



Public Notice

U.S. ARMY CORPS OF ENGINEERS

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Subject: Public Notice of Permit Application/Request for 408 Permission

Action ID: SPK-2018-00918 and 19621

Comment Period: January 21, 2022 – February 22, 2022

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application from the California Department of Water Resources (DWR) (applicant/requester) to implement the Tisdale Weir Rehabilitation and Fish Passage Improvement project, which would result in work in/the discharge of fill material into approximately 4.69 acres of waters of the United States in or adjacent to Sacramento River. In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, DWR has also requested permission through the Central Valley Flood Protection Board (non-federal sponsor of the federally authorized project) from the Corps to alter the Sacramento River Flood Control Project an existing federal flood risk management project. 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 sites at www.spk.usace.army.mil/Media/RegulatoryPublicNotices.aspx and www.spk.usace.army.mil/408permissions/.

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. Additionally, the project is being reviewed under the authority to grant permission for temporary or permanent use, occupation or alteration of any Corps civil works project as contained in Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 U.S.C. 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 Corps 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 Corps, Chief of Engineers. The Corps Chief of Engineers has further delegated the authority to the Corps, Directorate of Civil Works and Division and District Engineers, depending upon the nature of the activity. A requester or applicant has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any other required permits. In addition, an approval from the Corps does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

APPLICANT: California Department of Water Resources
Attn: Ms. Mitra Emami
3310 El Camino Avenue, Suite 140
Sacramento, California 95821-6300

U.S. ARMY CORPS OF ENGINEERS – Sacramento District
1325 J Street, Room 1350, Sacramento, CA 95814-2922
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

LOCATION: The approximately 130.6-acre project site is located on the Sacramento River, at river mile 119 and includes the western portion of Tisdale Bypass behind Tisdale Weir, Latitude 39.024986°, Longitude -121.821437°, Sutter County, California, and can be seen on the Tisdale Weir USGS Topographic Quadrangle.

PROJECT DESCRIPTION: The applicant is proposing to modify the Tisdale Weir and Bypass by conducting work and discharging fill material within 4.69 acres of waters of the U.S. in order to rehabilitate and reconstruct the Tisdale Weir, construct fish passage facilities, and associated project site improvements. Weir rehabilitation and reconstruction would address structural deficiencies in the existing weir by repairing the weir crest and demolishing and reconstructing the two abutments (south and north) and the energy dissipation basin. The proposed reconstruction of the energy dissipation basin would be directly coupled with the proposed fish passage facilities. Fish passage facilities would include reconstruction of an integrated energy dissipation and fish collection basin (basin) on the downstream side of the weir; installation of a notch, an operable gate (for flow regulation), and attendant facilities at the north end of the weir; and construction of a channel connecting the notch in the weir to the Sacramento River. Site improvements include filling scoured areas, installation of rock slope protection, and installing access ramps downstream of the weir. Based on the available information, the overall project purpose is to structurally rehabilitate the Tisdale Weir to extend its design life while reducing fish stranding by improving fish passage through the weir to the Sacramento River with minimal effects on facility maintenance and recreational access. The applicant believes there is a need to rehabilitate the structure to extend the operational life of the weir and protect against eventual failure of the weir, with subsequent flooding, damage to property, and possibly loss of life. Additionally, in its current configuration, during certain flow conditions, the weir prevents up-migrating fish from exiting the bypass and returning to the Sacramento River, especially when weir overtopping ends as flood flows recede. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. There are approximately 0.08 acre of seasonal wetland and 22.15 acres of riverine waters within the project area. The site is characterized by rural agricultural lands, a river access recreation area, and flood control structures. Terrestrial (upland) habitat types within the project site include annual grassland, disturbed, and developed land. Aquatic habitat types include riverine (Sacramento River), seasonal floodplain (Tisdale Bypass), seasonal wetland, and irrigation ditch.

Alternatives. The applicant has provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. 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. The applicant has proposed to restore all temporary impacts and purchase required mitigation

credits at a Corps-approved mitigation bank or in-lieu fee program, as required by permitting agencies.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Central Valley Regional Water Quality Control Board is required for this project. The applicant has not indicated they have applied for certification at this time.

HISTORIC PROPERTIES: Based on the available information (including applicant's cultural resources inventory and evaluation report), potentially eligible cultural resources may be affected by the proposed project. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The Corps will initiate consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

ESSENTIAL FISH HABITAT: The proposed project may adversely affect Essential Fish Habitat. The Corps will initiate consultation with the National Marine Fisheries Service, pursuant to Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

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

EVALUATION FACTORS FOR SECTION 404 AND SECTION 10: 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).

