



# Regional General Permit 15

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

## MINIMAL IMPACT ACTIVITIES CONDUCTED UNDER THE SOUTH SACRAMENTO IN-LIEU FEE PROGRAM

**EFFECTIVE:** May 16, 2019

**EXPIRES:** May 16, 2024

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The U.S. Army Corps of Engineers, Sacramento District (Corps), hereby issues a regional general permit (RGP) for activities conducted under the South Sacramento In-Lieu Fee Program (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.

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

Note: The term "you" and its derivatives, as used in this RGP, means the permittee or any future transferee. 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-1995-00386

**AUTHORITY:** Section 404 of the Clean Water Act

**LOCATION:** The ILF Program Area encompasses approximately 317,655 acres within Sacramento County (*Figure 1*, attached), and is the geographical service area for all ILF program credits, coextensive with the area covered by the South Sacramento Habitat Conservation Plan (SSHCP). The Program 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 Program 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 ILF Program. The RGP is premised on the approval of an activity by the Corps under the ILF Program, as proposed by the ILF program sponsor. This RGP eliminates the need for the ILF program sponsor to seek separate authorization from the Corps for those activities approved by the Corps under the ILF program. This RGP will reduce time and paperwork, and improve efficiency for the Corps and ILF program sponsor for activities approved under the ILF program.

**BACKGROUND:** The ILF program involves the establishment, re-establishment, rehabilitation, and enhancement of aquatic resources to provide compensatory mitigation for activities authorized under Department of the Army (DA) permits within the ILF Program Area. This RGP would cover activities associated with implementation of ILF projects reviewed under the ILF program. The ILF program was developed in coordination with the South Sacramento Habitat Conservation Plan (SSHCP). The SSHCP is a regional approach to address issues related to planned development and species habitat conservation, consisting of the SSHCP, a local Aquatic Resources Program and the 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.

**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 ILF program.

**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 under the 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 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, unless approved in writing by the IRT.

**TERMS OF AUTHORIZATION:**

1. Activity Completion: Activities authorized by the Corps under this RGP may be conducted until the expiration date of the RGP.
2. RGP Authorization: The discharges of dredged and/or fill material into waters of the U.S. associated with implementation of the ILF program are verified under this RGP when the Corps, as chair of the IRT, approves the ILF project.
3. 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.

4. 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 the ILF program sponsor has designed and implemented activities to comply with all applicable avoidance and minimization measures contained in Chapter 5 of the SSHCP.

5. 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](http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/2017/nwp2017_final_rule_FR_06jan2017.pdf?ver=2017-01-06-092409-457)

6. 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 the ILF program sponsor, 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 Biological Opinion (BO) covering this RGP. 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](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 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 May 16, 2024. 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 RGP 15, please contact the U.S. Army Corps of Engineers, Sacramento District.

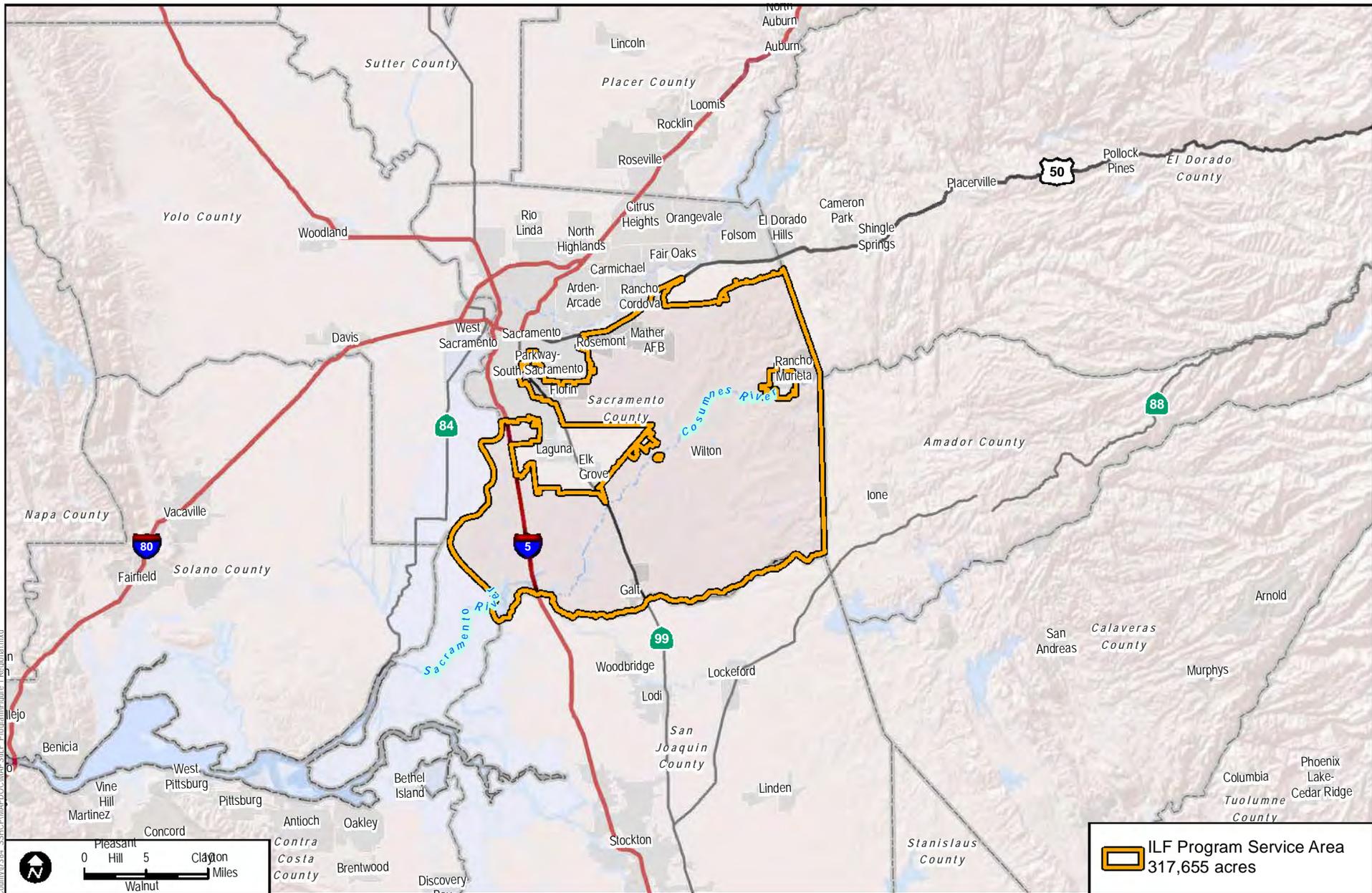
This permit becomes effective when the federal official, designated to act for the Secretary of the Army has signed below.



Michael G. Nepstad  
Acting Chief, Regulatory Division  
Sacramento District

May 16, 2019

Date



**FIGURE 1**  
**South Sacramento ILF Program Area**