



Regional General Permit 2

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

RESERVOIR MAINTENANCE ACTIVITIES

EFFECTIVE DATE: September 9, 2020

EXPIRATION DATE: September 9, 2025

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-2020-00349

AUTHORITY: Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

PURPOSE: This Regional General Permit (RGP) authorizes activities involving the discharge of dredged or fill material into waters of the United States, including wetlands, to maintain existing reservoirs. For this RGP, a reservoir is defined as an enlarged natural or artificial lake, pond, or impoundment created by a dam to store water for the purpose of recreation, energy supply, water supply, and/or flood control. Maintenance activities would have minimal impacts on the aquatic environment, individually and cumulatively.

LOCATION: All reservoirs within the Sacramento District boundary of the State of California. This does not include Lake Tahoe.

ACTIVITIES COVERED: This RGP authorizes temporary and permanent discharges of dredged or fill material into waters of the United States, including wetlands, to maintain a reservoir's intended purpose. Activities include:

1. Removal of accumulated vegetation, debris, and sediment within the reservoir, including in-reservoir disposal of the dredged material;
2. Maintenance, including relocation, of roads and utility lines;
3. Maintenance, including relocation, of temporary and permanent water supply intakes and attendant features;
4. Maintenance, including relocation, of temporary and permanent recreational facilities and attendant features;
5. Maintenance, including relocation, of temporary and permanent structures and fills necessary to conduct inspections and provide work access;

6. Extension or relocation of any existing structures or fills within the reservoir in response to low water levels.
7. Construction of new structures or fills within the reservoir, provided the new structures or fill do not convert waters of the U.S. to non-waters of the U.S. and do not increase the elevation of the reservoir.

TERMS:

1. Avoidance and Minimization: Activities must be designed and constructed to minimize adverse effects to waters of the U.S. to the maximum extent practicable.
2. Compensatory Mitigation: Compensatory mitigation may be required for permanent or temporary discharges of dredged or fill material that convert waters of the U.S. to non-waters of the U.S.
3. Dewatering Activities: Discharges of dredged or fill material into waters of the U.S. shall, to the extent practicable, be conducted when the work area is dewatered.

GENERAL CONDITIONS:

1. **Notification**: You shall submit a pre-construction notification (PCN) to this office prior to commencement of construction activities in waters of the U.S. requiring a permit. The PCN shall contain the information identified in the "Pre-Construction Notification Procedures" section below. You shall not commence construction activities in waters of the U.S. requiring a permit until you have received written notification from this office that the proposed activity is authorized under RGP 2.
2. **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.
3. **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.
4. **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.
5. **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.

6. **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 reservoir maintenance activities, you shall ensure that the PCN contains information on how impacts to aquatic life movements will be avoided and/or minimized.

7. **Spawning Areas.** You shall avoid activities in spawning areas during spawning seasons to the maximum extent practicable. For reservoir maintenance activities 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.

8. **Tribal Rights:** You shall ensure that the reservoir maintenance activities does not impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. **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.

10. **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.

11. **Transfer of RGP Verification:** If you sell the property associated with a general permit verification, you may transfer the RGP verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the RGP verification must be attached to the letter, and the letter must contain the following statement and signature:

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)

12. **Compliance Certification:** Within 30 days following installation of the reservoir maintenance activities, you shall submit a signed copy of the Compliance Certificate located in Attachment A, regarding the completed work. The certification shall also contain:

a. As-built drawings of the reservoir maintenance activities, 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.

b. Numbered and dated post-construction color photographs of the reservoir maintenance activities. 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.

PRE-CONSTRUCTION NOTIFICATION PROCEDURES:

1. You must submit a Pre-Construction Notification (PCN) prior to beginning any work. The PCN shall be submitted to the appropriate office identified in the *Contacts and Additional Information* section below. The PCN package must be submitted to the Corps in electronic format (pdf), (either through email (if less than 25 MB), posting to a Corps-accessible FTP site, or submittal of a DVD). Email submittal of the application should be sent to: SPKRegulatoryMailbox@usace.army.mil. If you need assistance in completing any portion of the PCN, please contact this office. The PCN 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 authorization of an agent, if applicable;

c. Location of the proposed activity, 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 complete description of the proposed activities, the area (acre) of proposed discharge below the ordinary high water mark of the reservoir, the type and amount (in cubic yards) of material proposed to be discharged below the ordinary high water mark of the reservoir, the date(s) work would occur within the reservoir, and methods and equipment proposed to be used for the installation;

e. A vicinity map, plan-view and cross-section drawings clearly depicting the location, size and dimensions of the proposed activities. The drawings shall contain a title block, legend and scale, nearby structures, parcel boundaries, and dimensions of the proposed activities. All drawings shall clearly depict the location of the ordinary high water mark of the reservoir. 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. 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.

