



South Sacramento HCP Regional General Permit

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

MINIMAL IMPACT COVERED ACTIVITIES CONDUCTED UNDER THE SOUTH SACRAMENTO HABITAT CONSERVATION PLAN IN-LIEU FEE PROGRAM

EFFECTIVE:

EXPIRES: (5 years from effective date)

The U.S. Army Corps of Engineers, Sacramento District (Corps), hereby issues a regional general permit (RGP) for covered activities conducted under the South Sacramento Habitat Conservation Plan (SSHCP) In-Lieu Fee (ILF) Program, involving the discharge of dredged and/or fill material into waters of the United States (U.S.), resulting in no more than minimal individual and cumulative impacts on aquatic resources. The authorized activities would be conducted to meet the Conservation Strategy as identified in the South Sacramento Habitat Conservation Plan (SSHCP).

An activity is verified under the RGP when the Corps, as the chair or co-chair of the interagency review team (IRT) of the SSHCP ILF Program, approves the activity and the overall establishment, re-establishment, enhancement, or rehabilitation project under the SSHCP ILF Program.

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

ACTION ID: SPK-1995-00386

AUTHORITY: Section 404 of the Clean Water Act (CWA 404)

LOCATION: The SSHCP Plan Area encompasses approximately 317,655 acres within Sacramento County (*Figure 1 [showing SSHCP Plan Area; figure to be developed]*, attached). The Plan Area includes the City of Galt and the City of Galt's sphere of influence, and the portion of the City of Rancho Cordova that is located south of U.S. Highway 50. The geographical boundaries of the Planning Area are U.S. Highway 50 and White Rock Road to the north, the Sacramento River levee and County Road J11 (Walnut Grove-Thornton Road) to the west, the Sacramento County line with El Dorado and Amador Counties to the east, and with the San Joaquin County to the south.

PURPOSE: This RGP is intended to expedite authorization under Section 404 of the Clean Water Act for establishment, re-establishment, enhancement, or rehabilitation activities that result in a net increase in aquatic resource functions and services and are approved by the Corps under the SSHCP ILF Program. The RGP is premised on the approval of an activity by the Corps under the SSHCP ILF Program, conducted by a SSHCP "Land Use Authority Permittee" (SSHCP LUAP, consisting of Sacramento County, City of Galt and City of Rancho Cordova) or the SSHCP Implementing Entity (SSHCP IE), also referred to as "SSHCP Permittees." This RGP eliminates the need for the SSHCP LUAPs and SSHCP IE to seek separate authorization from the Corps for those activities approved by the Corps under the SSHCP ILF program. This RGP will reduce time and paperwork, and improve efficiency for the Corps and SSHCP Permittees for activities approved under the SSHCP ILF program.

BACKGROUND: The SSHCP is a regional approach to address issues related to planned development and species habitat conservation, consisting of the SSHCP, local Aquatic Resources Program (ARP) and the SSHCP ILF Program. The SSHCP provides coverage for twenty-eight species of plants and wildlife, including ten that are state and/or federally-listed as threatened or endangered. The SSHCP Permittees consist of Sacramento County, the City of Galt, the City of Rancho Cordova, the Sacramento County Water Agency, the Southeast Connector Joint Powers Authority, and the SSHCP IE. The U.S. Fish and Wildlife Service's Sacramento Field Office (USFWS) [*has approved*] the SSHCP through a species incidental take permit (ITP) issued to the SSHCP's Permittees under Section 10 of the ESA. The local Aquatic Resources Program, implemented by the SSHCP LUAPs and SSHCP IE through local ARP ordinances, evaluates activities that would impact aquatic resources, including waters of the U.S. The SSHCP ILF program provides compensatory mitigation under CWA 404 of for impacts to waters of the U.S. associated with implementation of SSHCP "Covered Activities" by SSHCP project applicants, through funds provided to the SSHCP LUAPs and SSHCP IE (note, these funds simultaneously satisfy HCP fee requirements).

