



Regional General Permit [#]

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

Minimal Impact Activities Conducted under the Placer County Conservation Program 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 minimal impact activities conducted under the Placer County Conservation Program (PCCP) In-Lieu Fee (ILF) Program, resulting 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. The activities authorized would be conducted to meet the Conservation Strategy as identified in the Placer County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP).

An activity is verified under the RGP when the Corps, as the Chair of the interagency review team (IRT) of the PCCP ILF Program, approves the ILF Site under the ILF Program.

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, Loomis, Rocklin, and Roseville. 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 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, in consultation with the IRT, under the ILF Program, conducted by the Placer Conservation Authority (PCA) in partnership with the HCP/NCCP Permittees (Placer County, City of Lincoln, South Placer Regional Transportation Authority [SPRTA], and PCWA). This RGP eliminates the need for project applicants 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, PCA, and the HCP/NCCP Permittees for those activities approved under the ILF Program.

BACKGROUND: The PCCP is a regional approach to address issues related to planned development and species habitat conservation, consisting of the HCP/NCCP, County Aquatic Resources Program (CARP), and the 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 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 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. The activities authorized under this RGP includes only those activities required to meet the conservation strategy identified in Chapter 7 of the HCP/NCCP.

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 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 comply with the conservation strategy identified in Chapter 7 of the HCP/NCCP, as determined by the U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and National Marine Fisheries Service.
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 are valid until the expiration date of the RGP or by the date identified by the Corps in the approved ILF project documentation appended to the ILF Program instrument, whichever date is sooner. If approved by the Corps under the ILF Program, activities authorized under this RGP 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 RGP.
2. RGP Authorization: Concurrent with Corps approval of an ILF project resulting in discharges of dredged and/or fill material into waters of the U.S.

3. Compliance with Placer County HCP/NCCP Conditions: Activities to be authorized under this RGP must meet the conservation strategy identified in Chapter 7 of the HCP/NCCP.

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 aquatic resources 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 NWP, 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 have designed and implemented activities to comply with all applicable avoidance and minimization measures contained in Chapters 5 and 6 of the HCP/NCCP.

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. Permit Transfer: If an ILF site 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)

2. 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.

3. 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 RGP, 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.

4. 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. 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 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 provided by the HCP/NCCP Plan Permittees.
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. 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 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 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.

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

DRAFT