



**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:** Sacramento River West Bank Seepage Mitigation Project: Levee Miles 3.41 to 6.45 (19294)

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: March 22, 2018

Ends: April 21, 2018

**REQUESTER:** In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the Sacramento River West Side Levee 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 Sacramento River Flood Control Project, an existing federal flood risk management project, authorized by the Flood Control Act of March 1, 1917, Public Law 367, Sixty-fourth Congress.

**LOCATION:** The proposed project is located on the Sacramento River, approximately two miles southwest of Robbins, Yolo County, California (Attachment 1).

**REQUESTER'S PROPOSED ACTION:** The Sacramento River west levee near Missouri Bend has experienced heavy seepage during high water events in the Sacramento River, most recently during the 2016–2017 water year. The California Department of Water Resources (DWR) has identified this site as a critical repair site and has prioritized it for repair. The proposed project is to construct approximately 3.25 miles of seepage berm on the landside levee slope and extension beyond the levee toe of the right bank of the levee along the Sacramento River. Additionally, chimney drains would be installed to provide further drainage of through-seepage. The drainage would be discharged to the ditches that would be excavated as part of the berm construction. Diagrams explaining seepage and showing the conceptual design of the proposed seepage berm are included as Attachment 2.

**ENVIRONMENTAL IMPACTS OF PROPOSED ACTION:** The proposed project area contains several land cover types (Attachment 3). Great Valley mixed riparian forest occurs in several locations on the waterside of the levee in the project area; however, all work is proposed on the landside of the levee and there will be no direct impacts to this habitat type. The landside of the levee consists of agricultural land, including prime farmland (Attachment 4), some of which would be converted to seepage berm during project construction. The levee slopes are regularly mowed and burned and support

primarily disturbed/ruderal annual grassland species. Other land cover types in the general vicinity of the project area are freshwater marsh, seasonal wetland, irrigation ditches, and unvegetated/developed areas (i.e., gravel levee roads).

The proposed project area provides potential habitat for the federally endangered least Bell's vireo (*Vireo bellii pusillus*), the federally threatened giant garter snake (*Thamnophis gigas*) and western distinct population segment of yellow-billed cuckoo (*Coccyzus americanus*). Additionally, the project vicinity contains elderberry shrubs (*Sambucus* sp.), the host plant for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). See Attachment 5 for a map of elderberry shrub locations and potential giant garter snake habitat within the project area. The proposed project may have effects on federally listed species and habitat; however, a number of conservation measures have been incorporated into the project design to avoid and minimize potential effects to listed species and critical habitat. USACE will initiate consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service.

A cultural resources inventory report was prepared for the proposed project and, pursuant to Section 106 of the National Historic Preservation Act, USACE will initiate consultation with the State Historic Preservation Officer (SHPO) for potential effects to historic properties. Additionally, USACE mailed letters, dated February 23, 2018, to Native American tribes identified by the Native American Heritage Commission, requesting review of the project and inviting comments.

To ensure compliance with the National Environmental Policy Act (NEPA), an environmental assessment is being prepared to address potential effects of the proposed project.

**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 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 Sacramento River West Bank Seepage Mitigation Project: Levee Miles 3.41 to 6.45, 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 19294 must be submitted to the office listed below on or before April 21, 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](mailto:Kaleigh.Maze@usace.army.mil)

Attachments:

- 1) Vicinity and site maps
- 2) Seepage and seepage berm conceptual diagrams
- 3) Land cover type maps
- 4) Farmland maps
- 5) Elderberry shrub locations and giant garter snake habitat