ACTIVITIES COVERED: This RGP authorizes discharges of dredged and/or fill material into waters of the U.S. associated with establishment, re-establishment, enhancement, and rehabilitation activities, provided the activities result in a net increase in aquatic resource functions and services, and are approved by the Corps under the SSHCP ILF program. The activities authorized under this RGP includes only those activities required to meet the Conservation Strategy, as identified in Chapter 5 of the SSHCP.

EXCLUSIONS:

1. This RGP may not be used to authorize discharges of dredged and/or fill material into waters of the U.S. for activities that do not result in a net increase in aquatic resource functions and services.
2. This RGP may not be used to authorize discharges of dredged and/or fill material into waters of the U.S. for activities that are not approved by the Corps through the SSHCP ILF program.
3. This RGP may not be used to authorize discharges of dredged and/or fill material into waters of the U.S. for activities that do not meet the conservation strategy identified in Chapter 5 of the SSHCP.
4. After-the-fact authorizations: This RGP may not be used to authorize activities that resulted in the discharge of dredged or fill material into waters of the U.S. without Department of the Army (DA) authorization.

TERMS OF AUTHORIZATION:

1. Activity Completion: Activities authorized by the Corps under this RGP will be valid until the RGP is reissued, modified or suspended in accordance with the provisions described in "Permit Duration," below.
2. RGP Authorization: The discharges of dredged and/or fill material into waters of the U.S. associated with implementation of the HCP Conservation Strategy and the SSHCP ILF program are concurrently verified under this RGP when the Corps, as the lead or co-chair of the IRT of the SSHCP ILF Program, approves the activity and overall establishment, re-establishment, enhancement, or rehabilitation project under the SSHCP ILF Program.

3. Compliance with SSHCP Conditions: Activities to be authorized under this RGP must be Covered Activities as identified above and in Chapter 5 of the SSHCP, and must comply with any applicable terms and conditions contained in the SSHCP.

4. Discretionary Authority: The Corps has the discretion to suspend, modify, or revoke authorizations under this RGP. This discretionary authority may be used by the Corps to further condition or restrict the applicability of the RGP for cases in which it has concerns associated with the Clean Water Act Section 404(b)(1) Guidelines, or regarding any factor of the public interest. Should the Corps determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to waters of the U.S. or otherwise be contrary to the public interest, the Corps will modify the authorization to reduce or eliminate those adverse effects, or notify the project applicant that the proposed activity is not authorized by the RGP and provide instructions on how to apply for authorization under another type of DA permit. Activities not meeting the terms and conditions of this permit may be authorized through another type of permit from the Corps, such as a Nationwide Permit, Programmatic General Permit, Letter of Permission, or Standard Permit. The Corps will determine on a case-by-case basis, as needed, 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 restore authorization under the RGP at any time it determines the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. The Corps may also use its discretionary authority to modify, suspend, or revoke the RGP at any time.

5. Avoidance and Minimization: Impacts to waters of the U.S. shall be avoided and minimized to the maximum extent practicable. For purposes of the RGP, notwithstanding the Corps' discretionary authority described above, this term shall be considered satisfied when project applicants (inclusive of SSHCP LUAPs and the SSHCP IE, for purposes of the RGP) have designed and implemented activities to comply with all applicable avoidance and minimization measures contained in Chapter 5 of the SSHCP.

6. Single and Complete: The activity must be a single and complete linear or non-linear project, as defined in the Section F of the January 6, 2017, Federal Register Notice for *Issuance and Reissuance of Nationwide Permits; Final Rule* (82 FR 1860), which can be found at: http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/2017/nwp2017_final_rule_FR_06jan2017.pdf?ver=2017-01-06-092409-457

7. Section 401 Water Quality Certification: In order for authorization to be valid under this RGP, an approved Section 401 Water Quality Certification (WQC) or waiver thereof is required to be obtained and evidence thereof in possession by Placer County or the City of Lincoln, prior to the commencement of activities authorized by this RGP (see General Condition 7 [*Water Quality Certification*]).