g. A description of impacts from the proposed reservoir maintenance activities 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*), yellow-billed Cuckoo (*Coccyzus americanus*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), Sacramento River winter-run Chinook salmon (*O. tshawytscha*), Central Valley steelhead (*O. mykiss*), green sturgeon (*Acipenser medirostris*), and Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*). 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 U.S. Fish and Wildlife Service (USFWS) Environmental Conservation Online System (<https://ecos.fws.gov/ecp>) and the West Coast Regional Office of the National Marine Fisheries Service (NMFS) (<http://www.westcoast.fisheries.noaa.gov/>). The Sacramento District 2018, *ESA Information Guidelines for the Regulatory Program*, provided additional information regarding requirements for

consultation for compliance with Section 7 of the Endangered Species Act (see <https://www.spk.usace.army.mil/Portals/12/documents/regulatory/references/2018.03.22.ESAGuidelines.pdf?ver=2018-03-28-173448-713>). The information submitted must include the following:

- (1) A description of the proposed action;
 - (2) All areas to be affected directly or indirectly by the Federal Action ;
 - (3) Information obtained by or in the possession of you on the listed species and designated critical habitat in the action area
 - (4) A description of the effects of the action and an analysis of any cumulative effects;
 - (5) Any other relevant Information, including other information on the effects of the proposed action;
- h. 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 Sacramento Districts *Guidelines for Compliance with Section 106 of the National Historic Preservation Act* (<https://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Cultural-Resources-Agency-Consultation/>)
- i. A description of how the activities will comply with each of the permit conditions of this RGP;
- j. For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized civil works project, the pre-construction notification must include a statement confirming that you have submitted a written request for Section 408 permission from the Corps office having jurisdiction over that USACE project. Please note that if the activity requires Section 408 permission, this office cannot authorize the activity under this RGP until the Section 408 permission has been received.
- k. If the applicant is not the owner of the reservoir, the pre-construction notification must include a statement from the owner of the reservoir that the proposed activity is to maintain the reservoir's intended purpose.

2. Within 30-days following receipt of the PCN, this office will notify you via letter or email if:

- a. The project may qualify for authorization under this RGP;
- b. The PCN is complete; and
- c. 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.

If the project does not qualify for authorization under this RGP, the notification will specifically identify the information necessary to review your application as an Individual Permit.

3. Within 30-days following receipt of a complete PCN, 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 or receipt of a Section 408 permission, or, if consultation and Section 408 permission 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, general conditions, and any special conditions.

FURTHER INFORMATION:

1. District Engineers have the authority to determine if an activity complies with the terms and conditions of this RGP.
2. This RGP does not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.
3. This RGP does not grant any property rights or exclusive privileges.
4. This RGP does not authorize any injury to the property or rights of others.
5. This RGP does not authorize interference with any existing or proposed Federal project.
6. Limits of Federal Liability. In issuing this RGP and authorizing any activity under 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.
7. Reevaluation of Permit Decision. This office may reevaluate its decision on this RGP 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.
8. 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.

PERMIT DURATION: This permit is valid for 5 years from issuance and will expire on **September 9, 2025**. 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.

CONTACTS AND ADDITIONAL INFORMATION: PCNs may be submitted via email to the Regulatory Division at spk-regulatory-info@usace.army.mil. For questions, please contact us by phone at 916-557-5250, or by email. For an updated list of Sacramento District contacts, please visit our website at <http://www.spk.usace.army.mil/missions/regulatory>.

ATTACHMENTS:

Attachment A: Compliance Certification

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



Michael S. Jewell
Chief, Regulatory Division

09 September 2020

Date

ATTACHMENT A

Compliance Certification