



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

408 Permission Section

PUBLIC NOTICE

**REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS
PROJECT UNDER SECTION 408**

TITLE: Contra Costa Levee Raise Walnut Creek (CCC 6B8348)

PUBLIC NOTICE COMMENT PERIOD:

Begins: December 20, 2023

Ends: January 19, 2024

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the Costa County Flood Control and Water Conservation District (non-federal sponsor of the federally authorized project) has requested permission from the U.S. Army Corps of Engineers (USACE) to alter the Walnut Creek Project, an existing federal flood risk management project, authorized by the Flood Control Act of 1960.

LOCATION: Grayson Creek & Walnut Creek, Contra Costa County, CA (Attachment 1).

REQUESTER'S PROPOSED ACTION: This project is proposed to raise the left (western) levees of Grayson and Walnut Creeks along the Central Contra Costa County Sanitary District (CCCSD) treatment plant. The Costa County Flood Control and Water Conservation District plans to reduce flood risk to the CCCSD wastewater treatment plant located in Martinez, CA. The CCCSD treatment plant is a critical piece of regional infrastructure and due to the design and layout of its facilities as well as its critical nature, the intent of the Project is to increase the flood protection level from a 100-year (1% chance storm) to a 500-year (0.2% chance storm) reoccurrence with 3-feet of freeboard. The total length of the project is 7,500 feet. Hydraulic modeling of Walnut and Grayson Creeks indicate that the height of fill required along the levees is, on average, approximately 2.7 feet. Approximately 3 acres of levee access road will be cleared and graded to accommodate the levee rehabilitation. Earth handling equipment (i.e., scrapers, bulldozers, etc.) will strip the top six inches of aggregate base and levee material. All work and storage of construction equipment will take place on existing District or CCCSD right of way. After stripping, the existing levee surface will be scarified, moisture-conditioned to optimum, and compacted to 90 percent relative density prior to placement of fill. Additional fill will be moisture-conditioned to optimum, placed in lifts 8 inches or less, and compacted to 90 percent relative density. On the levee crest, the upper 6-inches of subgrade will be compacted to at least 95 percent relative compaction. After the levee has been brought to grade, the levee access road will be surfaced with 6 inches of compacted aggregate base. At Imhoff Drive (STA 17+86 along Grayson Creek) the earthen levee will need to be sloped to conform to the existing

roadway grade, thus requiring installation of floodwalls to provide closure (Attachment 1, 2, and 3).

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The project limits along Grayson Creek are from the upstream end of Grayson Creek at the SR-4 Bridge to the downstream end at the Walnut Creek confluence. The project limits along Walnut Creek are from the upstream end at the Grayson Creek confluence and ending downstream at the BNSF Railroad Bridge. The described project area habitat is made up of highly disturbed and developed land. The main portion of the work area is an existing levee road that will be raised. USACE has been designated as the lead federal agency for complying with the National Environmental Policy Act (NEPA) and required consultations on behalf of the Federal Emergency Management Agency (FEMA).

USACE determined there is no suitable habitat for, nor occurrences of, federally listed species under the jurisdiction of the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) within the project area of impact. Therefore, there will be no effect to federally listed species, critical habitat, or essential fish habitat under the jurisdiction of USFWS and NMFS as a result of the proposed project.

Potentially eligible cultural resources may be affected by the proposed project. USACE will initiate consultation with the State Historic Preservation Officer and Native American Tribes under Section 106 of the National Historic Preservation Act, as appropriate.

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 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 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 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. Section 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 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 Sacramento 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 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.