GENERAL CONDITIONS:

1. Compliance Inspections: The permittee must allow representatives from the Corps to inspect the authorized activity at any time deemed necessary to ensure that the activity is being, or has been, accomplished in accordance with the terms and conditions of the permit. The Corps will notify the permittee at least 48 hours advance of an inspection.

2. Threatened and Endangered Species: No activity is authorized under this RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA. Activities authorized under this RGP must comply with the mandatory terms and conditions of the USFWS's [*to be sought by initiation for Section 7 ESA consultation*] [Biological Opinion (BO) covering this RGP] (USFWS #____, dated ____) (copy [to be] attached). The BO contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" authorization under this RGP. Authorization under this RGP is conditional upon your compliance with all of the mandatory terms and conditions of the BO. Failure to comply with the terms and conditions of the BO would constitute non-compliance with the RGP. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA. You must comply with all applicable conditions of this BO, including those ascribed to the Corps.

3. Historic Properties: No activity is authorized under the RGP if the activity may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, until the requirements of Section 106 of the National Historic Preservation Act (NHPA), as amended, have been satisfied. If NHPA compliance is not addressed programmatically, (e.g., by a Programmatic Agreement (PA)), you must notify the Corps if the activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, including previously unidentified historic properties. The notification shall meet the standards contained in the Corps *Guidelines for Compliance with Section 106 of the National Historic Preservation Act of 1966* (http://www.spk.usace.army.mil/Portals/12/documents/regulatory/sec-106-tribal/FINAL_2014-03-24_Section-106-Guidelines.pdf). The Corps will consult with the State Historic Preservation Officer (SHPO), as appropriate, following the policy and procedural standards of 33 CFR Part 325 Appendix C.

4. Permit Transfer: If the property associated with this permit is sold, the permittee shall transfer the verification to the new owner by submitting a letter to the Corps, to validate the transfer. The letter must contain the name and address of the transferee, as well as the following statement and signature of the transferee:

When the structures or work authorized by this regional general permit (RGP) are still in existence at the time the property is transferred, the terms and conditions of this RGP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this RGP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

5. Tribal Rights: No activity or its operation shall impair reserved Tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

6. Unanticipated Discovery: If you discover any previously unknown historic, cultural or archeological remains and/or artifacts while accomplishing the activity authorized by this RGP, you shall immediately notify the Corps of what has been found, and to the maximum extent practicable, shall avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

7. Water Quality Certification: Water Quality Certification (WQC), or waiver thereof, under Section 401 of the Clean Water Act is required for activities to be authorized by this RGP. You shall comply with the terms and conditions of any individual or programmatic WQC provided by the State Water Resources Control Board and/or Central Valley Regional Water Quality Control Board.

FURTHER INFORMATION:

1. Congressional Authorities: Section 404 of the Clean Water Act (33 U.S.C. 1344)

2. Limits of this authorization:

a. The Corps has authority to determine if an activity complies with the terms and conditions of the RGP.

b. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.

c. This permit does not grant any property rights or exclusive privileges.

d. This permit does not authorize any injury to the property or rights of others.

e. This permit does not authorize interference with any existing or proposed federal projects.

3. Limits of Federal Liability: In issuing this permit, 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.

4. Reliance on Applicant's Data: The determination of the Corps that issuance of this RGP is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: The Corps may reevaluate its decision on this RGP at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which the Corps did not consider in reaching the original public interest decision.

