PUBLIC NOTICE

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

TITLE: Tidewater Crossing Storm Water Outfall (19380; SPK-2006-00057)

PUBLIC NOTICE COMMENT PERIOD:
Begins: July 1, 2019
Ends: July 15, 2019

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the Armoto Partners, LLC (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 Farmington Project, which includes Littlejohn Creek, an existing federal flood risk management project, authorized by the Flood Control Act of 1944.

LOCATION: The proposed project is located on Littlejohn Creek (Weber Slough), southwest of Stockton Metropolitan Airport, 1.9 mile west of State Route 99, and 0.8 mile northeast of East French Camp Road, San Joaquin County, California (Attachment 1).

REQUESTER’S PROPOSED ACTION: The proposed project is to construct a storm water outfall structure in Weber Slough. The outfall would only serve the parcel to the south of Weber Slough (between French Camp Slough and the railroad tracks), which is proposed for industrial development (Tidewater Crossing Development). The Corps’ actions would only cover the outfall structure, which is the only project component located within waters of the United States and within the federal flood risk management project. A 24-inch-diameter outfall pipe would be installed in the upper bank of the stream channel for conveying storm water flows from the detention basin pump station of the adjacent property.

The proposed project would excavate approximately 78 cubic yards of soil from the bed and banks of Weber Slough. Of this 78 cubic yards, 10 cubic yards would be below the ordinary high water mark (OHWM) for construction of the outfall structure. An equal amount of clean rock slope protection would be installed where soils were excavated. Soil excavated from the channel would be placed in adjacent uplands within the applicant’s larger development area. Work in the riparian corridor would encompass approximately 0.04 acre with 0.03 acre below the OHWM.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The proposed project is located in flood zone A, per San Joaquin County Flood Insurance Rate Map (FIRM)
Panel # 06077C0470F, dated October 16, 2009 (Attachment 2). Executive Order (EO) 11988, Floodplain Management, signed May 24, 1977, requires federal agencies to recognize the values of floodplains and to evaluate the potential effects of any actions they may take in a floodplain. An objective of EO 11988 is to “avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.”

The proposed project may affect, and is likely to adversely affect the federally threatened giant garter snake (*Thamnophis gigas*). Impacts to this species, and its habitat, will be addressed through the *San Joaquin Multi-Species Habitat Conservation and Open Space Plan* (SJMSCP), dated November 2000. The Corps received a letter (08ESMF00-2019-F-2000-1), dated May 29, 2019, from the U.S. Fish and Wildlife Service, confirming that the proposed project is consistent with the SJMSCP and that the Corps’ obligations under Section 7 of the Endangered Species Act are complete. There is no suitable habitat for federally listed species under the jurisdiction of the National Marine Fisheries Service (NMFS) in the vicinity of the project. Therefore, the Corps determined there would be no effect to federally listed species or designated critical habitat under the jurisdiction of the NMFS. Additionally, there is no essential fish habitat in the proposed project area.

The requester received a Technically Conditioned Water Quality Certification (WDID # 5B39CR00306), dated September 14, 2018, from the Central Valley Regional Water Quality Control Board.

The Corps sent letters, dated January 25, 2019, to Native American tribes identified by the Native American Heritage Commission as having interests in the proposed project area. The Corps engaged in coordination with the North Valley Yokuts Tribe. The Corps received a letter (COE_2019_0326_002), dated June 4, 2019, from the State Historic Preservation Officer (SHPO) concurring with the Corps’ determination of no historic properties affected (36 CFR 800.4[d][1]) for the proposed undertaking.

**AUTHORITY:** This application is being evaluated under 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 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 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.

**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. 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 Tidewater Crossing Storm Water Outfall project. 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. Only the specific activities that have the potential to occupy, use or alter the Farmington Project and/or result in discharge of fill to water of the United States 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 Farmington 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 19380 and SPK-2006-00057 must be submitted to the office listed below on or before July 15, 2019.

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 and location maps
2) FIRM maps of vicinity
Attachment 1 – Vicinity and Location Maps

Figure 1. General vicinity map.

Figure 2. Map of the proposed project location.
Attachment 2 – Flood Insurance Rate Maps of Vicinity
This map complies with FEMA’s standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA’s basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/14/2019 at 2:20:03 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

<table>
<thead>
<tr>
<th>SPECIAL FLOOD HAZARD AREAS</th>
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<tbody>
<tr>
<td>Without Base Flood Elevation (BFE) Zone A, V, A99</td>
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<tr>
<td>With BFE or Depth Zone AE, AO, AH, VE, AR</td>
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**Regulatory Floodway**

**SPECIAL FLOOD HAZARD AREAS**

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone X

**OTHER AREAS OF FLOOD HAZARD**

- Area of Minimal Flood Hazard Zone X
- Area of Undetermined Flood Hazard Zone D

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall
- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

**OTHER FEATURES**

- Digital Data Available
- No Digital Data Available
- Unmapped

**MAP PANELS**

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.