



Placer County HCP/NCCP Programmatic General Permit

U.S. ARMY CORPS OF ENGINEERS

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MINIMAL IMPACT COVERED ACTIVITIES UNDER THE PLACER COUNTY HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN

EFFECTIVE:

EXPIRES: (5 years from effective date)

The U.S. Army Corps of Engineers, Sacramento District (Corps), hereby issues a programmatic general permit (PGP) for certain covered activities identified in the Placer County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), under the Placer County Conservation Program (PCCP), that result in 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.

An activity is verified under the PGP when Placer County or the City of Lincoln approve a local **(NAME OF AUTHORIZATION FROM CARP)**, in compliance with the **DATE**, County Aquatic Resources Program (CARP), implementing ordinances, and all applicable terms and conditions of the HCP/NCCP.

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

ACTION ID: SPK-2005-00485

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

LOCATION: The PCCP Plan Area encompasses approximately 270,000 acres within western Placer County and eastern Sutter County. Within western Placer County, the Plan Area is bounded on the north by Nevada and Yuba County, on the east by the City of Auburn and California Highway 49, on the south by Sacramento County, and on the west by Sutter County. With the exception of activities conducted by the Placer County Water Agency (PCWA), the Plan Area in western Placer County excludes the Cities of Auburn, Rocklin, and Roseville and Town of Loomis. Within Sutter County, the Plan Area includes 1,724 acres along the Coon Creek floodplain, and 33 miles of Auburn Ravine, Coon Creek, Cross Canal, and East Side Canal. The Plan Area Boundaries can be seen on the enclosed **2016, Figure 1-1, Plan Area, Placer County Conservation Program – EIS/EIR**, prepared by ICF.

PURPOSE: This PGP is intended to minimize duplication between the implementation of the CARP under Placer County and City of Lincoln implementing ordinances, and the Corps Regulatory Program, for authorization of HCP/NCCP Covered Activities subject to CWA 404 that are substantially similar in nature, and would result in minimal individual and cumulative impacts on the aquatic environment. The PGP is premised on the CARP as implemented under local ordinances, resulting in the same or better level of protection of waters of the U.S. as currently exists under CWA 404. Subject to certain exclusions and conditions, the PGP eliminates the need for project applicants to seek separate review from the Corps for many activities that result in minimal impacts to waters of the U.S., when such activities are authorized by Placer County or the City of Lincoln in compliance with the CARP and implementing ordinances. In addition to reducing duplication with the CARP, the PGP is designed to

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expedite review of certain covered activities through other programmatic elements, such as compliance with Section 7 of the federal Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA). The PGP will increase certainty, reduce time, and improve efficiency for project applicants through synergies with processes implemented by local jurisdictions, such as those associated with land use entitlements, while protecting aquatic resources.

BACKGROUND: The PCCP is a regional approach to address issues related to planned development and species habitat conservation, consisting of the HCP/NCCP, CARP, and an In-Lieu Fee (ILF) program. The HCP/NCCP provides coverage for fourteen species of plants and wildlife, including seven that are federally-listed as threatened or endangered. The Plan Permittees consist of Placer County, the City of Lincoln, South Placer Regional Transportation Authority (SPRTA), and PCWA. The U.S. Fish and Wildlife Service's Sacramento Field Office (USFWS) and National Marine Fisheries Service (NMFS) [have approved] the HCP/NCCP through a species incidental take permit (ITP) issued to the PCCP's Plan Permittees under Section 10 of the ESA. The CARP provides a program, implemented by Placer County and the City of Lincoln through local implementing ordinances, to evaluate activities that would impact aquatic resources considered to be waters of the U.S. or waters of the State. The ILF program provides compensatory mitigation for impacts associated with the Covered Activities, through funds paid to Placer County or the City of Lincoln.

ACTIVITIES COVERED: This PGP applies only to HCP/NCCP Covered Activities that would result in minimal individual and cumulative impacts on the aquatic environment, and have been authorized under the CARP. HCP/NCCP Covered Activities are described briefly below and in greater detail in Chapter 2.6 of the HCP/NCCP.

1. Valley Potential Future Growth (PFG) Area: Discharges of dredged and/or fill material into waters of the U.S. associated with rural and urban land uses within the Valley PFG area in Plan Area A1, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*. Specific activities included in this PGP within the Valley PFG include those Covered Activities identified in Chapter 2.6, Section 2.6.1 of the HCP/NCCP.

2. Valley Conservation and Rural Development Area: Discharges of dredged and/or fill material into waters of the U.S. associated with rural and urban land uses within the Valley Conservation and Rural Development Area in Plan Area A2, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*. Specific activities included in this PGP within the Valley Conservation and Rural Development Area include those Covered Activities identified in Chapter 2.6, Section 2.6.2 of the HCP/NCCP.

3. Foothills PFG Area: Discharges of dredged and/or fill material into waters of the U.S. associated with rural and urban land uses within the Foothills PFG area in Plan Area A3, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*. Specific activities included in this PGP within the Foothills PFG include those Covered Activities identified in Chapter 2.6, Section 2.6.3 of the HCP/NCCP.