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 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

PERMIT DURATION: This RGP is valid for five (5) years from the date of issuance. It will expire on [Day, Month, 20XX]. At least sixty (60) calendar days prior to expiration, the Corps will issue a public notice, with an opportunity for public comment, describing the reasons for reissuing the RGP for another five years with or without modification, or not reissuing the RGP. If the Corps has not reissued the RGP by the expiration date, the RGP will no longer be valid. This RGP may also be modified, suspended, or revoked by the Corps at any time deemed necessary. In such an instance, the Corps will issue a public notice concerning the proposed action. Authorizations under this RGP are valid until the permit expires. An activity authorized by this RGP that has commenced, or is under contract to commence, will have 12 months from the date of the RGP expiration to be completed, in accordance with Term of Authorization "1," above.

CONTACTS AND ADDITIONAL INFORMATION: For additional information about this RGP, please contact the U.S. Army Corps of Engineers, Sacramento District.

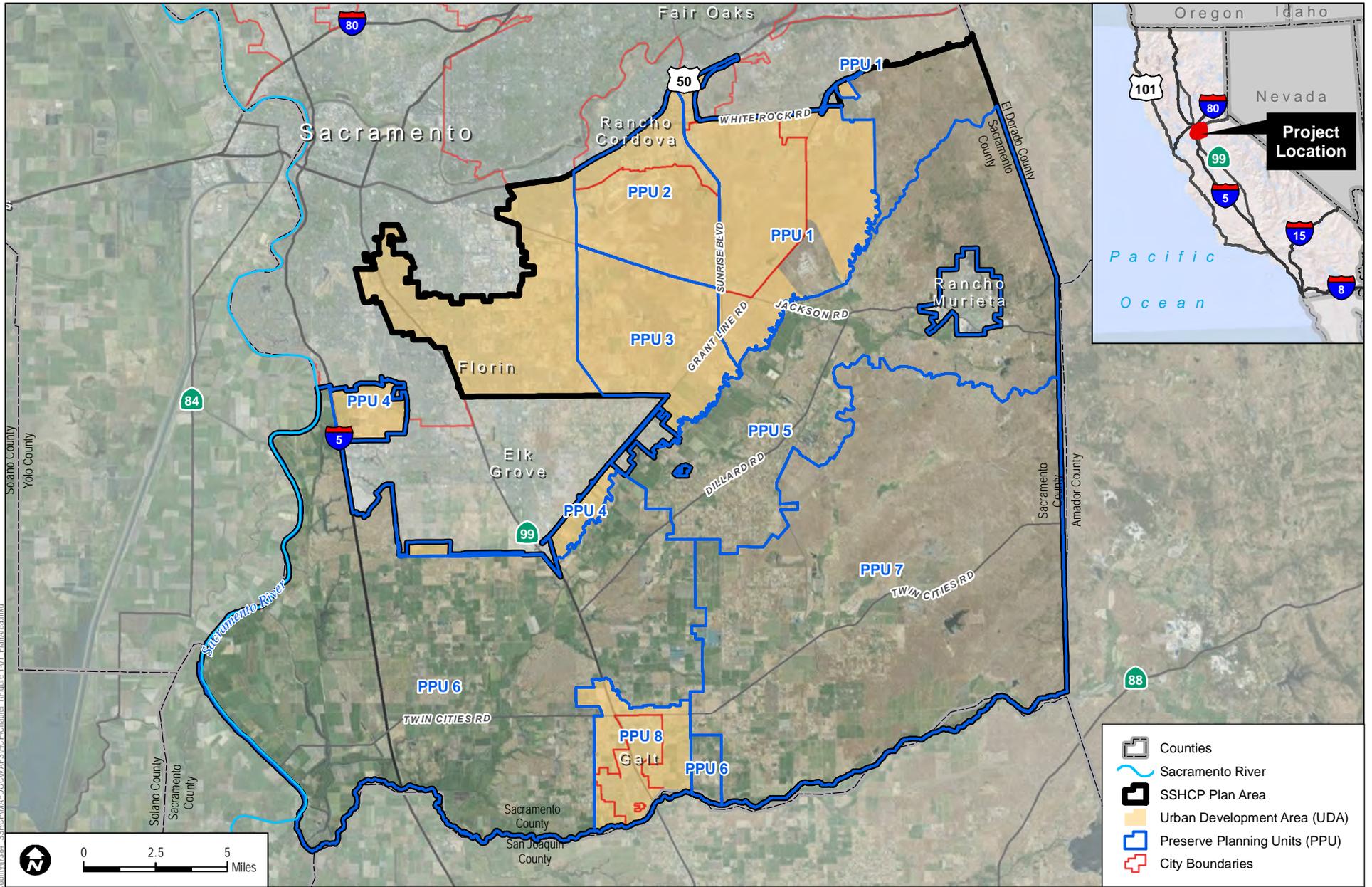
This permit becomes effective when the federal official, designated to act for the Secretary of the Army has signed below.

