (VELB), and the state listed Swainson's Hawk (SWH). The aquatic habitat features designed for GGS are expected to provide aquatic resource functions that would adequately compensate for project-related impacts to

waters of the United States associated with the proposed Phase 4a NLIP. The CMMMP also includes the creation of managed marsh habitat, preservation of irrigated rice fields, and construction of additional irrigation canals. Portions of these features would be expected to meet the definition of waters of the U.S. and provide an array of aquatic resource functions and services.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Central Valley Water Quality Control Board is required for this project. The applicant has indicated they have applied for certification.

HISTORIC PROPERTIES: There are several known cultural resource sites within the project area that are and may be eligible for listing in the National Register of Historic Places (NRHP). There is also high potential that significant archaeological deposits may be discovered during project construction. The Corps has determined the proposed project will have an adverse effect on at least one Historic Property that has been determined eligible for inclusion on the NRHP. A "Programmatic Agreement Among the U.S. Army Corps of Engineers, SAFCA, and the California State Historic Preservation Officer regarding the issuance of permission under the authority of Sections 10 and 408 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act" has been signed to fulfill the requirements for compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966 as amended (16 U.S.C. 470f) for the proposed project.

ENDANGERED SPECIES: Based on the Biological Assessment for Phase 4a, project activities would be likely to adversely affect the federally threatened valley elderberry longhorn beetle (VELB; *Desmocerus californicus dimorphus*) and giant garter snake (GGS; *Thamnophis gigas*). The project site is not within critical habitat for valley elderberry longhorn beetle, and critical habitat has not been designated for giant garter snake. The Corps will initiate formal consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service for VELB and GGS.

Four federally listed anadromous fish species have the potential to occur in the lower Sacramento River. These species include the Sacramento River winter-run Chinook salmon Evolutionary Significant Unit (ESU) (*Oncorhynchus tshawytscha*), Central Valley spring-run Chinook salmon ESU (*Oncorhynchus tshawytscha*), Central Valley steelhead ESU (*Oncorhynchus mykiss*), and green sturgeon (*Acipenser medirostris*). Additionally, Central Valley fall-/late fall-run Chinook salmon ESU (*Oncorhynchus tshawytscha*), a species of Pacific salmon that is not federally-listed but is managed under the Pacific Coast Salmon Fisheries Management Plan, also has potential to occur in the project area. The lower Sacramento River and its tributaries are within designated critical habitat for Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and Central Valley steelhead. The BA concluded that, with implementation of proposed impact avoidance and minimization measures, the project is not likely to adversely affect Sacramento River winter-run Chinook salmon ESU, Central Valley spring-run Chinook salmon ESU, Central Valley steelhead ESU, green sturgeon, and Central Valley fall-/late fall-run Chinook salmon ESU or critical habitat designated for the first three of these ESUs. The Corps will consult with NMFS requesting concurrence with a not-likely to adversely affect determination.

ESSENTIAL FISH HABITAT: Based on the Biological Assessment for the proposed project, the Sacramento River has been designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council. Central Valley fall-/late fall-run Chinook salmon ESU, a species of Pacific salmon that is not federally-listed but is managed under the Pacific Coast Salmon Fisheries Management Plan, has potential to occur in the action area. The Sacramento River has been designated as EFH for fall-run Chinook salmon. The Sacramento River has been designated as EFH for spring-, fall-, late fall-, and winter-run Chinook salmon. The Corps has determined the project may adversely affect EFH. The Corps has submitted notification to NMFS to initiate EFH consultation for EFH.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. 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 described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps 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 this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit 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 also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2009-00480 must be submitted to the office listed below on or before **October 21, 2009**.

Kathleen A. Dadey, PhD
US Army Corps of Engineers, Sacramento District
Sacramento Office
1325 J Street, Room 1480
Sacramento, California 95814 2922
Email: Kathleen.A.Dadey@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Kathleen A. Dadey, 916-557-7253, Kathleen.A.Dadey@usace.army.mil.

Attachments: 5 drawings