



General Permit 3

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

SMALL, PRIVATE, RECREATIONAL BOAT DOCKS AND ASSOCIATED ACCESS

EFFECTIVE DATE: September 9, 2014

EXPIRATION DATE: September 9, 2019

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee. The term "this office" refers to the U.S. Army Corps of Engineers, Sacramento District.

ISSUING OFFICE: U.S. Army Corps of Engineers, Sacramento District

ACTION ID: SPK-1997-00732

AUTHORITY: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) for structures or work in or affecting navigable waters of the United States.

PURPOSE: The purpose of this RGP is to implement an expedited permit application and review process for the installation of small, private, recreational boat docks and associated access that require a Department of the Army (DA) Permit prior to installation in navigable waters of the United States (U.S.). These activities have minimal impacts on the aquatic environment, individually and cumulatively.

LOCATION: Except for those waters specifically excluded below, Regional General Permit (RGP) 3 is applicable to all tidally influenced waters within the Sacramento District boundaries of California, as well as the following navigable rivers:

Waterbody Name	Description of Navigable Length
American River	Mouth to Bradshaw Road
Calaveras River	Mouth to 2000 feet upstream of I-5
Feather River	Mouth to railroad bridge at Marysville
Merced River	Mouth to 1,500 feet upstream of US 99 and Southern Pacific Rail Road
Middle River	Entire length
Mokelumne River	Mouth to Farley Gage (3.5 miles upstream from New Hope Road)
Old River	Entire length
Sacramento River	Mouth to Keswick Dam
San Joaquin River	Mouth to Sycamore Road (7 miles downstream of US 99 in Fresno)
Stanislaus River	Mouth to Highway 120 in the Town of Oakdale
Tuolumne River	Mouth to Highway 132 at Basso Bridge Crossing

Excluded Waters: The use of this RGP is not authorized for Lake Tahoe, Piper Slough, Dutch Slough, Taylor Slough, Sand Mound Slough, or Rock Slough.

DESCRIPTION OF AUTHORIZED ACTIVITIES: This RGP authorizes the installation and maintenance of small, private, recreational, fixed or floating, boat docks and associated access (e.g. gangway, ramp, stairs, etc) within applicable navigable waters of the U.S., provided they meet the following requirements:

1. The area of the boat dock and associated access, combined, do not exceed 1,000 square feet below the plane of the ordinary high water mark (OHWM) for non-tidal waters or mean high water

mark (MHWM) for tidal waters. (Note: This limitation does not include those areas of open water used to moor a boat).

2. Only one access is installed below the OHWM or MHWM of the navigable water. The access for the boat dock may not exceed 4-feet in width.
3. The boat dock will only be used for private recreational purposes. This permit does not authorize boat docks for commercial or other non-private uses.
4. As measured from the OHWM or MHWM, the dock and associated access may not extend:
 - a. beyond the waterward edge of the nearest adjacent facilities on the same bank of the waterway;
 - b. more than 100-feet; or
 - c. 30% of the distance across the water way, whichever is more restrictive.
5. The footprint of the dock and associated access provide a minimum of 5-feet of clearance from the imaginary lines extending from the adjacent property boundaries.
6. Only one dock is allowed per parcel.

DESCRIPTION OF PROHIBITED ACTIVITIES: The following activities are prohibited under this RGP:

1. Discharges of dredged and/or fill material into waters of the U.S.
2. The conversion or use of the boat dock as a recreation room, residence, or dwelling.
3. The mooring of a recreation room, floating residence, or dwelling.
4. Boat docks and/or associated access installed within 100-feet of, and adversely affecting, a public water supply intake.
5. The installation of a boat dock and/or associated access structure in a component of the National Wild and Scenic River System, or a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate agency with direct management responsibility for such river has determined, in writing, that the proposed boat dock and/or associated access structure will not adversely affect the Wild and Scenic River designation or study status.

PERMIT DURATION: This permit is valid for 5 years from issuance and will expire on **September 9, 2019**. If this RGP is not modified or reissued by the expiration date, it automatically expires and becomes null and void. The Corps may re-evaluate the terms and conditions of this permit at any time it deems necessary to protect the public interest. This RGP may be re-issued, after public notice and documentation of the decision. Activities under this permit must be verified in writing by the Corps. Verifications are valid until this RGP expires.