DRAFT

DRAFT

[Name]
Chief, Regulatory Division
Sacramento District

Date



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SOURCE: ESRI, County of Sacramento 2014



SOUTH SACRAMENTO HABITAT CONSERVATION PLAN

SSHCP Plan Area



CWA 404 Permit Strategy Aligned with the South Sacramento Habitat Conservation Plan

U.S. ARMY CORPS OF ENGINEERS

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February 2018

Background

The South Sacramento Habitat Conservation Plan (SSHCP) covers twenty-eight species of plants and wildlife, including ten that are state and/or federally-listed as threatened or endangered. The SSHCP is a regional approach to address issues related to planned development and species habitat conservation, following a comprehensive conservation strategy, over a 50-year period. The boundaries of the 317,655-acre SSHCP Plan Area are generally U.S. Highway 50 to the north, the Sacramento River levee and County Road J11 to the west, the county line with El Dorado and Amador Counties to the east, and the county line with San Joaquin County to the south. The six SSHCP Plan Partners are the County of Sacramento, City of Galt, City of Rancho Cordova, Sacramento County Water Agency, Sacramento Regional County Sanitation District, and the Southeast Connector Joint Powers Authority. The Plan Partners have formed a SSHCP Implementing Entity to carry out the HCP's commitments and requirements. The U.S. Fish and Wildlife Service's Sacramento Field Office (USFWS) will approve the SSHCP through a species incidental take permit issued to five of the Plan Partners and the SSHCP Implementing Entity under Section 10 of the Endangered Species Act (ESA 10), collectively termed "SSHCP Permittees" upon approval of ESA 10. Before it can issue its incidental take permit, the USFWS must internally consult under Section 7 of the ESA (ESA 7) and is required to comply with the National Environmental Policy Act (NEPA) and other related laws.

The U.S. Army Corps of Engineers (Corps) regulates discharges of dredged or fill material into waters of the U.S., including wetlands, under Section 404 of the Clean Water Act (CWA 404) through its Regulatory Program. Permits are issued to applicants only after a determination has been made that the proposed activity is the least environmentally damaging practicable alternative under the U.S. Environmental Protection Agency's (USEPA) 404(b)(1) Guidelines, which involves evaluating avoidance, minimization and compensation for impacts to waters of the U.S. Further, the Corps must comply with ESA 7, NEPA, Section 401 of the Clean Water Act (CWA 401), and Section 106 of the National Historic Preservation Act (NHPA 106) before authorizing an activity under CWA 404. Types of permits the Corps issues include general permits issued on a regional, nationwide, or programmatic basis for activities with minimal impacts on the aquatic environment, individually and cumulatively, and individual permits (standard and letters of permission) for those activities which do not fall under a general permit or have greater than minimal impacts. The Corps' Sacramento District (Sacramento District) administers the Regulatory Program in the Central Valley and Sierra Nevada California, the States of Nevada and Utah, and the Western Slope of Colorado.

