



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 US ARMY CORPS OF ENGINEERS PROJECT  
UNDER SECTION 408**

**TITLE:** Feather River Parkway, 19022

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: December 29, 2016

Ends: January 30, 2017

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

**LOCATION:** Along the Feather River on the eastern edge of Yuba City, north of Colusa Avenue, Sutter County, California (Attachments 1 and 2). The proposed project location is a former City sewer water treatment facility area.

**REQUESTER'S PROPOSED ACTION:** The City of Yuba City proposes to expand an existing parkway along the Feather River, through improvements and restoration to approximately 84 acres to the north of the existing park (Attachment 2). The proposed project would include construction of approximately 2.5 miles of new public trails, 3 picnic areas, a picnic pavilion on a concrete slab, a vault toilet, 8 benches, 10 anchored picnic tables, 15 interpretive signs, 2 anchored bicycle racks, and metal pipe gates for restriction of vehicle access. Additionally, the proposed project would improve recreational access to an existing pond, stabilize 100 feet of riverbank with rock slope protection, and restore approximately 2 acres of riparian habitat through native vegetation plantings. All proposed work would occur above the ordinary high water mark.

**ENVIRONMENTAL IMPACTS OF PROPOSED ACTION:** The proposed project area contains marginal habitat for the federally threatened giant garter snake (*Thamnophis gigas*) and habitat for the federally threatened Western yellow-billed cuckoo (*Coccyzus americanus*), as well as the host shrub, elderberry (*Sambucus* sp.), for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). See Attachment 2 for elderberry shrub locations in relation to proposed construction activities. The City of Yuba City proposes implementation of various environmental protection measures, including avoidance of elderberry shrubs, timing of construction during the active period of giant garter snake, and pre-construction surveys for special status species and additional consultation in the event that surveys are positive for such species. Informal consultation with the U.S. Fish and Wildlife Service for potential effects to the Western yellow billed cuckoo and the valley elderberry longhorn beetle, under Section 7 of the Endangered Species Act (16 U.S.C 1536[c]), is anticipated.

The Feather River, which is outside the project area, contains habitat for the federally endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), as well as the following federally threatened fish species: green sturgeon (*Acipenser medirostris*), Central Valley steelhead (*O. mykiss*), and Central Valley spring-run Chinook salmon (*O. tshawytscha*). No in-water work would take place and no removal of riparian trees is proposed. Therefore, no effects to federally listed fish species are anticipated.

The proposed project area is currently being evaluated for cultural resources. The Corps has initiated consultation with the State Historic Preservation Officer, under Section 106 of the National Historic Preservation Act. Consultation is ongoing, pending completion of cultural resource evaluation within the area of potential effects. The Corps has also initiated Tribal consultation with local tribes.

**AUTHORITY:** The authority to grant permission for temporary or permanent use, occupation or alteration of any US 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 Feather River Parkway, 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 Number 19022 must be submitted to the office listed below on or before January 30, 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](mailto:Brian.J.Luke@usace.army.mil)

Attachments:

- 1) Vicinity Map
- 2) Site Map and Plan