



**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 MODIFY A U.S. ARMY CORPS OF  
ENGINEERS PROJECT UNDER SECTION 408**

**TITLE:** Oroville Wildlife Area Flood Stage Reduction Project (19152)

**PUBLIC NOTICE COMMENT PERIOD:**

Begins: 23 December 2016

Ends: 30 January 2017

**REQUESTER:** The Sutter Butte Flood Control Agency (SBFCA) has requested an encroachment permit from the Central Valley Flood Protection Board (CVFPB) for alterations to the Oroville Wildlife Area D-Unit (OWA), as part of the Oroville Wildlife Area Flood Stage Reduction Project. In compliance with United States Code (USC) Title 33, Chapter 9, Subchapter 1, Section 408, CVFPB has requested permission from the U.S. Army Corps of Engineers (USACE), Sacramento District to make necessary alterations to the levee system to achieve the project purpose. The proposed alterations are not part of an ongoing or authorized Federal project.

**LOCATION:** The action area consists of the OWA D-Unit and is on the east side of the Feather River in Butte County, California, just west of State Route 70 and across the river from the Thermalito Afterbay outlet. The action area is owned by the State of California and managed by the Department of Fish and Wildlife (DFW). It lies within the Federal Energy Regulatory Commission's (FERC) project 2100 boundary, which is administered by the California Department of Water Resources (DWR). (Figure 1).

**REQUESTER'S PROPOSED ACTION:** The proposed action is needed to improve conditions of the OWA D-Unit that have caused hydraulic isolation, poor water quality, and widespread invasive plant species. The objectives of the proposed action are to enhance fish and wildlife habitat, restore native vegetation, improve the connectivity of the Feather River to its historic floodplain, reduce flood stages in the main channel and thereby reduce scour of stream bed and margins, provide more frequently inundated floodplain rearing habitat for juvenile salmonids, and reduce the extent of invasive plant species. The proposed action would provide a more natural flood corridor both in the action area and downstream.

The proposed action consists of three components: vegetation management and restoration, hydraulic improvements, and recreation enhancement (Figures 2 and 3).

Vegetation management and restoration would include:

- Removal of approximately 500 acres of invasive water primrose and approximately 200

acres of other invasive plant species.

- Installation of approximately 150 acres of riparian woodland plantings around the interior channels (approximately 70 acres of riparian woodland, 48 acres of riparian scrub and gravel understory plantings, and approximately 32 acres of riparian scrub and wetland plantings).

Hydraulic improvements would include:

- Construction of a new approximately 400-foot-long rock gabion inflow weir (northeast boundary).
- Construction of a new notch connection to the Feather River (southwest boundary).
- Placement of rock fill along the existing outflow weir and installation of a concrete road crossing.
- Construction of a fish barrier berm north of the Pit 2 pond (southern action area).
- Regrading of sections of the existing interior channel system.
- Replacement of the existing culvert at the low flow crossing near the Pit 2 pond and installation of a new earthen culvert crossing in the northeastern part of the action area.
- Degrading of the existing Pit 2 pond berm, removal of the existing culvert, and installation of a concrete road crossing.

Recreation features would include:

- Regrading of the northern parking area across from the Thermalito Afterbay outlet.
- Regrading of the parking area south of the Pit 2 pond (southern action area).
- Pouring of a new concrete pad for the existing portable restrooms across from the Thermalito Afterbay outlet.
- Construction of one emergency vehicle/footbridge channel crossing and two footbridge channel crossings (footbridge 1 and footbridge 2).
- Grading of two river access areas (north and south).

The environmental effects of the Requester's Preferred Alternative would not be significant, although some avoidance, minimization, and mitigation measures would be required. Environmental effects of the project include:

- Temporary and short-term hydrology and water quality effects related to materials used in construction and construction dewatering. These effects would be reduced through construction practices and BMPs, including a dewatering permit, a Storm Water Pollution Prevention Plan, a turbidity monitoring plan, and a spill prevention, control, and countermeasure plan.
- Paleontology effects related to construction; however, construction personnel will be trained in recognizing fossil material.
- Temporary and short-term transportation and emergency response effects related to construction traffic and hauling of borrow material. These effects would be reduced with coordination with appropriate City and County departments and with implementation of a traffic control plan.
- Temporary and short-term noise and vibration effects related to construction. These effects would be reduced through implementation of a noise control plan, which would include locating equipment away from sensitive land uses during non-exempt hours, using

best available noise control techniques, and installing temporary noise barriers.

- Effects on sensitive habitats and special-status plants, wildlife, and fish including the valley elderberry longhorn beetle, western pond turtle, giant garter snake, Swainson's hawk, and tree-roosting bats. These effects would be reduced through a combination of surveys, construction personnel education, construction monitoring, construction practices (including physical buffers and seasonal restrictions), relocation of individuals, and postconstruction monitoring.
- Recreation effects related to temporary and short-term localized closures in areas used for recreation, including areas used for fishing and parking. These effects would be reduced through public notices of facility closures.
- Hazardous materials effects related to disturbance of preexisting onsite contaminants, possibly including mercury, during construction. These effects would be reduced through implementation of a soil testing and contaminant safety plan.
- Effects on cultural resources related to disturbing buried archaeological resources during construction. No cultural resources located in or near the action area qualify as National Register of Historic Places eligible historic properties. In addition, there are no historic properties present in the immediate vicinity of the action area that could suffer indirect effects on qualities of setting that might contribute to their significance. Potential effects on archaeological resources and human remains that could be discovered during construction (none have been identified in the project area of potential effects) would be addressed by measures to protect known archaeological resources, educate construction personnel, and stop work if archaeological resources are unearthed.

**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 USC 408 ("Section 408"). Section 408 authorizes the Secretary of the Army 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.

A requester has the responsibility to acquire all other permissions or authorizations required by Federal, State, regional, and local laws, ordinance, or regulations, including any required permits from the USACE Regulatory Program (Section 10/404/103 permits). In addition, an approval under Section 408 does not grant any property rights or exclusive privileges.

**EVALUATION FACTORS:** The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and use of important resources. The benefit which reasonably may be expected to accrue from the requester's proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification 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. The decision whether to approve a request for modification would be based on a determination of no impairments.

**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 depend upon the type of USACE project being altered 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 decision whether to approve the requested modification will be determined by the consideration of whether benefits are commensurate with risks associated with the proposed modification. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.

**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 ensuring compliance is the responsibility of USACE, the requester is responsible for providing all information that USACE Sacramento District identifies as necessary to satisfy all applicable Federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis necessary to comply with other environmental statutes (e.g. Federal 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, regional, and local agencies and officials; Native American Tribes; and other interested parties regarding the Oroville Wildlife Area Flood Stage Reduction Project. Comments received within 30 days of this publication will be used in the evaluation of potential impacts of the Requester's Preferred Alternative 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 Oroville Wildlife Area Unit-D 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 Oroville Wildlife Area Unit-D.

**SUBMITTING COMMENTS:** Written comments, referencing Identification Number 19152 must be submitted to the office listed below on or before January 30, 2017.

Robin Rosenau  
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Sacramento District  
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