4. Foothills Conservation and Rural Development: Discharges of dredged and/or fill material into waters of the U.S. associated with rural and urban land uses within the Foothills Conservation and Rural Development area in Plan Area A4, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*. Specific activities included in this PGP within the

Foothills PFG include those Covered Activities identified in Chapter 2.6, Section 2.6.4 of the HCP/NCCP.

5. Regional Public Programs: Discharges of dredged and/or fill material into waters of the U.S. associated with rural and urban land uses within Plan Area A or B, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*. Specific activities included in this PGP for Regional Public Programs include those Covered Activities identified in Chapter 2, Section 2.6.5 of the HCP/NCCP.

6. In-Stream Activities: Activities resulting in the discharge of dredged and/or fill material into waters of the U.S. for activities within streams, reservoirs, or on-stream ponds in Plan Area A or B, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*, and as described in Chapter 2, Section 2.6.6 of the HCP/NCCP, including, but not limited to, maintenance activities in the stream channel, along the streambank, and on adjacent waters of the U.S. within the riparian corridor. These activities may include those described in 1 through 5 above.

7. Conservation Programs: Activities resulting in the discharge of dredged and/or fill material into waters of the U.S. associated with implementing the conservation strategy identified in Chapter 5 of the HCP/NCCP in Plan Area A or B, as shown on the 2016, *Figure 2-1 Plan Area Components, Placer County Conservation Program – EIS/EIR*, including, but not limited to, habitat enhancement, restoration, creation, translocation, and reserve management, and other activities, as described in Chapter 2, Section 2.6.7 of the HCP/NCCP.

EXCLUSIONS:

1. This PGP may not be used to authorize discharges of dredged and/or fill material into waters of the U.S. for activities that do not require authorization from Placer County or the City of Lincoln under the CARP or implementing ordinances.
2. This PGP may not be used to authorize activities not covered by the HCP/NCCP unless such activities receive coverage pursuant to Section 8.9.6 of the HCP/NCCP.
3. After-the-fact authorizations: This PGP 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 PGP are valid until the expiration date of the PGP or the expiration date of the CARP authorization issued by Placer County or the City of Lincoln. Activities authorized under this PGP that are under construction, or under contract for construction in reliance upon this authorization, will remain authorized provided the activity is completed within 12 months of expiration of the PGP.
2. Applying for PGP Authorization: Prior to commencing a proposed activity, project applicants seeking authorization under this PGP shall notify Placer County or the City of Lincoln as required in the CARP and implementing ordinances, in accordance with PGP General Condition number 5 (*Notification*).

3. Compliance with Placer County HCP/NCCP Conditions: Activities to be authorized under this PGP must be Covered Activities as identified above and Chapter 2.6 of the HCP/NCCP, and must comply with any applicable terms and conditions contained in the HCP/NCCP, CARP, and implementing ordinances. Project applicants must receive written concurrence from Placer County or the City of Lincoln that the proposed project is eligible for coverage under the HCP/NCCP. Compliance with the HCP/NCCP requires project applicants to implement the applicable and appropriate avoidance and minimization measures contained in Chapter 6 of the HCP/NCCP, and other applicable terms and conditions as contained in the HCP/NCCP.

4. Discretionary Authority: The Corps has the discretion to suspend, modify, or revoke authorizations under this PGP. This discretionary authority may be used by the Corps to further condition or restrict the applicability of the PGP 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 PGP 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, Regional 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 PGP 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 PGP 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 PGP, notwithstanding the Corps' discretionary authority described above, this term shall be considered satisfied when project applicants have designed and implemented activities to comply with all applicable avoidance and minimization measures contained in both Chapters 5 and 6 of the HCP/NCCP, the CARP, and local implementing ordinances.

6. Impact Thresholds for Losses of Waters of the U.S.: Loss of waters of the U.S. shall be determined using the definition in 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.

a. Except for as specified in 6(a)(1) through (3), 6(b), and 6(c) below, the loss of waters of the U.S. (including wetlands) resulting from authorization of a single and complete project under this PGP shall not exceed a total of 3.0 acres, and the loss of streambed shall not exceed 500 linear feet of perennial, intermittent, or ephemeral streams, and/or a total of 1,000 linear feet of irrigation or drainage ditch (provided the irrigation or drainage ditch is not a relocated or channelized stream), as verified by the Corps. The acreage of loss of streambed for streams and/or ditches shall be included in the acreage threshold for loss of waters of the U.S.

(1) The loss of vernal pool waters of the U.S., as verified in writing by the Corps, resulting from authorization of a single and complete project under this PGP shall not exceed 1.0 acre.

(2) The loss of irrigated wetlands in existing and active rice fields that are considered to be waters of the U.S., as verified in writing by the Corps, resulting from authorization of a single and complete project under this PGP shall not exceed 3.0 acres.

