



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: Lookout Slough Tidal Habitat Restoration and Flood Improvement Project
(19477)

PUBLIC NOTICE COMMENT PERIOD:

Begins: March 24, 2020

Ends: May 23, 2020

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the Ecosystem Investment Partners (EIP) (requester) has requested permission through the Central Valley Flood Protection Board (CVFPB) (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 1917.

LOCATION: The proposed project area is a 15-parcel, approximately 3,400-acre area located in unincorporated Solano County, California. The proposed project area is in the Yolo bypass roughly 20 miles southwest of Sacramento and 50 miles northeast of San Francisco. It is bounded by Liberty Island Road on the north, Cache and Hass Sloughs on the south, Duck Slough on the west, and Shag Slough on the east (Attachment 1).

REQUESTER'S PROPOSED ACTION: EIP is proposing to create approximately 3,164 acres of habitat for listed and vulnerable native species within a portion of Reclamation District 2098. In addition to habitat restoration needs, the proposed project intends to fulfill flood protection needs. The project components are designed to reduce flood risk, enhance fish and wildlife habitat, and create additional public benefits, such as sustaining agricultural production, improving water quality, increasing groundwater recharge, supporting commercial fisheries, and providing public recreation opportunities.

Restoration components of the project would include:

- Over 20 miles of tidal channels would be constructed to provide full tidal inundation to as much of the site as possible, convey food for delta smelt to the Cache Slough Complex, and provide shallow subtidal habitat for target fish species, including spawning habitat for delta smelt and foraging and rearing habitat for native fish species.
- Excavation and balancing of approximately 5,254,894 cubic yards of soil may be required for the restoration design. Excavated materials would be re-used on-

site, as appropriate, based on soil types and beneficial re-use needs. Some of the material from the degradation of the Shag Slough Levee and the excavation of the tidal channels would be placed within the proposed marsh plain to eliminate hauling material over long distances.

- The project would re-establish historic tidal habitat and create new high-quality spawning, rearing, and food production habitat in an important location for delta smelt. Following restoration, the proposed project area would have a direct hydrologic connection to Shag Slough, which has salinity, turbidity, and water temperatures known to support all life stages of delta smelt. To the extent feasible, and at select locations, tidal channels excavated within the proposed project area would be lined with sand or other suitable substrates to create suitable substrates for Delta Smelt spawning.
- The creation of giant garter snake habitat to include open water foraging, emergent refugia/foraging habitat, summer basking, and winter refugia/brumation habitat. Open water foraging habitat for giant garter snake would be created by excavating a series of open water tidal ponds. Ponds would vary in size and shape, but in general would be between 150 and 500 feet in length, 50 to 200 feet in width, and approximately 5 to 6 feet in depth and located adjacent to upland and emergent tidal marsh habitat.

Various modifications are proposed to area levees to facilitate tidal inundation of the restored marsh area and protect assets near the proposed project area from flooding. These modifications include constructing a new setback levee along Duck Slough and Liberty Island Road, breaching and partially lowering the Shag Slough Levee, breaching the Vogel Levee, and modifying the Cache/Hass Slough Levee. The existing Cache Slough levee will be lowered and widened to accommodate the project. In addition to the habitat created, an additional 40,000 to 50,000 acre-feet of seasonal floodplain storage will be added to the system. The project is expected to take approximately 2 years to complete. The attached exhibit shows the project location and some details (Attachment 2).

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: Lookout Slough Tidal Habitat Restoration project would restore approximately 3,164 acres of tidal marsh habitat within the Yolo Bypass Floodplain to increase suitable habitat for delta smelt, salmonids, and other native fish. The proposed project area is heavily modified from its natural state and would be converted to a higher functioning wetland to restore ecosystem functions.

The proposed project area provides potential habitat for the federally threatened giant garter snake (*Thamnophis gigas*) and delta smelt (*Hypomesus transpacificus*). Additionally, the project vicinity contains elderberry shrubs (*Sambucus sp.*), the host plant for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). The proposed project area also provides potential habitat for the federally threatened California Central Valley distinct population segment (DPS) of steelhead (*Oncorhynchus mykiss*), Central Valley spring-run Chinook salmon (*O. tshawytscha*), and Southern DPS of North American green sturgeon (*Acipenser medirostris*), and the federally endangered Sacramento River winter-run Chinook salmon (*O. tshawytscha*). Additionally, the proposed project area contains designated critical habitat for delta smelt, California Central Valley steelhead, Central Valley spring-

run Chinook salmon, Southern DPS of North American green sturgeon, and Sacramento River winter-run Chinook salmon. 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 would be incorporated into the project design to minimize potential effects to listed species and critical habitat. A biological assessment is being prepared and the USACE will initiate consultation under Section 7 of the Endangered Species Act with both the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

A cultural resources inventory report will be prepared for the proposed project and USACE will initiate consultation with Native American tribes and the State Historic Preservation Officer pursuant to Section 106 of the National Historic Preservation Act. To ensure compliance with the National Environmental Policy Act (NEPA) an environmental assessment (EA) is being prepared to analyze the potential effects of the proposed project.