Currently, the Corps reviews permit applications on an individual or case-by-case basis, which sometimes makes it challenging to evaluate avoiding, minimizing and compensating impacts to aquatic resources on a broader scale. As a result, the Corps' review is generally on the merits of the individual activity and the characteristics of the proposed project site, with limited ability to comprehensively assess where the risks, trade-offs and interactions among several projects and aquatic resources can be considered. Over time, environmental issues and development demands, especially in urbanizing areas, have resulted in adverse effects to the aquatic ecosystem that are not necessarily surprising, but fall short of more

ecologically meaningful and sustainable outcomes that a landscape-scale permitting solution may afford. For instance, permits issued by the Corps have led to a patchwork of wetland mitigation sites in certain areas, which may have disjointed or inconsistent preserve boundaries and be functionally compromised by abutting development. Furthermore, the distance between the permitted impact location and its mitigation site may be considerable, especially in cases where the compensation was accomplished through the purchase of credits at a mitigation bank or through an in-lieu fee (ILF) program.

The Sacramento District views the SSHCP as a remarkable opportunity to improve both species and aquatic resource protection in a coordinated way on a regional scale, taking into account planned

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development and providing greater certainty for the regulated public. With this in mind, the Sacramento District has been coordinating with the USFWS and Plan Partners, and others, since 2004 to develop and implement a “streamlined” approach to permitting under CWA 404 that encompasses a number of different permit types and processes. The Corps’ “CWA 404 permit strategy” is intended to provide for better assurances and quicker permit decisions for the regulated public, while protecting aquatic resources to an equal or greater level in a manner

consistent with existing regulations, policies and processes. The expectation of putting in place an effective and efficient CWA 404 permit strategy is based on a number of tenets upon which the SSHCP is founded including, but not limited to:

- Protection of a broad range of species and habitats;
- Implementation of Low Impact Development Strategies (LIDS);
- Consistency with general plans;
- Avoidance of high quality vernal pool landscapes; and
- Preservation of watershed functions and stream corridors, and development of large, contiguous preserves, with particular focus on the Mather Core Recovery Area.

The CWA 404 permit strategy is being vetted through a public review process, inclusive of NEPA (as described in further detail below) and public notices distributed by the Sacramento District.

Benefits of CWA 404 Alignment

In addition to providing a regional platform to inform better and faster CWA 404 permit decisions, a USFWS-approved SSHCP provides several other benefits to the Sacramento District and its customers. Because the SSHCP is an action that may potentially significantly affect the quality of the human environment, the USFWS is in the process of completing an Environmental Impact Statement (EIS) under NEPA that will include impact analyses over a 50 year period of all SSHCP covered activities within the Plan Area. As a cooperating agency, the Sacramento District intends to use the EIS in a programmatic manner to underpin its CWA 404 permit strategy. Because the EIS will examine a range of reasonable HCP alternatives affecting waters of the U.S., it can serve as the basis for the Sacramento District’s evaluation of alternatives under NEPA, and along with supplemental information provided to the Corps, the primary basis for evaluation of less damaging alternatives and mitigation under USEPA’s 404(b)(1) Guidelines. The Sacramento

As a cooperating agency, the Sacramento District intends to use the EIS in a programmatic manner to underpin its CWA 404 permit strategy.

District will adopt the EIS and make its own Record of Decision (ROD) regarding the CWA 404 permit strategy's compliance with the 404(b)(1) Guidelines at the regional scale. Any necessary subsequent NEPA documentation prepared by the Sacramento District will tier from the EIS.

The CWA 404 permit strategy will rely, at all levels of permitting, on the SSHCP to address avoidance, minimization and requirements for compensatory mitigation for impacts to aquatic resources. Key to satisfying compensatory mitigation requirements, payment of HCP-required fees will dually fulfill a Corps-approved SSHCP In-lieu Fee (ILF) Program established by the Plan Partners. Substantial processing efficiency and improving aquatic resource protection at the regional level will result from the CWA 404 permit strategy's reliance on the compensatory mitigation ratio requirements for aquatic resources contained in the SSHCP. Implementation of on-the-ground compensatory mitigation projects would be consistent with the SSHCP conservation strategy, located within SSHCP preserve areas.