EVALUATION FACTORS FOR SECTION 408: 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. Review of requests for alteration will be reviewed by a Corps 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 Corps 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 Corps 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 the Corps 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 Corps project. The Sacramento 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.

GENERAL EVALUATION FACTORS: 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 and 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.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2018-00918 and 19621 must be submitted to the office listed below on or before February 22, 2022.

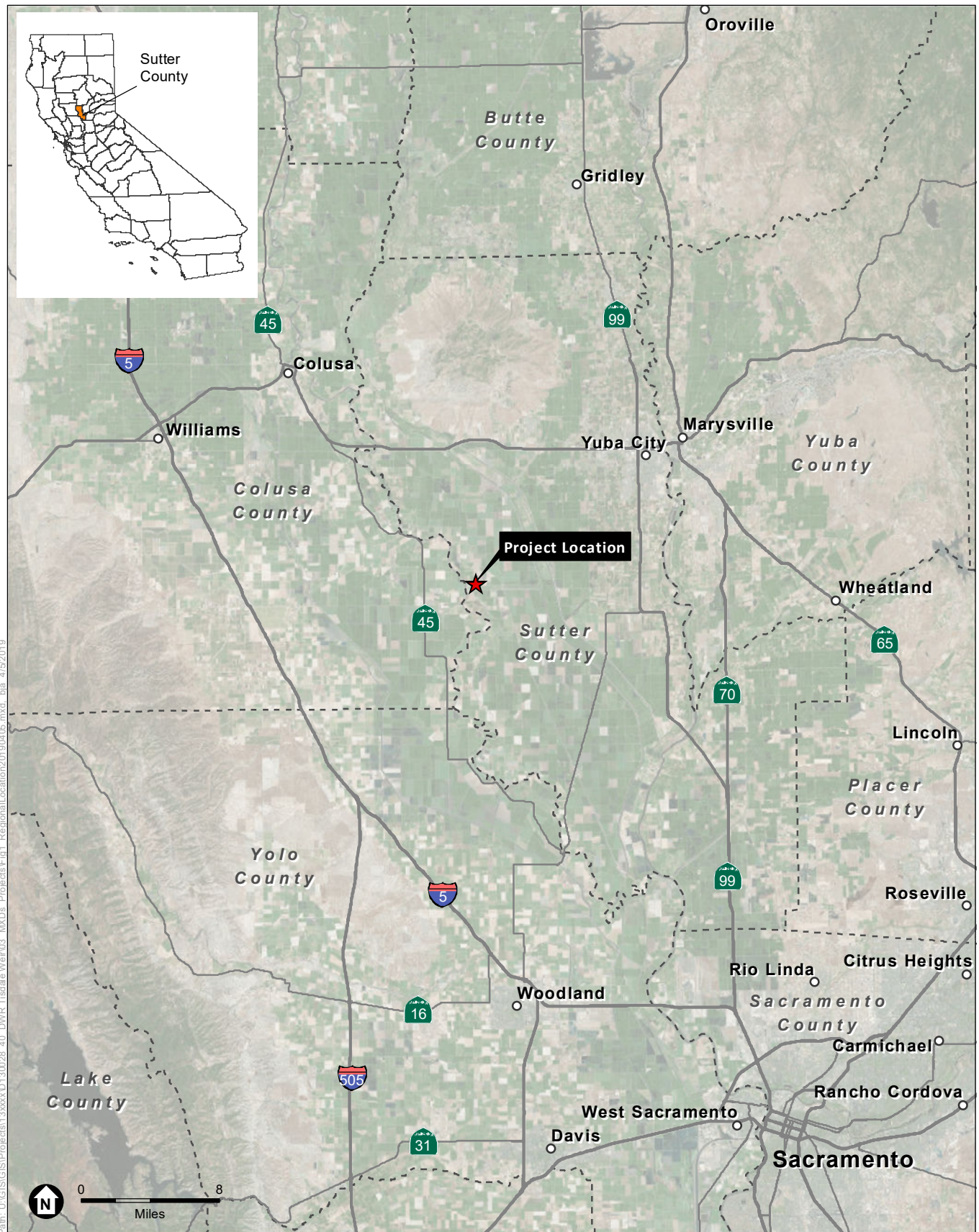
Zachary Simmons, Senior Project Manager
Email: *Zachary.M.Simmons@usace.army.mil*

Oren M. Ruffcorn, Biologist, 408 Permission Section
Email: *cespk-408-pn@usace.army.mil*

US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922

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' Regulatory project manager Zachary Simmons, (916) 557-6746, *Zachary.M.Simmons@usace.army.mil*, and the Corps' Section 408 Oren M. Ruffcorn, Biologist, *cespk-408-pn@usace.army.mil*.

