



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: Derby Dam Fish Screen (NV-19-1)

PUBLIC NOTICE COMMENT PERIOD:

Begins: June 6, 2019

Ends: July 6, 2019

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the Bureau of Reclamation (requester; Reclamation) has requested permission through the Nevada Division of Water Resources (non-federal sponsor of the federally authorized project) from the U.S. Army Corps of Engineers (USACE) to alter the Truckee River and Tributaries, California and Nevada Project, an existing federal flood risk management project, authorized by the Flood Control Act of 1954.

LOCATION: The proposed project is located on the Truckee River, approximately 10 miles west of the City of Fernley and 20 miles east of the City of Reno, in Storey and Washoe Counties, Nevada (Attachment 1).

REQUESTER'S PROPOSED ACTION: The proposed project is to install a fish screen at the Truckee Canal headworks at the Derby Diversion Dam (Derby Dam) in Storey and Washoe Counties, Nevada. The fish screen was a discrete component of the Derby Dam Fish Passage Project, which was analyzed in the Derby Dam Fish Passage Project Final EA/Finding of No Significant Impact (Reclamation 2001). The proposed project incorporates changes in the design of the fish screen from vertical to horizontal, location of the screen, and new fish return features, since 2001.

The proposed project would result in several permanent and temporary changes to the Truckee Canal below the Derby Dam headworks, including installation of the fish screen facility, forebay, afterbay, check structures, and Canal lining. See Attachment 2 for a general site plan. Construction would ideally be completed between November and March, to avoid the irrigation season when the Canal would be in use. Work would take approximately 120 days. Project activities would include the following:

- Excavating soil, filling, grading, and contouring in the Canal, fish screen facility area, and staging areas.
- Constructing the fish screen facility: the fish screens, fish return feature or features, and fish return deep pool.
- Excavating and removing the Canal embankment to construct a forebay and afterbay and to accommodate the fish screen facility.

- Installing permanent check and headwall structures in the Canal and a permanent Canal emergency bypass.
- Constructing a new access road and bridge or bridges, including a bridge over the forebay and afterbay.
- Installing two temporary gate structures in the Canal.
- Installing a temporary Truckee River crossing for equipment access.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: USACE has designated Reclamation lead federal agency to conduct consultations pursuant to Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

The project site provides suitable habitat for the federally listed as threatened Lahontan Cutthroat Trout (LCT; *Onchorhynchus clarki henshawi*). The proposed fish screen would benefit both resident and migratory fish species in the Truckee River/Pyramid Lake watershed, including the LCT. The goal of the project is to protect LCT and resident fish species that may be diverted into the Canal at Derby Dam. Truckee River diversions currently allow resident and migratory fish species into the Canal; however, the Canal diversions are seasonal and do not provide adequate habitat for the fish. The fish screen would provide resident and migratory fish species a safe passage from the Canal back to the Truckee River downstream of Derby Dam. The project would provide resident and migratory fish species access to high-quality spawning and rearing habitat upstream of Derby Dam in the Truckee River/Pyramid Lake watershed. Reclamation has conducted Section 7 consultation with the U.S. Fish and Wildlife Service.

Reclamation has engaged in consultation with potentially affected Native American tribes and will conduct Section 106 consultation with the Nevada State Historic Preservation Officer for potential effects to cultural resources.

A number of best management practices (BMPs) and environmental protection measures (EPMs) would be incorporated during construction to avoid and minimize environmental effects. In summary, BMPs would require preconstruction surveys for sensitive resources and preparation of a stormwater control pollution prevention plan following U.S. Environmental Protection Agency guidance. Also required would be measures for fuel handling and storage and measures to minimize or avoid air and water quality impacts and to prevent noxious weed spread. Reclamation would obtain all applicable regulatory approvals and would comply with all conditions contained therein.

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 Derby Dam Fish Screen, 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 Truckee River and Tributaries, California and Nevada 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 Truckee River and Tributaries, California and Nevada 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 NV-19-1 must be submitted to the office listed below on or before July 6, 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) General site plan