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 Contra Costa Levee Raise Walnut Creek, 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 Walnut Creek Project will be evaluated. Please limit comments to the area of

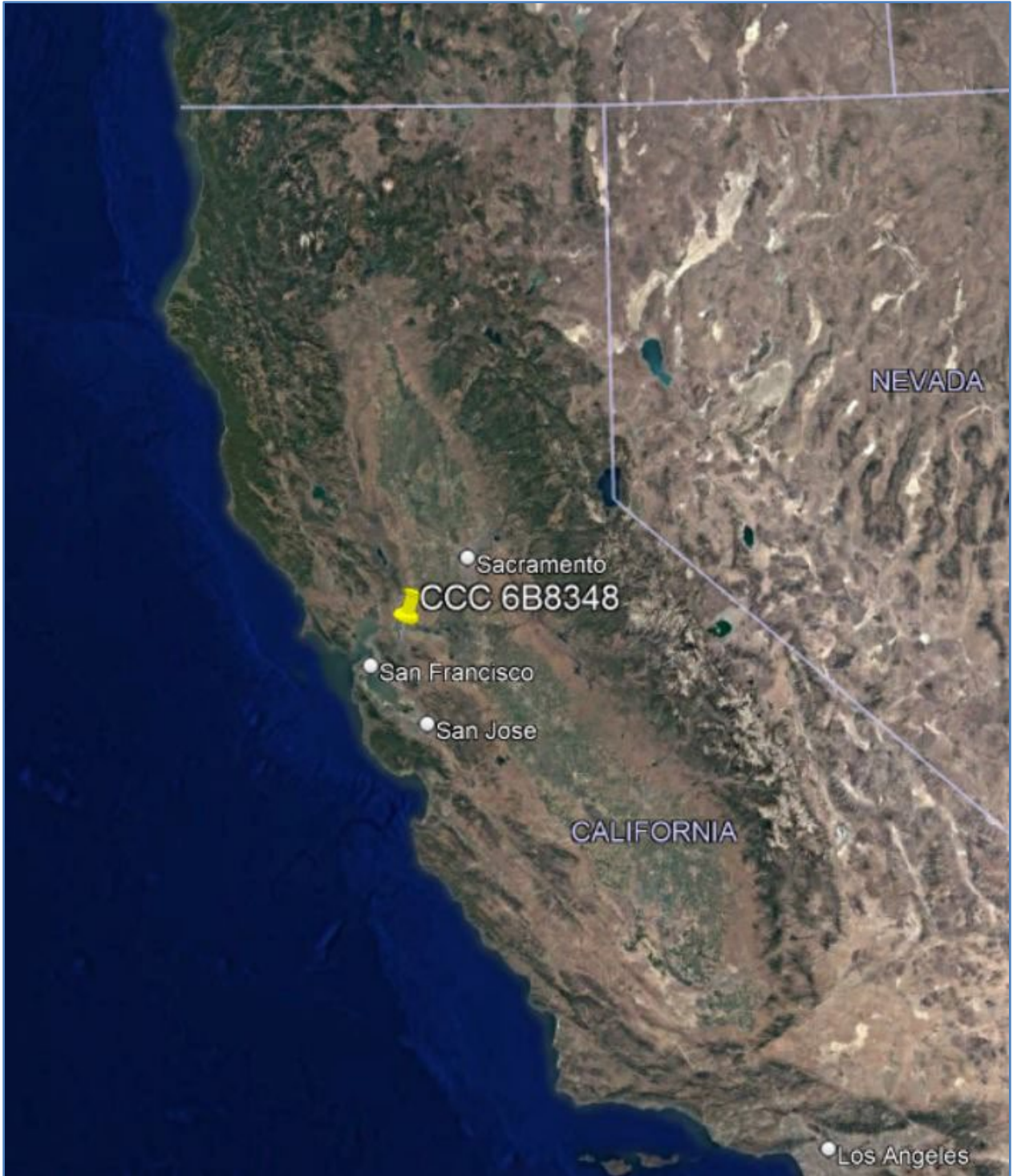
the alteration and those adjacent areas that would be directly or indirectly affected by the alteration to the Walnut Creek Project. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act.

SUBMITTING COMMENTS: Written comments, referencing Identification Number CCC 6B8348 must be submitted to the office listed below on or before January 19, 2024.

