



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: West Stanislaus Irrigation District Fish Screen Intake (19223)

PUBLIC NOTICE COMMENT PERIOD:

Begins: August 20, 2018

Ends: September 19, 2018

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the West Stanislaus Irrigation District (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 San Joaquin River and Tributaries Project, an existing federal flood risk management project, authorized by the Flood Control Act of 1944.

LOCATION: The proposed project is located within the San Joaquin River National Wildlife Refuge ("Refuge") on the San Joaquin River, approximately 2.8 miles north of the Town of Grayson and 0.3 mile upstream of the confluence of the San Joaquin and Tuolumne Rivers, in Stanislaus County, California (Attachment 1).

REQUESTER'S PROPOSED ACTION: The proposed project would consist of the following elements: (1) cone screens located station on the left (west) bank of the San Joaquin River at the mouth of the existing West Stanislaus Irrigation District intake canal; (2) a low-lift pump station at the same location; (3) approximately 2,100 feet of underground pipeline from the proposed pump station to the intake canal; (4) sediment removal and management along the length of the intake canal; (5) upgrading of existing roads along the intake canal; (6) two wildlife crossings of the intake canal, one of which would also allow flood conveyance; and (7) facilities for providing late fall-water deliveries to the Refuge (Attachment 2). Work at the proposed pump station and fish screens would include placement of rip-rap around the intake structure, an underground powerline extension, a fence around the intake and pump station site, and installation of a new fiber optic line. Riparian woodland habitat restoration would take place at the staging area southeast of the fish screen intake and access road; this restoration would include planting of native trees and shrubs.

The Bureau of Reclamation (BOR) is providing funding for the proposed project; therefore, USACE has formally designated BOR as the lead federal agency.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The proposed project site is located in the northern portion of the San Joaquin Valley, within the San Joaquin River

National Wildlife Refuge. The proposed project site consists largely of disturbed/ruderal vegetation with small patches (approximately 9.5 acres) of riparian forest near the San Joaquin River and the West Stanislaus Irrigation District canal. Some (approximately 1.2 acres) freshwater emergent wetland habitat exists within the project site, within an abandoned agricultural ditch to the south of the intake canal (Attachment 3). The majority of the disturbance associated with the proposed project would occur within already disturbed/ruderal habitats.

The proposed project site provides potential habitat for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), endangered least Bell's vireo (*Vireo bellii pusillus*), endangered riparian brush rabbit (*Sylvilagus bachmani riparius*), endangered riparian woodrat (*Neotoma fuscipes riparia*), and endangered San Joaquin kit fox (*Vulpes macrotis mutica*). The proposed project area also provides potential habitat for the federally threatened California Central Valley distinct population segment (DPS) of steelhead (*Oncorhynchus mykiss*) and the threatened Central Valley spring-run Chinook salmon (*O. tshawytscha*). The project area is also identified as essential fish habitat under the Magnuson-Stevens Fishery Conservation and Management Act.

The proposed project may have a variety of effects on federally listed species and habitat; however, a number of conservation measures have been incorporated into the project design to minimize potential effects to listed species and critical habitat. BOR has initiated formal consultation under Section 7 of the Endangered Species Act with both the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The USFWS has provided BOR with a biological opinion, dated July 30, 2018, for the proposed project; consultation with NMFS is ongoing.

A cultural resources inventory and effects report was prepared for the proposed project and, pursuant to Section 106 of the National Historic Preservation Act, BOR initiated consultation with the State Historic Preservation Officer (SHPO) for potential effects to historic properties. BOR received a letter, dated May 23, 2017, from the SHPO concurring with BOR's determination of no historic properties affected (36 CFR 800.4[d][1]) for the proposed project undertaking. Additionally, BOR and their consultants have reached out to Native American tribes identified by the Native American Heritage Commission, inviting their participation in the Section 106 process.

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 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 West Stanislaus Irrigation District Fish Screen Intake, 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 San Joaquin River and Tributaries 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 San Joaquin River and Tributaries Project.

SUBMITTING COMMENTS: Written comments, referencing Identification Number 19223 must be submitted to the office listed below on or before September 19, 2018.