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 in 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. § 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 Lookout Slough Tidal Habitat Restoration and Flood Improvement Project, a proposed alteration to an existing federally authorized project. Comments received within 60 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. 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 19477 must be submitted to the office listed below on or before May 23, 2020.

Oren M. Ruffcorn, 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:

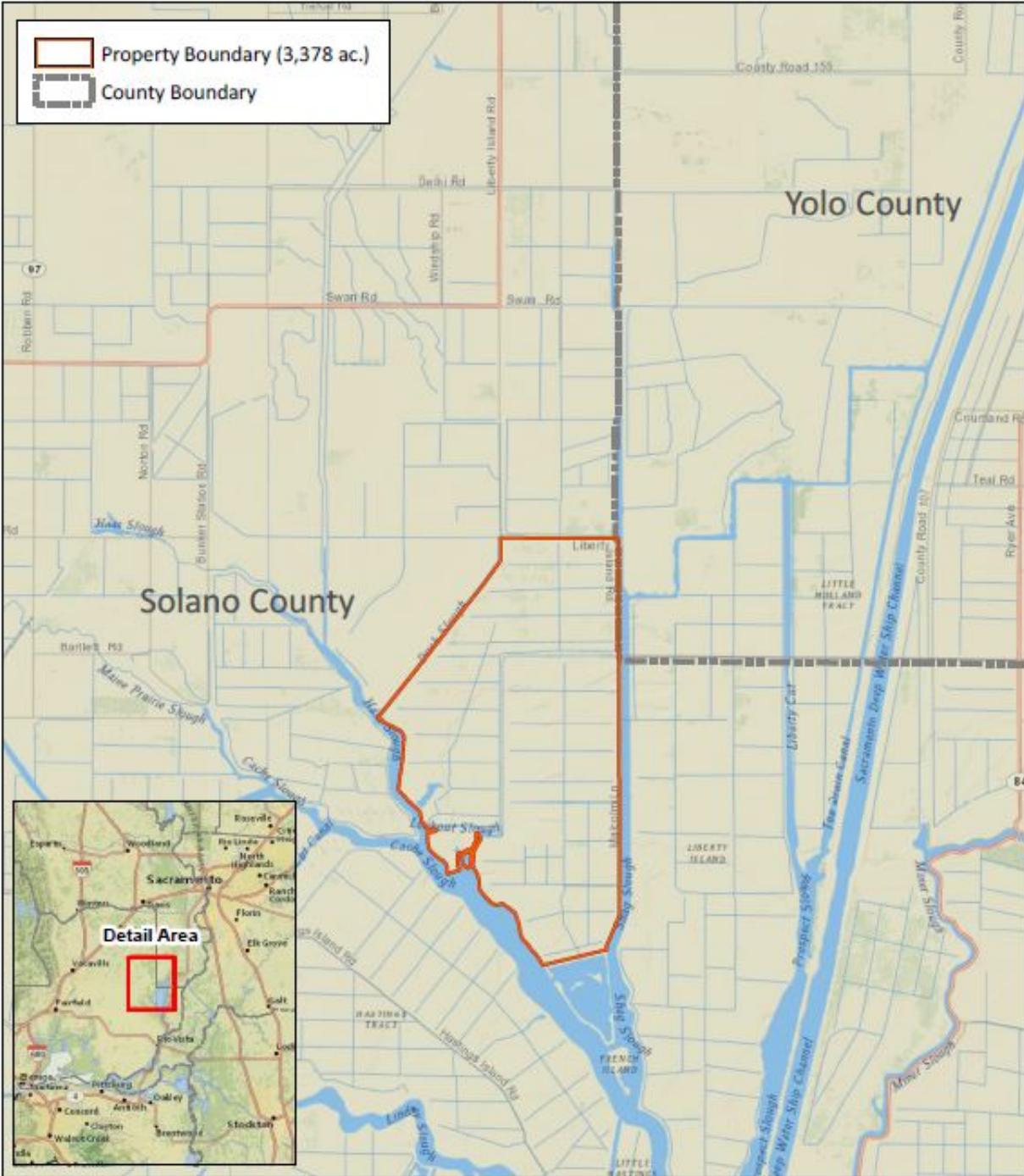
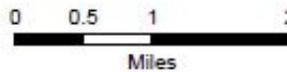