Attachment 1 – Vicinity and Location Maps



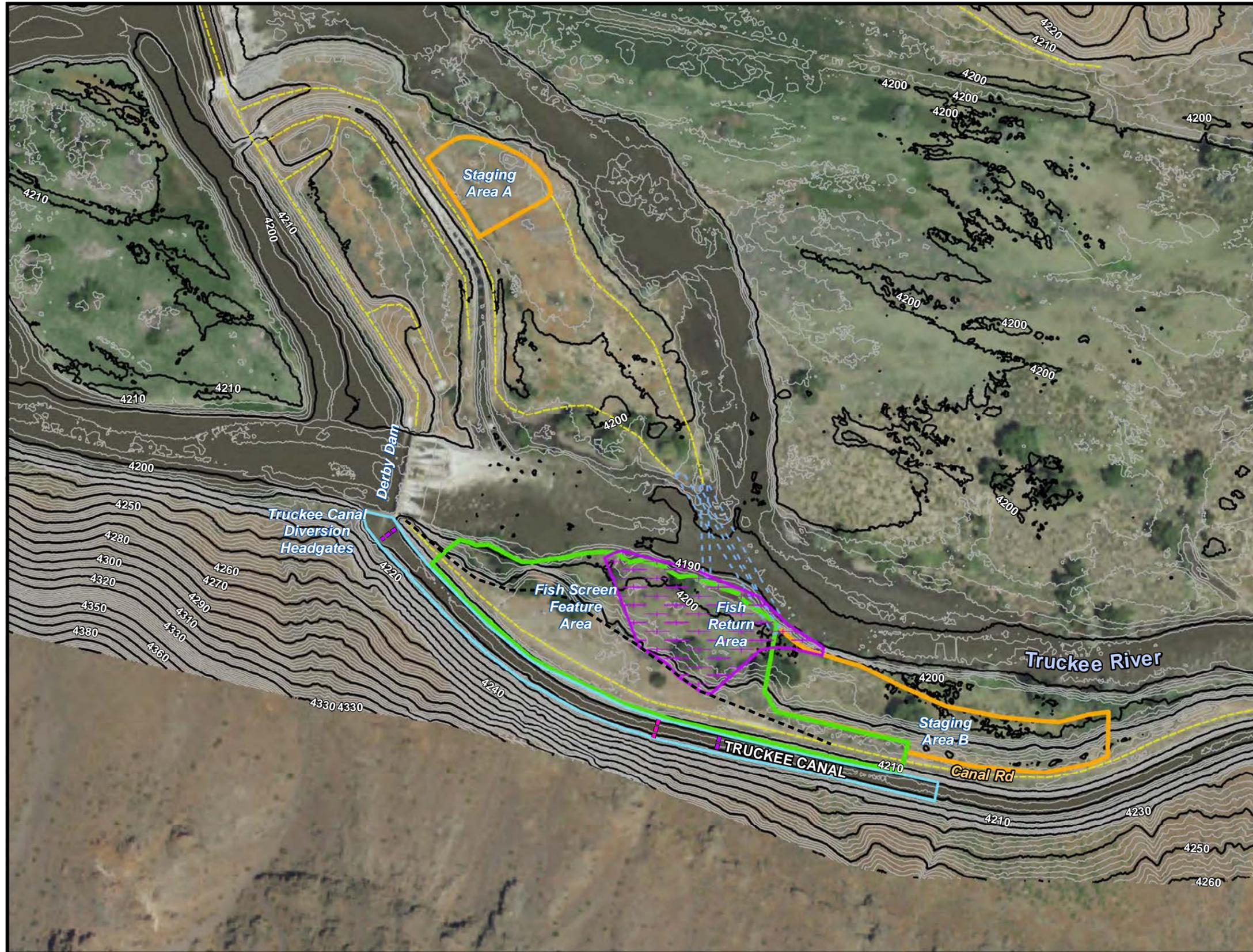
Figure 1. Vicinity map.



Figure 2. Map of the proposed project location.

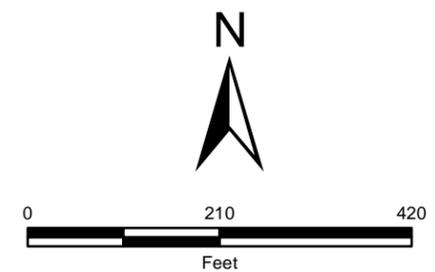
Attachment 2 – General Site Plan

DERBY DAM FISH SCREEN
Figure 1
Site Plan



Legend

- Fish Screen Location (3.6 ac)
- Fish Return Feature Area (1.2 ac)
- Truckee Canal Bypass, Geomembrane, Concrete Lined, or Permanent Covered Piping
- Staging Areas, Fill and Grading (Area A. 0.6-ac, Area B. 2.0-ac)
- Temporary Equipment River Crossing Area
- New Road
- By-Pass Headwall
- Temporary Structure
- Existing Access Roads (Unpaved)



RECLAMATION
Managing Water in the West



Lahontan Basin Area Office
705 N. Plaza Street
Carson City, NV 89701

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