Kaleigh Maze, Biologist
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1460
Sacramento, California 95814-2922

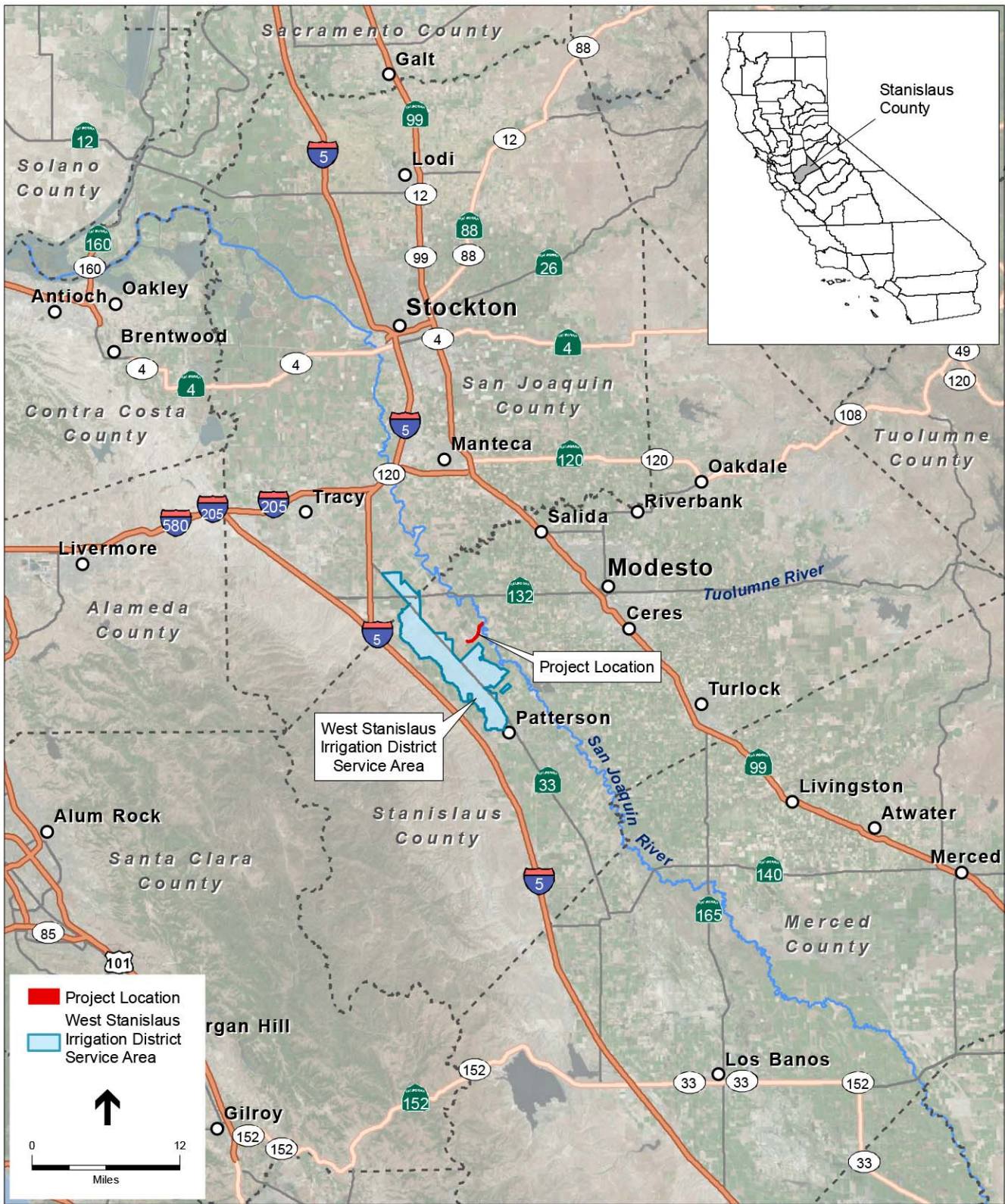
Email: Kaleigh.Maze@usace.army.mil

Attachments:

- 1) Vicinity map
- 2) Site map
- 3) Habitat map

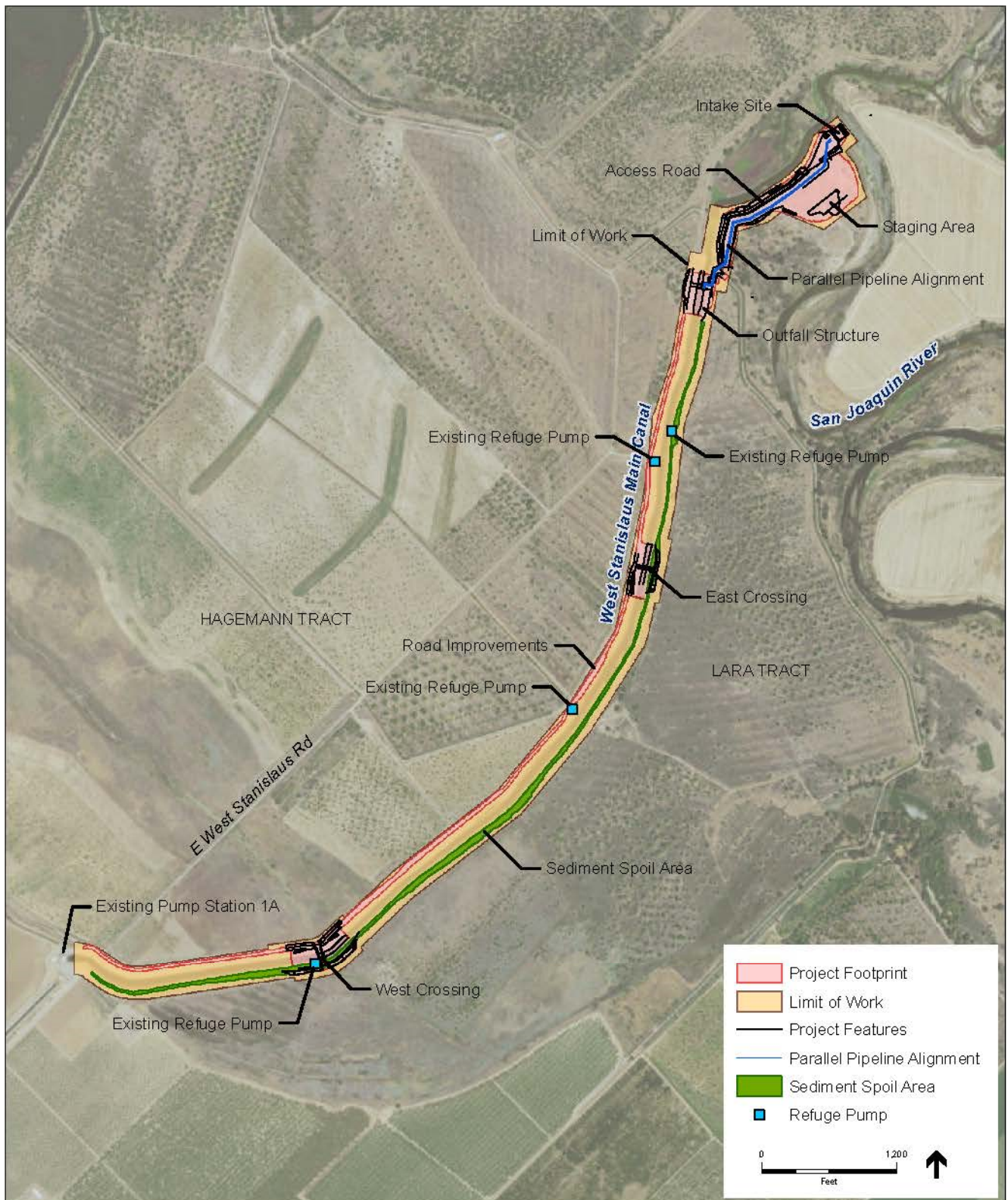
19223 Public Notice

Attachment 1



19223 Public Notice

Attachment 2



19223 Public Notice

Attachment 3