PROCEDURES:

1. You must submit a completed and signed *Sacramento District Regional General Permit 3 Pre-Construction Notification Form* (PCN Form), located in Attachment A, prior to beginning any work in the navigable water. The PCN shall be submitted to the appropriate office identified in the *Contacts and Additional Information* section below. If you need assistance in completing any portion of the

PCN form, please contact the appropriate office listed in *Contacts and Additional Information* on page 10. The PCN form shall include the following information:

- a. Name, address and telephone number(s) of the prospective permittee and authorized agent, if applicable;
- b. Signature of the applicant and authorization of an agent, if applicable;
- c. Location of the proposed project, which may include street address, assessor's parcel number, latitude and longitude, section, township, range, municipality, and county, as well as directions to the site.
- d. A description of the proposed boat dock and associated access, including the materials to be used, the date(s) work would occur within navigable waters, and methods and equipment proposed to be used for the installation. If the proposed activities would involve the installation of pilings, the description shall specifically include a description of the method of the installation (e.g. drop hammer or vibratory hammer), the length of time required for the installation, and the proposed date(s) of the installation;
- e. A vicinity map, plan-view and cross-section drawings clearly depicting the location, size and dimensions of the proposed dock and/or access, as well as the location of the OHWM or MHWM of the navigable water. The drawings shall contain a title block, legend and scale, nearby structures, parcel boundaries, and dimensions of the proposed dock and associated access. All drawings shall comply with the *Final Map and Drawing Standards for the South Pacific Division Regulatory Program*, which can be found at <http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/map.pdf>.
- f. Pre-project color photographs of the proposed dock location, the shoreline where the dock would be accessed, and the areas upstream, downstream, and across the channel from of the proposed dock location. The location of the photographs shall be identified on the plan view drawing required in subpart (e) of this condition;
- g. A description of measures proposed to be taken to avoid and minimize to the maximum extent practicable, impacts to the aquatic environment, including those to wetlands, Federally-listed threatened and/or endangered species, spawning habitat, and shallow water habitat.
- h. A description of reasonable alternatives that would result in fewer impacts to the aquatic environment, and information on why you are/are not able to utilize another alternative. Reasonable alternatives are those that are feasible and accomplish your purpose (i.e. to moor a recreational boat). The required information should include:
 - (1) A description of any marinas within 5 river miles upstream and downstream of the proposed project location, and reasons why you are/are not able to utilize a marina. This information is required for all proposed new boat docks, and does not apply to maintenance of existing boat docks.
 - (2) For boat docks and associated access that would result in the removal of riparian vegetation or located within areas containing shaded aquatic vegetation (SAV), the reasons why you are/are not able to install the dock and access in areas on-site that do not contain riparian vegetation or SAV.
 - (3) For boat docks and associated access that would involve the installation of pilings see Condition 4 for the alternatives information required.

i. Information regarding proposed compensatory mitigation to compensating for unavoidable impacts to the aquatic environment. If compensatory mitigation is not being proposed, a narrative must be provided explaining why compensatory mitigation should not be required or is not otherwise practicable.

j. A description of impacts from the proposed boat dock and/or access on Federally-listed threatened and/or endangered species and essential fish habitat (EFH). Potential Federally listed threatened and/or endangered species, and/or their critical habitat that may be affected by boat docks and/or associated access include, but are not limited to: Delta smelt (*Hypomesus transpacificus*), giant garter snake (*Thamnophis gigas*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley steelhead (*Oncorhynchus mykiss*), and green sturgeon (*Acipenser medirostris*). In addition, some waters may contain EFH for Chinook salmon. Information on the location of threatened and/or endangered species and their critical habitat, and EFH within the Sacramento District can be obtained directly from the Pacific Southwest Region of the U.S. Fish and Wildlife Service (USFWS) (<http://www.fws.gov/cno/es/>) and the West Coast Regional Office of the National Marine Fisheries Service (NMFS) (<http://www.westcoast.fisheries.noaa.gov/>). This information must include the following:

- (1) A description of the action to be considered;
- (2) A description of the specific area that may be affected by the action (generally would include the footprint of the proposed boat dock and associated access and additional access and staging areas) ;
- (3) A description of any listed species or critical habitat that may be affected by the action (see above for the potential species that may be affected by boat docks and associated access);
- (4) A description of the manner in which the action may affect any listed species or critical habitat and an analysis of any cumulative impacts (identify the impacts that would occur to species. Examples include sound effects from pile driving and shading from docks. Also include minimization measures such as adherence to Conditions 4 and 5, as well as any proposed compensatory mitigation);
- (5) Relevant reports including any environmental impact statement, environmental assessment, or biological assessment prepared; and
- (6) Any other relevant available information on the action, the listed species, or critical habitat (this may include previous consultations conducted or completed).

k. A description of any known historic properties which may be affected by the proposed work, include a vicinity map indicating the location of historic resources, and identifying the potential for the presence of historic resources. If it is determined by this office that the project may affect cultural resources, you may be required to submit a cultural resources report, prepared in accordance with the February 25, 2011 *Guidelines for Compliance with Section 106 of the National Historic Preservation Act* (http://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/2011-02-25_Section_106_Guidelines.pdf).

l. Evidence you have applied for and/or received required permits from the California State Lands Commission (SLC) (<http://www.slc.ca.gov/>) and Central Valley Flood Protection Board (CVFPB) (<http://www.cvfpb.ca.gov/>). If a permit is not required from SLC and/or CVFPB, evidence must be provided in the PCN.

- m. If the activity would involve the installation of a boat dock and/or associated access in a component of a National Wild and Scenic River System, or a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the written determination that the proposed action will not adversely affect the Wild and Scenic River designation or study status from the agency responsible for the designated Wild and Scenic River or study river.
- n. A description of how the activities will comply with each of the permit conditions of this RGP (see the RGP 3 Checklist located at the end of the PCN form found in Attachment A);
2. Within 30-days following receipt of the PCN form, this office will notify you via letter or email if:
- The project may qualify for authorization under this RGP;
 - The PCN is complete; and
 - If consultation under Section 7 of the Endangered Species Act (ESA) and/or Section 106 of the National Historic Preservation Act (NHPA) is required.

If the PCN is not complete, the notification will specifically identify the additional information required to be submitted.

3. Within 30-days following receipt of a complete PCN form, this office will initiate any required consultations under Section 7 of the ESA and/or Section 106 of the NHPA.
4. Within 30-days following completion of required consultations under Section 7 of the ESA and/or Section 106 of the NHPA, or, if consultation is not required, within 45-days following receipt of a complete PCN, this office will notify you via letter if the project is authorized under this RGP, subject to the terms and conditions.
5. No work may proceed under the authority of this RGP until you have been notified, in writing, by this office that the activity is authorized.

PERMIT CONDITIONS:

- Special Conditions:** You shall comply with all special conditions that are placed on verifications under this RGP to ensure the authorized activity has minimal impacts on the aquatic environment. Such conditions may include those required for compliance with Section 7 of the ESA and Section 106 of the NHPA.
- Endangered Species and Essential Fish Habitat:** No activity is authorized under this RGP that is likely to jeopardize the continued existence of a threatened and/or endangered species, or a species proposed for such designation, as identified under the Federal ESA, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. In addition, no work may occur that may affect a threatened and/or endangered species, or that may adversely affect essential fish habitat (EFH), until this office has completed consultations under Section 7 of the ESA and Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act. Information regarding the effects of the project on Federally listed threatened and/or endangered species, critical habitat and EFH shall be submitted with the PCN required for this RGP.
- Cultural Resources:** No activity is authorized that may affect cultural resources listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

4. Pilings: The use of a vibratory hammer for the installation of pilings to anchor the boat dock and associated access is preferred in navigable waters that contain Federally-listed threatened and/or endangered anadromous fish species or their critical habitat. If it is not practicable to utilize a vibratory hammer, you shall provide a description of why in the alternatives information required in the PCN. In addition, the following requirements shall apply for the use of a drop hammer to install pilings:

- a. No more than four pilings shall be installed below the OHWM or MHW of the waterway to anchor the boat dock or associated access.
- b. The use of a drop hammer shall only be conducted at low water
- c. For a drop hammer installing wood pilings:
 - (1) The work shall be conducted using only one hammer with all pilings installed in one day.
- d. For a drop hammer installing concrete pilings:
 - (1) Pilings shall be 18-inches in diameter or less.
 - (2) The work shall be conducted using only one hammer with all pilings installed in one day.
- e. For a drop hammer installing steel pilings:
 - (1) Pilings shall be 12-inches in diameter or less.
 - (2) The drop hammer shall be 3,000 pounds or smaller.
 - (3) You shall use a wood, nylon, or plastic cushion block between the hammer and the piling.
 - (4) The work shall be conducted using only one hammer with all pilings installed in one day.

