



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

Operations and Readiness Branch

PUBLIC NOTICE

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

TITLE: Sherman Island Fish Screens, 13387-1 and 19108

PUBLIC NOTICE COMMENT PERIOD:

Begins: March 14, 2017

Ends: April 13, 2017

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the California Department of Water Resources (Requester) has requested permission through the Central Valley Flood Protection Board (non-federal sponsor of the federally authorized project) from the U.S. Army Corps of Engineers (USACE) to alter the Sacramento River Flood Control Project, an existing federal flood risk management project, authorized by the Flood Control Act of 1917.

LOCATION: The proposed project is located on the left bank of the Sacramento River, on the northwestern levee of Sherman Island, off of the west Sherman Island Road in Sacramento County, California (Attachment 1).

REQUESTER'S PROPOSED ACTION: The proposed project is to install two separate self-cleaning fish screens, supported by pile foundations, onto two existing agricultural siphons in two distinct locations on the northwestern levee of Sherman Island (Attachments 1 and 2). These two fish screens are being considered under two separate permit identification numbers (13387-1 and 19108), but are connected actions that will be analyzed in the same environmental assessment. In addition to the fish screens, a maintenance structure and walkway would be constructed in both locations (Attachment 2). A single staging area, located between the two fish screens (Attachment 2), is proposed for use during construction of both fish screens.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The Sacramento River in the vicinity of the project area is known to support the federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and the following federally threatened fish species: Central Valley spring-run Chinook salmon (*O. tshawytscha*), delta smelt (*Hypomesus transpacificus*), Southern distinct population segment of the North American green sturgeon (*Acipenser medirostris*), and Central Valley steelhead (*O. mykiss*). The proposed project area also contains designated critical habitat for the above-listed fish species. The federally threatened giant garter snake (*Thamnophis gigas*) also has the potential to occur in the project area; however, this potential is low as there is a lack of highly suitable habitat.

Construction activities may temporarily increase turbidity and sound pressure, which could have adverse effects on listed fish species. However, the requester has proposed a number of avoidance and minimization measures, including an in-water work window of August 1 to November 30 when listed fish species are least likely to be in the project area, to reduce potential adverse effects to listed species. The proposed project will result in permanent shading of aquatic habitat; however, the new fish screens will have the beneficial impact of preventing

future entrainment of listed fish species. The Corps will initiate consultation under Section 7 of the Endangered Species Act with both the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

An Archaeological Survey Report is currently being prepared for the proposed project area. Following preparation of this report, the Corps will initiate consultation with potentially interested tribes and the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation or alteration of any U.S. Army Corps of Engineers (USACE) civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 USC 408 ("Section 408"). Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers, to grant permission for the alteration or occupation or use of a USACE project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. The Secretary of Army's authority under Section 408 has been delegated to the USACE, Chief of Engineers. The USACE Chief of Engineers has further delegated the authority to the USACE, Directorate of Civil Works and Division and District Engineers, depending upon the nature of the activity.

LIMITS OF SECTION 408 AUTHORITY: A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), Section 404 of the Clean Water Act (33 USC Section 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413). In addition, an approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION FACTORS: The decision whether to grant the requested permission for project alteration 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 requests for alteration will be reviewed by a USACE technical review team considering the following factors:

1) Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the USACE project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. In order for an alteration to be approved, the Requester must demonstrate that the alteration does not impair the usefulness of the federally authorized project.

2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest evaluation depend upon the type of USACE project being altered and the nature of the proposed alteration and may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with

risks and by the net impact of the alteration on the public interest using the public interest factors.

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 USACE is responsible for ensuring environmental compliance, the requester is responsible for providing all information that the district identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and procedures. NEPA and other analysis completed to comply with other environmental statutes (e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The district will work with the requester to determine the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner.

PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Sherman Island Fish Screens project, a proposed alteration to an existing federally authorized project. Comments received within 30 days of publication of this notice will be used in the evaluation of potential impacts of the proposed action on important resources and in the evaluation of whether the proposed alteration would be injurious to the public interest and/or would impair the usefulness of the authorized project. Only the specific activities that have the potential to occupy, use or alter the Sacramento River Flood Control Project will be evaluated. Please limit comments to the area of the alteration and those adjacent areas that would be directly or indirectly affected by the alteration to the Sacramento River Flood Control Project.

SUBMITTING COMMENTS: Written comments, referencing Identification Numbers 13387-1 and 19108 must be submitted to the office listed below on or before April 13, 2017.

Brian Luke, Natural Resources Specialist
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1460
Sacramento, California 95814-2922

Email: Brian.J.Luke@usace.army.mil

Attachments:

- 1) Vicinity map
- 2) Site Plans