



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: Armoto Partners LLC Outfall and Pump Station (19780)

PUBLIC NOTICE COMMENT PERIOD:

Begins: September 5, 2024

Ends: October 5, 2024

REQUESTER: In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, 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 Reservoir Project, an existing federal flood risk management project, authorized by the Flood Control Act of 1944.

LOCATION: The proposed project is located approximately one mile north of the intersection of French Camp Road and South Airport Way on the southwestern bank of Littlejohn Creek (also known as French Camp Slough) in the City of Stockton, San Joaquin County, California (Attachment 1-2).

REQUESTER'S PROPOSED ACTION: Armoto Partners, LLC are seeking authorization to construct a storm drain outfall structure along the waterside of the left (southwest) bank levee of Littlejohn Creek to discharge treated storm water via a pump station and two 16-inch diameter force mains. Armorflex matting to be installed below the outfall and extend into the channel for erosion protection. A temporary sheet pile coffer dam will be utilized for the outfall construction (Attachment 3).

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: The proposed project area is located at the southeast end of Stockton, CA. The proposed work on Littlejohn Creek would induce development of the adjacent parcels. The adjacent parcels are currently in use as annual agricultural fields. Surrounding land uses in this portion of San Joaquin County are primarily industrial and agricultural.

The proposed project concerns development of parcels located in Flood Zone AO, per the Federal Emergency Management Agency (FEMA) Flood Map Service Center (Figure 4). 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.”

USACE initiated consultation with the United States Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (ESA) for effects to the federally listed as threatened giant garter snake (*Thamnophis gigas*). The USFWS issued a letter of concurrence dated May 10, 2024, concurring that the project may affect, but is not likely to adversely affect the giant garter snake.

Additionally, USACE initiated consultation with the National Marine Fisheries Service (NMFS) under Section 7 of the ESA for effects to the federally listed California Central Valley steelhead (*Oncorhynchus mykiss irideus*), green sturgeon (*Acipenser medirostris*), Sacramento River winter-run chinook salmon (*O. tshawytscha*), and Central Valley spring-run Chinook salmon (*O. tshawytscha*). NMFS issued a letter of concurrence dated May 2, 2024, concurring that the project may affect, but is not likely to adversely affect the subject listed species and their associated critical habitats. NMFS also concluded that project would have no adverse effect on essential fish habitat, pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act.

USACE determined the proposed project would have no adverse effect on historic properties and initiated consultation with the State Historic Preservation Officer (SHPO) and Native American Tribes under Section 106 of the National Historic Preservation Act. Section 106 consultation is complete for 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 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.

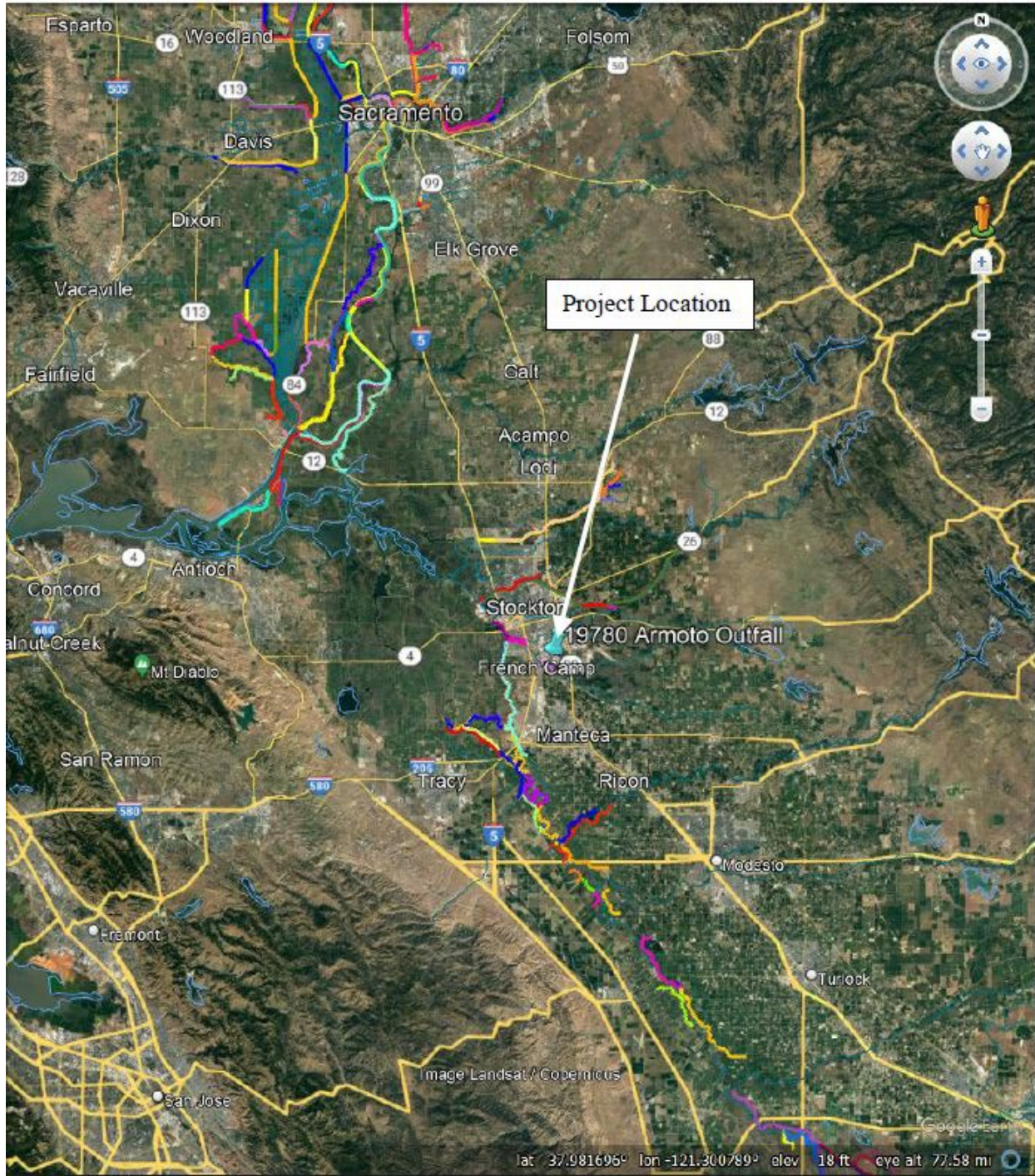
PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Armoto Partners LLC Outfall and Pump Station, a proposed alteration to an existing federally authorized project. 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 Farmington Reservoir 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 Farmington Reservoir 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 19780 must be submitted to the office listed below on or October 5, 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:



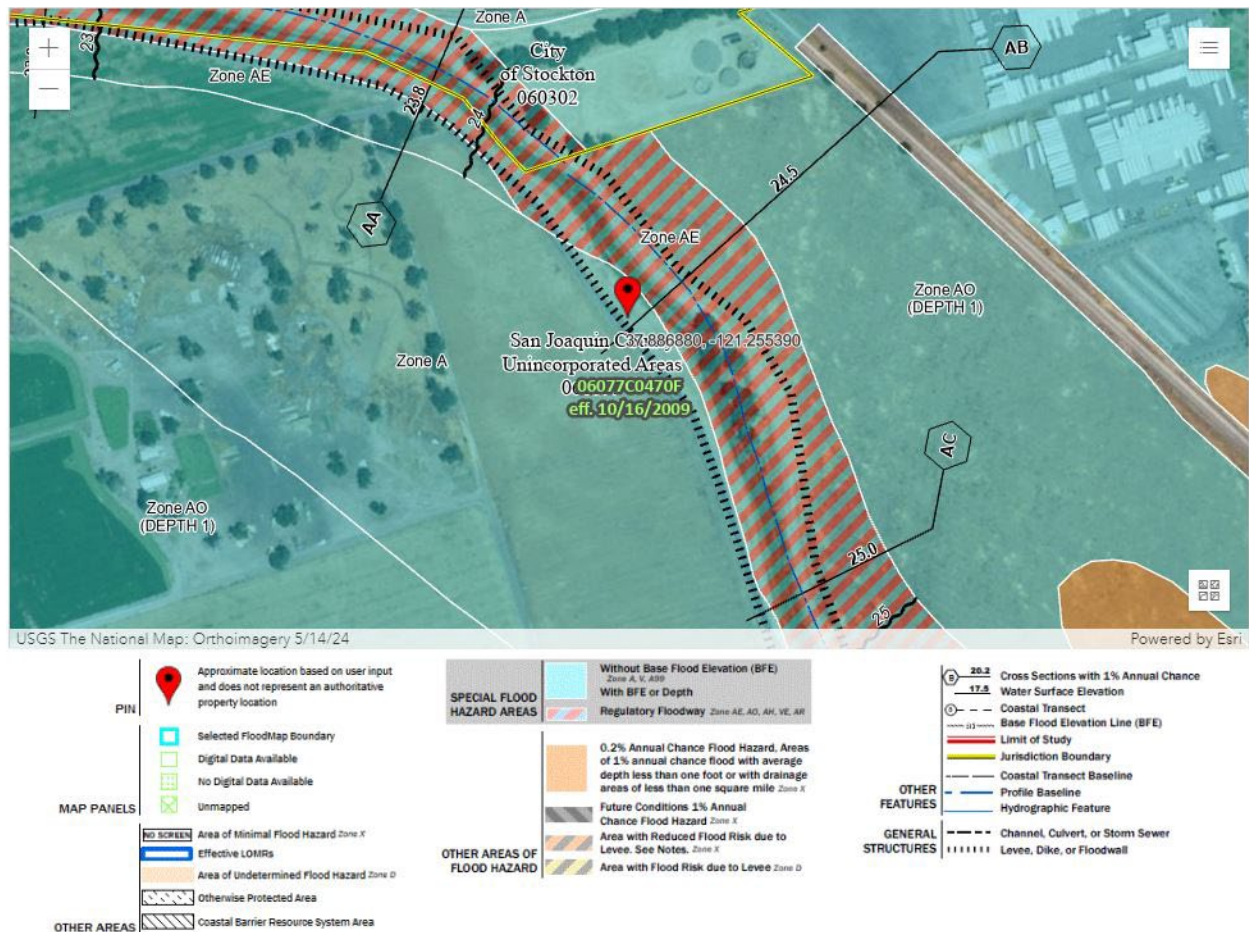
1) General vicinity map



2) Proposed project location map



3) Approximate project footprint map



4) FEMA Flood Map