Madeline Huffman, Biologist
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1460
Sacramento, California 95814-2922

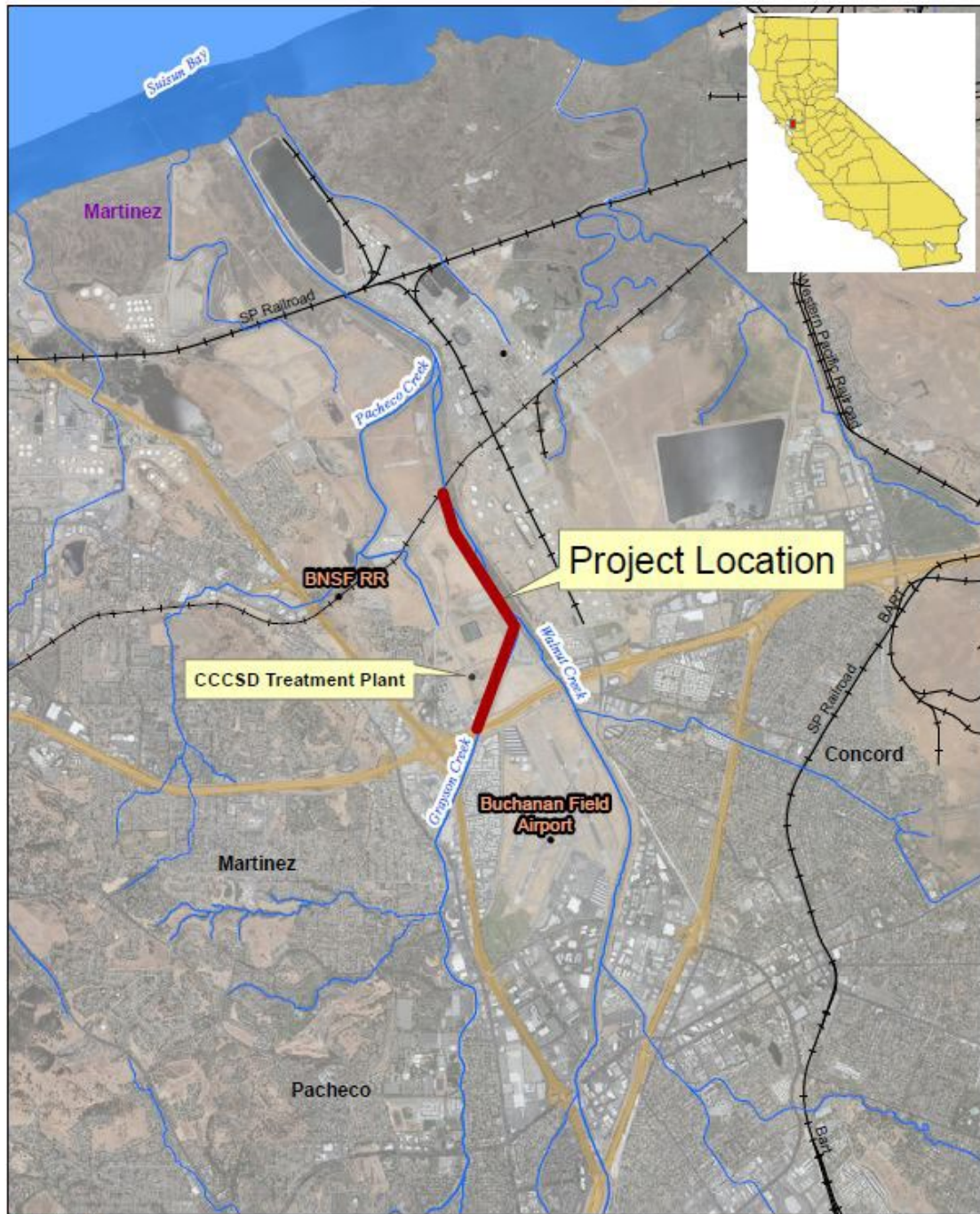
Email: *CESPK-408-PN@usace.army.mil*

Attachments:



1) General vicinity map

Grayson and Walnut Creeks Levee Rehabilitation at CCCSD Treatment Plant



0 2,000 4,000 8,000 Feet



Location Map

Path: C:\GIS\Bentley\Planning - Engineering\2016 - Walnut St. Reservoir\Lower\CCCSD\Levee Rehab\Levee_CCCSD_Map.mxd

2) Proposed project location map



3) Approximate project footprint map