Figure III-1. Project Location

Lookout Slough Tidal Habitat Restoration and Flood Improvement Project



**Ecosystem
Investment
Partners**

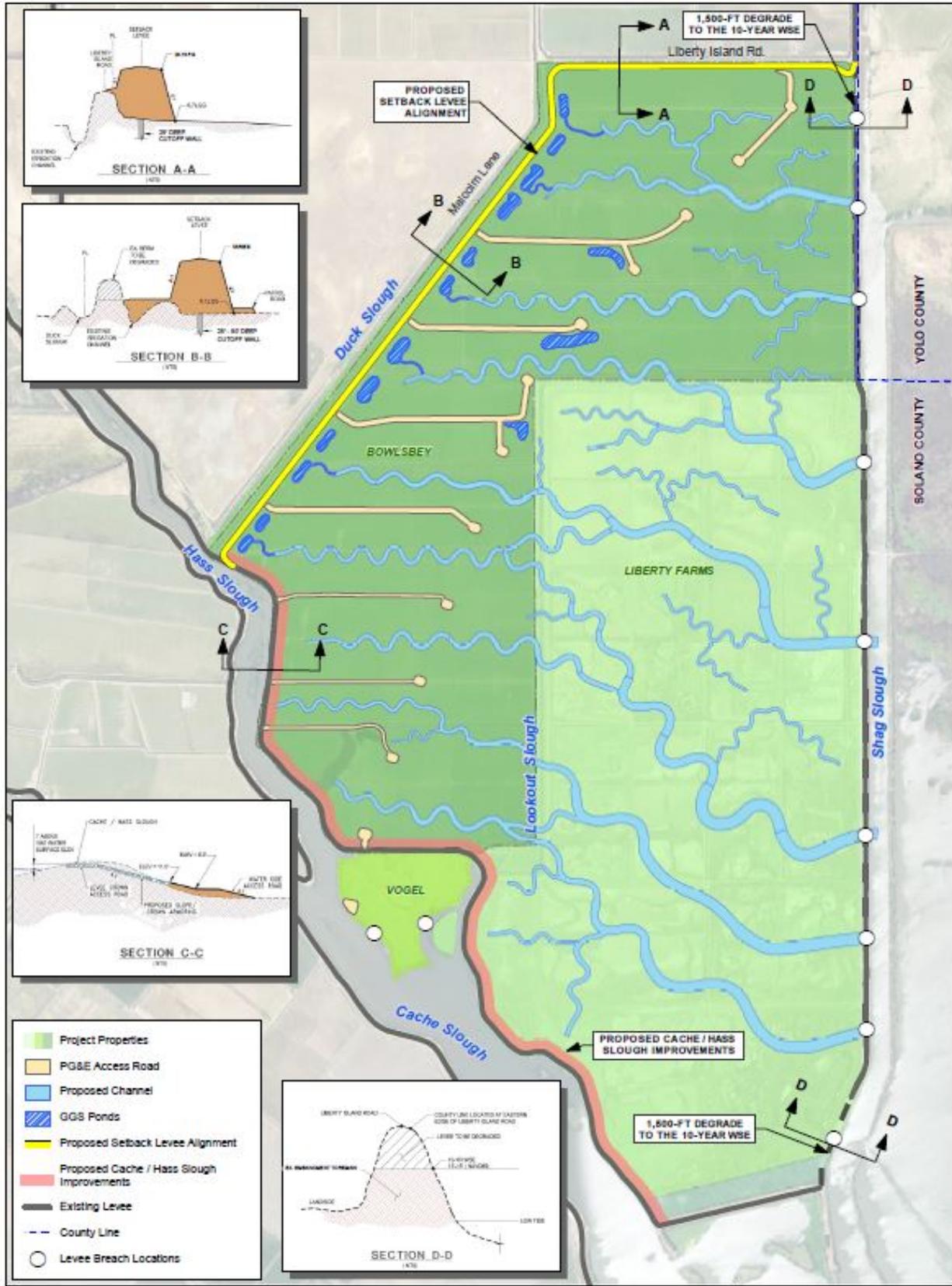
Prepared by:



Map Prepared Date: 12/7/2019
Map Prepared By: iQuander
Base Source: Esri - Topo Geo.
Data Source(s): WRA

ENVIRONMENTAL CONSULTANTS

1) Vicinity map



2) Footprint map