



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: Kings River Levee Evaluation Project (WA2016023)

PUBLIC NOTICE COMMENT PERIOD:

Begins: March 15, 2017

Ends: April 14, 2017

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

LOCATION: The proposed project is located along approximately 140 miles of existing levees within the Kings River Conservation District (KRCD) service area, near the cities of Lemoore, Hanford, Riverdale, and Stratford, in both Fresno County and Kings County, California (Attachment 1). The proposed work would take place along approximately 18.4 miles of levee along the Main Kings River, 24.8 miles of levee along Kings River South Fork, 50.8 miles of levee along Kings River North Fork, 8.3 miles of levee along Cole Slough, 6.0 miles of levee along Dutch John Cut, and 10.6 miles of levee along Crescent Bypass (Attachment 2).

REQUESTER'S PROPOSED ACTION: The proposed work is to drill 60 to 80 geotechnical borings and 300 to 320 cone penetration tests (CPTs) at discrete locations along the 140 miles of levees described above (Attachment 2). The proposed borings and CPTs would range in depth from 40 to 60 feet on the levee crown and the landside levee toe along the waterways described above. Geotechnical borings through the levee crown would be drilled using hollow-stem auger methods; borings at the landside levee toe would be drilled using either hollow-stem auger or mud-rotary methods. These borings would range in diameter from 4-6 inches and would be backfilled with cement grout per county and USACE requirements. CPTs would range in diameter from approximately 2-3 inches.

The purpose of the exploration program is to collect site-specific information regarding soil properties and geotechnical conditions of the levee embankment and underlying foundation for engineering analyses and evaluation. The focus of the geotechnical explorations will be to gather information related to the composition and condition of the embankment and foundation, with particular focus on the presence, thickness, and extent of pervious or soft soils in the embankment or shallow foundation, or "blanket" conditions where a fine-grained blanket layer overlies a pervious aquifer.

The investigations are intended to support feasibility-level analyses of the Kings River levee system. Conceptual remedial alternatives will be developed along deficient portions of the levee system, where necessary. If mitigations are determined to be necessary, design-level investigations may be needed for detailed design of improvements.

ENVIRONMENTAL IMPACTS OF PROPOSED ACTION: As no vegetation removal, in-water work, or work on the waterside of a levee is proposed, there would be no effects to listed fish species. However, the proposed project area contains habitat for a number of terrestrial species federally listed under the Endangered Species Act (Attachment 3). A biological assessment will be prepared and consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act is anticipated.

A cultural resources inventory report will be prepared for the project area and consultations will be conducted with tribes and the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act.

AUTHORITY: The authority to grant permission for temporary or permanent use, occupation or alteration of any U.S. 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 Kings River Levee Evaluation 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 Kings River Channel Improvement 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 Kings River Channel Improvement Project.

SUBMITTING COMMENTS: Written comments, referencing Identification Number WA2016023 must be submitted to the office listed below on or before April 14, 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) Site maps
- 3) IPaC unofficial species list