Attachments: 5 drawings



SOURCE: Esri, 2015; ESA, 2019

Tisdale Weir Rehabilitation and Fish Passage Project

Figure 1
Regional Location





SOURCE: USDA, 2014; DWR, 2019; ESA, 2020

Tisdale Weir Rehabilitation and Fish Passage Project

Figure 2
Project Elements



Path: U:\GIS\GIS\Projects\13\xxxx\1300028_40_DWR_Tisdale_Weir\03_MXDs_Permitting\Fig6_PUD_Impacts_2020\010.mxd_environmental_01/07/2020

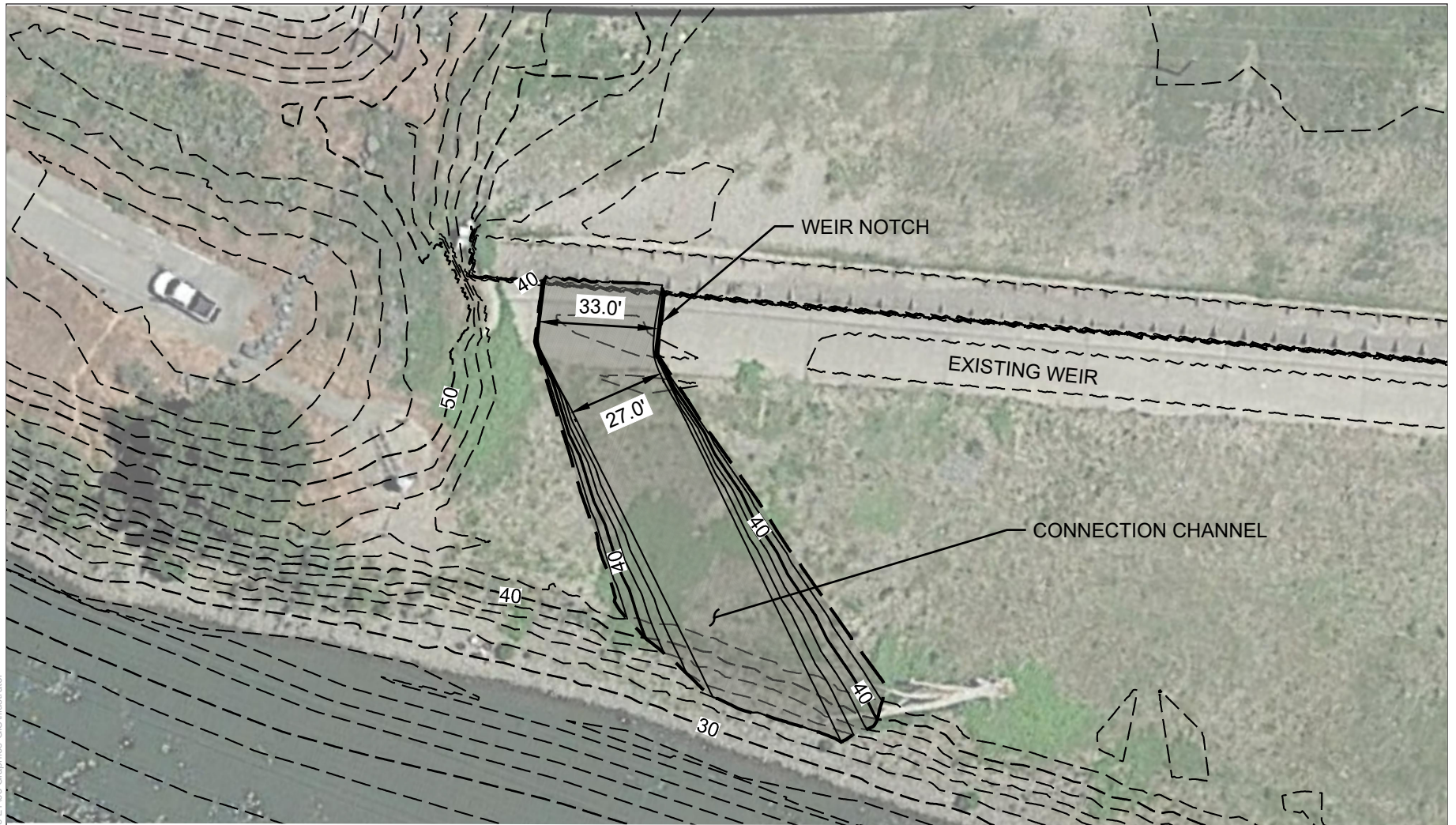
SOURCE: USDA, 2014; DWR, 2019; ESA, 2019

Tisdale Weir Rehabilitation and Fish Passage Project

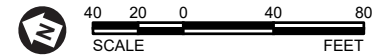
Temporary Impacts of up to 0.01 acres are limited to placement of sheet pile temporary cofferdam.