5. In-Water Work Windows: Within waters that contain habitat for Federally-listed threatened and/or endangered species or their critical habitat, you shall conduct in-water work for the installation of the boat dock and/or associated access from August 1 through October 31.

6. Completion of Required Compensatory Mitigation: You shall complete the construction of any compensatory mitigation required by special condition(s) of the RGP verification before or concurrent with commencement of the authorized activity, except when specifically determined to be impracticable by the Corps. When mitigation involves use of a mitigation bank or in-lieu fee program, you shall submit proof of payment to the Corps prior to commencement of the authorized activity.

7. Permittee-Responsible Compensatory Mitigation: For required permittee responsible compensatory mitigation, you shall develop and submit to the Corps for review and approval, a final comprehensive mitigation and monitoring plan prior to commencement of the installation of the boat dock and/or associated access. The plan shall include the mitigation location and design drawings, plan for any proposed vegetation plantings, including species proposed to be planted, and final success criteria, presented in the format of the *Sacramento District's Habitat Mitigation and Monitoring Proposal Guidelines*, dated December 30, 2004, and in compliance with the requirements

of 33 CFR 332.

8. Anchoring and Damage from High Water Events:

- a. You shall ensure that the boat dock and associated access are properly anchored utilizing systems designed to withstand anticipated high flows.
- b. Permanent or temporary anchoring to riparian vegetation is not authorized by this permit.
- c. The issuance of this permit does not relieve you from taking all necessary steps to ensure the integrity of boat dock and associated access and the safety of boats moored thereto, from damage by wave wash or high water events, and you shall not hold the United States liable for any such damages.

9. Navigation:

- a. Your use of the boat dock and associated access must not interfere with the public's right to free navigation on all navigable waters of the United States, and the installed boat dock and associated access may not cause more than a minimal adverse effect on navigation.
- b. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at your expense on authorized facilities in navigable waters of the United States.
- c. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused hereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration

10. Maintenance: You shall maintain the dock and associated access authorized by this RGP in good condition and in conformance with the terms and conditions of this RGP. You are not relieved of this requirement if you abandon the boat dock and/or associated access, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized structure or desire to abandon it without a good faith transfer, you shall request a permit from this office, which may require restoration.

11. Discovery of Previously Unknown Remains and Artifacts: If you discover any previously unknown historical or archeological remains during installation of the structure authorized by this permit, you shall immediately cease work and notify this office of what was found. The Corps will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

12. Levees: You shall ensure that the boat dock and/or associated access do not impact a levee unless all other Federal, state or local approvals are obtained, including, but not limited to authorizations required by the California State Lands Commission and Central Valley Flood Protection Board. You shall not conduct any work under authority of this RGP until you have received the required authorizations, and shall submit proof of receipt of the authorizations to this office prior to installation of the boat dock and associated access.

13. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of aquatic wildlife indigenous to the waterbody, including those species that migrate through the area. For boat docks and/or associated access, you shall ensure that the PCN contains

information on how impacts to aquatic life movements will be avoided and/or minimized.

14. Spawning Areas. You shall avoid activities in spawning areas during spawning seasons to the maximum extent practicable. For boat docks and/or associated access located within spawning areas, you shall ensure that the PCN contains information on how spawning areas will be avoided and/or how impacts to spawning areas will be minimized.

15. Migratory Bird Breeding Areas: You shall avoid breeding areas for migratory birds to the maximum extent practicable. For boat docks and/or associated access located within migratory bird breeding areas, you shall ensure that PCN includes information on how breeding areas will be avoided and/or how impacts to migratory bird breeding areas will be minimized.

16. Suitable Material. You shall install the boat dock and associated access using suitable materials, and shall ensure that materials used are free from pollutants in toxic amounts (see Section 307 of the Clean Water Act). You shall not use any material coated with creosote and any chemically treated material shall be coated with an impact-resistant, biologically inert substance. Decking material shall be made of metal grating, plastic, or non-reactive (e.g. epoxy wood) product, and flotation devices shall be of materials that will not disintegrate, such as plastic or closed cell foam encapsulated sun-resistant polyethylene.