The Sacramento District will further streamline the CWA 404 regulatory review process by requesting the USFWS to consult once programmatically for all SSHCP covered activities that require a CWA 404 permit, eliminating the need for individual project-by-project ESA 7 consultations. Furthermore, the Sacramento District will request programmatic water quality certification under CWA 401 from the Central Valley Regional Water Quality Control Board for all activities under the CWA 404 permit strategy. This will eliminate the need for permit applicants to apply individually for CWA 401 certification. Finally, to comply with NHPA 106, the Sacramento District will seek to develop a programmatic agreement with the California State Historic Preservation Officer, following coordination with tribes and others, for the CWA 404 permit strategy.

CWA 404 Permitting Strategy

The Sacramento District has developed a multi-tiered approach to CWA 404 permitting that will address activities which involve discharges of dredged or fill material into waters of the U.S. covered by the USFWS-approved SSHCP. This strategy consists of the use of:

- A programmatic general permit (PGP) founded on a local aquatic resources protection program to be implemented through local aquatic resource ordinances, and designed to reduce duplication with that program, for activities with minimal individual and cumulative effects on the aquatic environment;
- A procedure for issuing Letters of Permission (LOPs) for activities with more than minimal but less than significant effects on the human environment, including aquatic resources; and
- An abbreviated process for issuing standard permits (SPs) for other activities consistent with the SSHCP that may have a significant impact on the human environment, and require the preparation of an EIS under NEPA.

PGP

Based on the SSHCP and local aquatic resource ordinances (Sacramento County, City of Galt, City of Rancho Cordova and SSHCP Implementing Entity) that implement a locally-based Aquatic Resources Program (ARP), the Sacramento District will establish a PGP for covered activities that have minimal impacts on the aquatic environment. The PGP is premised on the ordinances resulting in the same or better level of protection to waters of the U.S. as currently in place under CWA 404. The PGP includes

limits and thresholds that exceed those found in many of the Nationwide Permits, such as an upper threshold for most projects of 2 acres instead of 0.5 acre. The PGP will not impose additional requirements or conditions on individual activities for avoiding, minimizing, or compensating for the loss of aquatic resources beyond those in the SSHCP, ARP and ordinances. The Corps will rely on the agencies responsible for administering the ARP/ordinances to regularly report to the Sacramento District on use of the ordinances and coverage under the PGP, not requiring a project-by-project notification or review process, thus eliminating to the maximum extent possible the Sacramento District's review of activities with minimal impacts on waters of the U.S. The PGP will result in CWA 404 authorization in under 30 days. The process for the Corps to establish the PGP follows the standard permit process, which requires a public notice. The PGP will be addressed in the Sacramento District's ROD prepared for the SSHCP EIS. The PGP will be effective once the local aquatic resources ordinances are approved.

The PGP will not impose additional requirements or conditions on individual activities for avoiding, minimizing, or compensating for the loss of aquatic resources.

LOP Procedure

For covered activities found to be consistent with the SSHCP requirements which would have more than minimal impacts to aquatic resources but less than significant impacts on the human environment under NEPA, the Sacramento District will institute a procedure for issuing LOPs under CWA 404. For purposes of the permit strategy, activities that are determined to not require an EIS will be eligible for authorization under the LOP procedure. As such, the procedure will not have a specific limitations or thresholds. The LOP procedure will streamline the standard permit process by eliminating the need for a public notice and only require the preparation of a simplified decision document that tiers from the SSHCP EIS. Most on-site avoidance and minimization requirements will be satisfied when proposed activities are designed to comply with all applicable avoidance and minimization measures contained in the SSHCP and ARP. As a type of individual permit, the LOP procedure will require evaluation of on-site avoidance and minimization in compliance with CWA 404, including USEPA's 404(b)(1) Guidelines. For example, the USACE may require evaluation of alternatives to avoid and minimize effects to waters of the U.S. within and adjacent to streams. This may result in minor adjustments to features such as stream setback width requirements imposed by the SSHCP, in an area of a project site containing a wetland adjacent to the stream setback. Like the other types of CWA 404 permits in the Sacramento District's permit strategy, compensatory mitigation requirements will be the same as those in the SSHCP. The goal is to issue LOPs in 60 days or less, assuming compliance (programmatically or otherwise) with other laws is in place.

