



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

Operations and Readiness Branch

**PUBLIC NOTICE**

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

**TITLE:** Marysville Wastewater Treatment Compliance, 3431-1 and 15178-1

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: December 30, 2016

Ends: January 31, 2017

**REQUESTER:** In compliance with U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408, the City of Marysville and the Linda County Water District (Requesters) have requested permission through the Central Valley Flood Protection Board (non-federal sponsor of the federally authorized project) from the US Army Corps of Engineers (USACE) to alter both the Feather River floodplain and the Yuba River floodplain in 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 action area is located in two distinct areas in Sutter and Yuba Counties, California (Attachments 1 and 2). The Feather River portion of the action area (Linda County Water District, permit number 3431-1) is located in the floodplain east of the Feather River, south of the confluence with the Yuba River and west of the intersection of Levee Road and Feather River Boulevard in the community of Olivehurst. The Yuba River portion of the action area (City of Marysville, permit number 15178-1) is located in the floodplain south of the Yuba River, north of the confluence with the Feather River, and on the western edge of the community of Linda. Portions of both locations are currently occupied by a series of evaporation/percolation ponds used by the City of Marysville's Wastewater Treatment Plant for disposal of treated wastewater. Although the Feather River and Yuba River portions of the project are separated geographically, they are connected actions that will be analyzed in the same environmental assessment. The pipeline connecting the two actions is landside of the levee and outside of the Corps' Section 408 jurisdictional area and is not evaluated for this undertaking. See Attachment 2 for maps showing the pipeline locations within Corps' Section 408 jurisdictional area.

**REQUESTER'S PROPOSED ACTION:** The Linda County Water District proposes to remove and replace 200 feet of existing 30-inch concrete pipe with a cement and mortar lined and coated steel pipe of the same diameter; to remove and replace 870 feet of existing 18-inch pipe with a 30-inch diameter pipe; and to remove and replace 80 feet of existing 18-inch outfall pipe with a new 30-inch pipe. Additionally, the Linda County Water District proposes to place fill on a scour area to match adjacent grade, high-grade bedding rock, protective rip rap, and erosion control at the existing outfall location on the east bank of the Feather River. The City of Marysville proposes to install two plug valves to an existing 12-inch diameter pipe that crosses the right bank levee of the Yuba River, to install approximately 150 feet of new 16-inch diameter welded steel pipe up and over the left bank levee of the Yuba River and connecting to approximately 2,460 feet of new 18-inch diameter HDPE pipeline that would be trenched across the floodway. Additionally the City of Marysville proposes to sleeve an existing 36-inch diameter pipe with an 18-inch diameter pipe and install approximately 20 feet of new 18-inch diameter

pipe to connect this sleeved pipe to an existing pipeline under the Yuba River. See Attachment 3 for approximate locations of existing and proposed new pipeline.

**ENVIRONMENTAL IMPACTS OF PROPOSED ACTION:** The proposed project area contains habitat for the federally threatened western yellow-billed cuckoo (*Coccyzus americanus*), as well as the host shrub, elderberry (*Sambucus* sp.), for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). See Attachment 4 for maps of elderberry shrub locations within the proposed project area. Both the Feather River and the Yuba River contain habitat for the following federally threatened fish species: North American green sturgeon, southern distinct population segment (*Acipenser medirostris*), Central Valley steelhead (*Oncorhynchus mykiss*), and Central Valley spring-run Chinook salmon (*O. tshawytscha*). The proposed project area also contains designated critical habitat for Central Valley steelhead and Central Valley spring-run Chinook salmon, and essential fish habitat for Pacific coast salmon. The Requesters propose implementation of various environmental protection measures, including limitation of in-water work to the low-flow period between July 1 through November 1 and placement of sediment curtains around the construction zone. Formal consultation with the U.S. Fish and Wildlife Service for potential effects to the western yellow billed cuckoo and the valley elderberry longhorn beetle, under Section 7 of the Endangered Species Act (16 U.S.C 1536[c]), is anticipated. Formal consultation with the National Marine Fisheries Service for potential effects to green sturgeon, Central Valley steelhead, and Central Valley spring-run Chinook salmon, under Section 7 of the Endangered Species Act (16 U.S.C 1536[c]), is also anticipated.

The proposed project area is currently being evaluated for cultural resources. The Corps anticipates consultation with the State Historic Preservation Officer (SHPO) under Section 106 of the National Historic Preservation Act. Initiation of consultation with the SHPO and potentially interested local tribes is pending completion of cultural resource evaluation within the area of potential effects.

**AUTHORITY:** The authority to grant permission for temporary or permanent use, occupation or alteration of any US Army Corps of Engineers (USACE) civil works project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 USC 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 USC 403), Section 404 of the Clean Water Act (33 USC Section 1344), and/or Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 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 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 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 Marysville Wastewater Treatment Compliance project, 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 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.

**SUBMITTING COMMENTS:** Written comments, referencing Identification Numbers 3431-1 and 15178-1 must be submitted to the office listed below on or before January 31, 2017.

Brian Luke, Natural Resources Specialist  
US Army Corps of Engineers, Sacramento District  
1325 J Street, Room 1460  
Sacramento, California 95814-2922

Email: Brian.J.Luke@usace.army.mil

Attachments:

- 1) Vicinity map
- 2) Maps showing location of proposed project within USACE jurisdictional areas
- 3) Maps showing existing and proposed pipelines
- 4) Site maps showing elderberry shrub locations