17. Tribal Rights: You shall ensure that the boat dock or associated access does not impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Record Permit: You shall record the *Declaration of Establishment of Conditions, Covenants and Restrictions* contained in Attachment B with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property for areas where the boat dock and/or associated access will be placed. The recordation shall also include a map showing the location of the authorized structure. You shall submit a copy of the recordation with the Compliance Certification required in Condition 22.

19. Contractor Compliance: You are responsible for all authorized work and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of the permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all installation activities are completed.

20. Notification of Start and Complete Dates: You shall notify this office of the start date for the authorized work within 10 days prior to beginning work within navigable waters of the U.S. and of the completion date for the authorized work within 30 days following completion of work within navigable waters of the U.S.

21. Inspections: You shall allow representatives from this office to inspect the authorized structure and any mitigation areas at any time deemed necessary to determine compliance with the terms and conditions of the RGP verification. You will be notified by this office in advance of an inspection.

22. Compliance Certification: Within 30 days following installation of the boat dock and associated access, you shall submit a signed copy of the Compliance Certificate located in Attachment C, regarding the completed work and any required mitigation. The certification shall also contain:

- a. Proof that the RGP was recorded with the Registrar of Deeds or other appropriate official, in accordance with General Condition 18.
- b. As-built drawings of the boat dock and/or associated access installed, which shall include a plan view drawing of the location of the authorized work, with an overlay of the work

conducted in the same scale.

c. Numbered and dated post-construction color photographs of the installed dock, as well as the access areas. The photographs shall be similar to the pre-construction photographs required in the PCN, and shall be identified in the plan-view drawing required in subpart c of this condition.

FURTHER INFORMATION:

1. Congressional Authorities: This RGP has been issued under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and/or 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).
2. District Engineers have the authority to determine if an activity complies with the terms and conditions of this RGP.
3. This RGP does not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.
4. This RGP does not grant any property rights or exclusive privileges.
5. This RGP does not authorize any injury to the property or rights of others.
6. This RGP does not authorize interference with any existing or proposed Federal project.
7. Limits of Federal Liability. In issuing this RGP, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
8. Reevaluation of Permit Decision. This office may reevaluate its decision on this RGP/PGP at any time the circumstances warrant. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.
9. Activities not meeting the terms and conditions of this RGP may be authorized through another type of permit, such as a Nationwide Permit, Letter of Permission, or Standard Permit. This office will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or cumulatively, on the aquatic environment or may be contrary to the public interest. The Corps may include additional special conditions to any verification under this RGP to ensure the activity has minimal impact.

CONTACTS AND ADDITIONAL INFORMATION: For an updated list of Sacramento District contacts, please visit our website at <http://www.spk.usace.army.mil/missions/regulatory>. Unless modified, the following contacts should be used for the specific county where the proposed project is located:

District Office: For proposed boat docks and associated access located in Alameda, Contra Costa, Fresno, Kern, Kings, Madera, Mariposa, Merced, Mono, Sacramento, San Joaquin, Solano, Stanislaus, Tulare, Tuolumne, and Yolo Counties, contact the California South Branch. For proposed boat docks and associated access located in Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lake, Nevada, Placer, Sierra, Sutter, and Yuba Counties, contact the California North Branch:

Department of the Army
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street, Room 1350
Sacramento, California 95814-2922
Phone: 916-557-5250
Fax: 916-557-5306
Email: spk-regulatory-info@usace.army.mil

Redding Field Office: For proposed boat docks and associated access located in Lassen, Modoc, Plumas, Shasta and Tehama Counties, contact the Redding Field Office:

Department of the Army
U.S. Army Engineer District, Sacramento
Corps of Engineers
310 Hemsted Avenue, Suite 310
Redding, California 96002-0935
Phone: 530-223-9534
Fax: 530-223-9539
Email: spk-regulatory-info@usace.army.mil

ATTACHMENTS:

Attachment A: RGP 3, Pre-Construction Notification Form
Attachment B: Declaration of Conditions, Covenants and Restrictions
Attachment C: Compliance Certification

ATTACHMENT A

RGP #3 Pre- Construction Notification Form

ATTACHMENT B

Declaration of Conditions, Covenants and Restrictions

ATTACHMENT C

Compliance Certification