The LOP procedure will rely on the SSHCP to address avoidance, minimization, and compensatory mitigation for impacts to aquatic resources.

The process for establishing the LOP procedure requires the development of a list of categories or activities proposed for authorization (which consists of the SSHCP covered activity categories) through coordination with federal, state and local agencies, a public notice, and a 401 WQC issued or waived on a generic or individual basis. The decision to implement the LOP procedures will be addressed in the Sacramento District's ROD.

SP Abbreviated Process

A small number of SSHCP covered activities requiring CWA 404 will not fall under the PGP or LOP procedure and will require a SP. These activities are those that may have a significant impact on the human environment and require the preparation of an EIS under NEPA. If the Sacramento District serves as the federal lead agency for an activity under NEPA, the EIS requirement would be determined on a case-by-case basis upon receipt of a CWA 404 permit application by the Corps, consistent with the CWA 404 implementing regulations for NEPA (33 CFR Part 325, Appendix B). If the Corps is a cooperating agency to a federal lead agency who has determined an EIS is required under NEPA, the SP abbreviated process would apply if the Corps determines potential significant individual and/or cumulative impacts to the human environment could occur as a result of the proposed activities.

The extent of analysis in the project EIS will be reduced by tiering from the SSHCP EIS, alternatives will be limited to the project site because avoidance has been addressed at the regional level, and compensatory mitigation requirements will align with those of the SSHCP.

Even for activities that require a SP, the process and amount of time it takes to reach a permit decision can be compressed significantly by relying on the SSHCP. For instance, the extent of analysis in the project EIS will be lessened by tiering from the SSHCP EIS. Similar to the LOP procedure, most on-site avoidance and minimization requirements will be satisfied when proposed activities are designed to comply with all applicable avoidance and minimization measures contained in the SSHCP and ARP. The primary additional evaluation necessary for the SP process is an alternatives analysis required for compliance with USEPA's 404(b)(1) Guidelines. This will be limited to just the project site ("on-site alternatives"), because avoidance and minimization assessment that would normally be done via evaluation of off-site alternatives as part of a typical SP process has already been addressed at the regional level. Please refer to the LOP procedure, above, for an example of how minor adjustments in project design may be sought to support compliance with avoidance and minimization requirements. Compensatory mitigation requirements will align with those of the SSHCP, as described above. Time may further be shortened through the preparation of a joint EIS/EIRs for projects (the Corps' preference). In addition, the Corps will pursue programmatic compliance with ESA, NHPA 106 and CWA 401 to provide for greater assurances and further streamline the process. With reliance on the SSHCP EIS and programmatic compliance with related laws, the Corps expects to complete SP decisions for activities under the SSHCP within six to nine months.

Activities not Covered by the SSHCP

Activities involving a discharge of fill material into waters of the U.S. that are not covered under the SSHCP would be subject to the normal Corps' regulatory permit processes.

Next Steps

The Sacramento District's proposed CWA 404 permit strategy was provided in the Draft EIS for the SSHCP published in June 2017. Following public input on the Draft EIS, coordination with the Plan Partners, resource agencies and others, and review of any new information that becomes available, the Sacramento District's CWA 404 permit strategy and final draft permit instruments were updated and included for public review in the Final EIS for the SSHCP. With adoption of the EIS, the Sacramento District will complete its ROD, issue final permit instruments, finalize establishment of the SSHCP ILF Program, and implement the CWA 404 permit strategy.