Figure 7
Impacts to Potentially Jurisdictional Waters





***See 65% Design Package for more information**

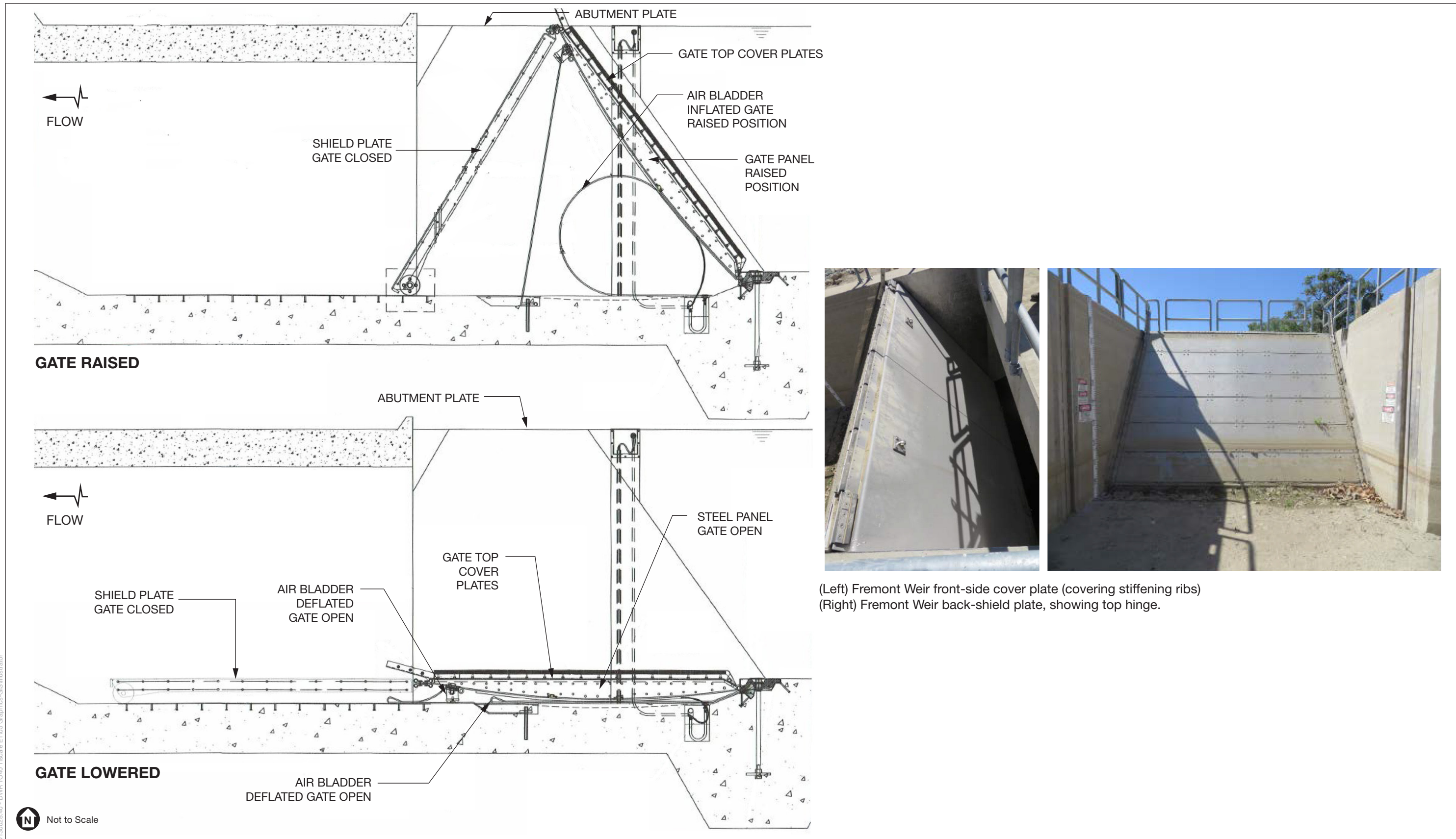


SOURCE: ESA, 2019

Tisdale Weir Rehabilitation and Fish Passage Project

Figure 4
Weir Notch and Connection Channel Conceptual Plan





(Left) Fremont Weir front-side cover plate (covering stiffening ribs)
 (Right) Fremont Weir back-shield plate, showing top hinge.

SOURCE: Obermeyer Hydro, Inc., 2017

Tisdale Weir Rehabilitation and Fish Passage Project

Figure 5
 Operable Gate Examples