(3) The loss of all other waters of the U.S. not identified in 6(a)(1) and/or 6(a)(2), as verified in writing by the Corps, resulting from authorization of a single and complete project under this PGP shall not exceed 2.0 acres.

b. No loss of vernal pool waters of the U.S., as verified in writing by the Corps, as a result of a single and complete project, is authorized under this PGP within the Lower American River 8-digit hydrologic unit code (HUC) watershed (HUC 18020111), as identified by the U.S. Geological Survey.

c. The cumulative loss of waters of the U.S. authorized by this PGP shall not exceed 90 acres of waters of the U.S., including wetlands, within the Plan Area. The cumulative loss of vernal pool waters of the U.S. authorized by this PGP shall not exceed 15 acres. Additional restrictions are listed in the General Conditions, below.

7. Single and Complete: The activity must be a single and complete linear or non-linear project, as defined in 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

8. Section 401 Water Quality Certification: In order for authorization to be valid under this PGP, 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 PGP (see General Condition 10 [*Water Quality Certification*]).

9. Reporting Requirements: Placer County and the City of Lincoln shall submit reports to the Corps documenting usage of the PGP. Reporting will include the activity name, type of HCP/NCCP covered activity, acreage and/or linear feet of permanent and temporary discharges of dredged and/or fill material into waters of the U.S. by aquatic resource type, acreage and/or linear feet of loss of waters of the U.S. by aquatic resource type, and evidence of the permittees fulfillment of CWA 404 compensatory mitigation requirements. Reporting shall be provided on a quarterly basis for Year 1, biannually for Year 2, and annually for Years 3-to-5 of this PGP. For this PGP to be applicable, a memorandum of understanding between the Corps, Placer County, and City of Lincoln will need to be executed to record processing, tracking, and reporting of HCP/NCCP Covered Activities.

GENERAL CONDITIONS:

1. Notification: The prospective project applicant shall submit an application to Placer County or the City of Lincoln in accordance with the procedures specified in the CARP and implementing ordinances. No notification is required to be made to the Corps, except as provided by General Condition 4.

2. Compensatory Mitigation: Compensatory mitigation for impacts to waters of the U.S. shall be accomplished at the ratios specified in the *Compensatory Mitigation Standards* specified in the CARP and implementing ordinances (which mirror requirements contained in the HCP/NCCP), and shall be accomplished by payment into a Corps-approved HCP/NCCP ILF program.
3. Compliance Inspections: The project applicant 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 project applicant at least 48 hours advance of an inspection.
4. Threatened and Endangered Species: No activity is authorized under this PGP 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 PGP must comply with the mandatory terms and conditions of the USFWS and NMFS [to be sought by initiation for programmatic Section 7 ESA consultation] [programmatic Biological Opinion (BO) for this PGP] (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 PGP. Authorization under this PGP is conditional upon your compliance with all of the mandatory terms and conditions of the Biological Opinion. Failure to comply with the terms and conditions of the Biological Opinion would constitute non-compliance with the PGP. The USFWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of their Biological Opinion, and with the ESA. The project applicant must comply with all applicable conditions of these Biological Opinions, including those ascribed to the Corps.
5. Historic Properties: No activity is authorized under the PGP 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)), project applicants 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 consist of the application identified in General Condition 5, and two hard copies and one electronic copy of a cultural resources report meeting 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.
6. 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 Placer County or the City of Lincoln, with a copy provided to the Corps, to validate the transfer. A copy of the CARP authorization must be attached to the letter, and 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 programmatic general permit (PGP) are still in existence at the time the property is transferred, the terms and conditions of this PGP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this PGP

and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

7. Wetland and Stream Avoidance and Minimization: Project applicants shall establish wetland and Stream System avoidance and minimization measures as described in the HCP/NCCP, CARP and implementing ordinances. Associated terms of the local CARP and implementing ordinances concerning avoidance and minimization measures, including (but not limited to) land use, allowable uses within the Stream System, exemptions, and waivers shall apply as described in the CARP and implementing ordinances. These terms shall meet or exceed all applicable standards and terms contained within Chapter 6 of the HCP/NCCP.

8. 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.

9. Discovery of Previously Unknown Remains and Artifacts (or - Unanticipated Cultural Resources Discoveries): If the permittee discovers any previously unknown historic, cultural or archeological remains and/or artifacts while accomplishing the activity authorized by this PGP, the permittee 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. Notification to the Corps shall include a copy of the CARP authorization issued by Placer County or the City of Lincoln. 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.

10. 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 PGP. The project applicant 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 PGP.
 - 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 PGP is not contrary to the public interest was made in reliance on the information provided by the HCP/NCCP Plan Permittees.

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

a. The project applicant fails to comply with the terms and conditions of this permit.

b. The information provided by the project applicant in support of a 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 PGP 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 PGP for another five years with or without modification, or not reissuing the PGP. If the Corps has not reissued the PGP by the expiration date, the PGP will no longer be valid. This PGP may also be modified, suspended, or revoked by the Corps at any time deemed necessary. In such instance, the Corps will issue a public notice concerning the proposed action. Authorizations under this PGP are valid until the permit expires. An activity authorized by this PGP that has commenced, or is under contract to commence, will have 12 months from the date of the PGP expiration to be completed.

CONTACTS AND ADDITIONAL INFORMATION: For additional information about this PGP, 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 S. Jewell
Chief, Regulatory Division
Sacramento District

Date

DRAFT