



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: Southport Sacramento River Early Implementation Project (ID # 18313-3)

PUBLIC NOTICE COMMENT PERIOD:

Begins: March 14, 2017

Ends: March 28, 2017

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the West Sacramento Area Flood Control Agency (WSAFCA) (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 Sacramento River Flood Control Project, an existing federal flood risk management project, authorized by Section 209 of the Flood Control Act of 1962 (Public Law [PL] 87-874). The West Sacramento Project was authorized in the Water Resources Development Act (WRDA) of 1992 (PL 102-580 Sec. 101(4)), as amended by the Energy and Water Development and Appropriations Act (EWDAA) of 1999 (PL 105-245), and the EWDAA of 2010 (PL 111-85). The Watershed Infrastructure Improvements for the Nation (WIIN) Act of 2016, Section 1401 (PL 114-332) (also referred to as "WRDA 2016") authorized the West Sacramento General Reevaluation Report Recommended Plan (West Sacramento GRR), which included the Southport Early Implementation Project (Southport EIP).

LOCATION: Sacramento River, Yolo County, California (Attachment 1).

REQUESTER'S PROPOSED ACTION: As the design of the Southport EIP advanced from 65% to 100%, WSAFCA refined borrow requirements and some design features of the setback area in Reaches B2, C, D, E, and F. Certain borrow areas have been eliminated and a new borrow area, called Borrow One, has been added. The new borrow area is a 120-acre parcel presently used for agriculture. It is located south of the South Cross Levee and east of southern Jefferson Boulevard in unincorporated Yolo County, California. In the offset area three breaches (one in the northern and two in the southern offset areas) are now planned instead of five. More of the remnant levee and existing vegetation would remain because material from the existing levee is no longer required for construction. Levee breaches would be constructed during one construction season instead of over two or three years. The extent of new riprap along the remnant levee has been reduced. And, finally, between the levee breach shoulders, riprap would be covered with soil to allow vegetation to establish on the floor of the offset area.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The environmental effects of implementing the Southport EIP were evaluated in the joint draft environmental impact statement and environmental impact report (Draft EIS/EIR), dated November 2013, and Final EIS, dated May 2015. USACE signed a Record of Decision in August 2016. USACE is currently evaluating the environmental effects that could result from changes made in the project design since the ROD was signed; namely one new borrow area (Borrow One) and refinements to some features in the setback area. Based upon information available at this time, USACE is preparing an

environmental assessment that supplements the May 2015 Final EIS and addresses project refinements. National Historic Preservation Act, Section 106 compliance is being accomplished under a current Programmatic Agreement with the State Historic Preservation Officer. U.S. Fish and Wildlife Service (USFWS) issued a biological opinion for the West Sacramento GRR project, including the Southport EIP, on January 6, 2015. USACE reinitiated consultation to address revisions to the West Sacramento GRR project and USFWS issued a revised biological opinion on December 2, 2015. National Marine Fisheries Service issued a biological opinion for the West Sacramento GRR project, including the Southport EIP, on April 23, 2015. USACE informally consulted with USFWS regarding the setback area refinements and their potential to affect delta smelt and has reinitiated formal Section 7 consultation with USFWS to address effects of activities at the Borrow One site on valley elderberry longhorn beetle and giant garter snake. USACE informally consulted with National Marine Fisheries Service regarding the refinements to the setback area and the potential for these refinements to affect Central Valley (CV) spring-run Chinook salmon evolutionarily significant unit (ESU), Sacramento River winter-run Chinook salmon ESU, California CV steelhead distinct population segment (DPS), and the Southern DPS of North American green sturgeon.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation or alteration of any 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 USACE 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 Southport EIP (ID # 18313-3) Borrow Area One and the setback area in Reaches B2, C, D, E, and F. Comments received within 15 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. Please limit comments to Borrow One and the refinements to setback area features, which are the subject of the current environmental and Section 408 review.

SUBMITTING COMMENTS: Written comments, referencing Identification Number (ID # 18313-3) must be submitted to the office listed below on or before March 28, 2017.

Ms. Tanis Toland, Ecosystem Restoration Regional Specialist
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1460
Sacramento, California 95814-2922

Email: tanis.j.toland@usace.army.mil

Attachments:

- 1) Location Map
- 2) Site Map

