



Regional General Permit 1

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

WILDFIRE ACTIVITIES

EFFECTIVE: [DATE]

EXPIRES: [5 years from effective]

The U.S. Army Corps of Engineers Los Angeles, Sacramento, and San Francisco Districts (Districts) hereby issue Regional General Permit 1 authorizing activities involving the discharge of dredged or fill material into waters of the United States, including wetlands, and/or work in or affecting navigable waters of the United States for wildfire protection, prevention, response, clean-up, and restoration in the State of California.

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 appropriate District office identified in the *Contacts and Additional Information* section.

ISSUING OFFICE: U.S. Army Corps of Engineers Los Angeles, Sacramento, and San Francisco Districts.

ACTION ID: SPK-2022-00120

AUTHORITIES: Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States.

LOCATION: All waters of the United States, including navigable waters, within the State of California.

ACTIVITIES COVERED: Wildfire activities, including protection, prevention, response, clean-up, and restoration that involve the discharge of dredged or fill material into waters of the United States, including wetlands, and/or work in or affecting navigable waters of the United States. See *Table 1*.

Table 1: Wildfire Activities Covered under RGP 1

	Prevention & Protection	Response	Clean-up & Restoration
Electric Utility and Telecommunication Lines	Maintenance, replacement, or improvement of electric utility or telecommunication lines including overhead to underground conversion, and associated facilities such as substations, foundations, towers, poles, and anchors.	Repair, replacement, or removal of electric utility or telecommunication lines and associated facilities, including substations, foundations, towers, poles, and anchors, with allowances for minor deviations.	Repair, replacement, removal, or restoration of existing electric utility or telecommunication lines, including overhead to underground conversion, and associated facilities.
Water/Other Substances Utility Lines	Maintenance, replacement, or improvement of utility lines for water and other substances and associated facilities such as outfalls, intakes, lift stations, and foundations.	Repair, replacement, or removal of utility lines for water and other substances and associated facilities such as outfalls, intakes, lift stations, and foundations.	Repair, replacement, removal, or restoration of utility lines for water and other substances, and associated facilities.
Oil and Natural Gas Pipelines	Maintenance, replacement, or improvement of oil or natural gas lines and associated infrastructure, such as substations and foundations.	Repair, replacement, or removal of oil or natural gas lines and associated infrastructure, such as substations and foundations.	Repair, replacement, removal, or restoration of oil or natural gas lines and associated infrastructure.
Permanent Access	Construction, maintenance, replacement, or improvement of permanent access areas, such as roads, ramps, culverts, bridges, and boardwalks.	Repair, replacement, or removal of permanent access areas, such as roads, ramps, culverts, bridges, and boardwalks.	Repair, replacement, removal, or restoration of permanent access areas.
Temporary Access, Staging, and Stockpile	Construction or maintenance of temporary access, staging, and stockpile areas, such as unpaved roads, ramps, bridges, boardwalks, wetland protection matting, and laydown areas.	Construction or maintenance of temporary access, staging, and stockpile areas, such as unpaved roads, ramps, bridges, boardwalks, wetland protection matting, and laydown areas.	Construction, maintenance, or removal of temporary access, staging, and stockpile areas, including restoration of the affected area.

Dewatering Structures	Installation or maintenance of temporary dewatering structures, including cofferdams, bladder dams, diversion tunnels/pipes, and sheet piles.	Installation, maintenance, repair, or replacement of temporary dewatering structures, including cofferdams, bladder dams, diversion tunnels/pipes, and sheet piles.	Installation, maintenance, repair, or replacement of temporary dewatering structures and restoration of the affected area.
Sediment/Debris Removal	Mechanical or hydraulic removal of sediment or debris, such as excavating, dredging, or pumping, and associated return water from an upland contained dredged material disposal area.	Mechanical or hydraulic removal of sediment or debris, such as excavating, dredging, or pumping, and associated return water from an upland contained dredged material disposal area.	Mechanical or hydraulic removal of sediment or debris and associated return water from an upland contained dredged material disposal area.
Vegetation Removal	Mechanical removal of vegetation.	Mechanical removal of vegetation.	Mechanical removal of vegetation.
Fire/Fuel Breaks	Construction, maintenance, replacement, or improvement of fire and/or fuel breaks.	Construction, repair, replacement, or improvement of fire and/or fuel breaks.	Repair, replacement, or restoration of fire and/or fuel breaks.
Bank Stabilization	None	None	Construction of 100% bioengineered new bank stabilization (when practicable) or maintenance, repair, replacement, or improvement of existing bank stabilization with a minimum combination of hard armor and bioengineering.
Development Structures	None	None	Repair, replacement, removal, or restoration of residential, commercial, industrial, and institutional development structures.

In accordance with 33 CFR 322.2(f)(1) and 33 CFR 323.2(h)(1), this RGP authorizes activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts when conducted under the terms and conditions of this permit.

EXCLUSIONS:

1. **Repair Damaged Uplands:** This RGP cannot be used to reclaim lands lost to normal erosion processes over an extended period.

2. Debris Retention Structures: This RGP does not authorize the construction of new permanent debris retention structures in waters of the United States. New permanent structures must be specifically approved by this office under separate authorization.

3. Stream Channelization and Relocation: This RGP does not authorize new stream channelization or stream relocation projects. Stream channelization or relocation must be specifically approved by this office under separate authorization.

4. Electric and Telecommunication Lines: This RGP does not authorize the construction of new electric utility lines or telecommunication lines in areas where they currently do not exist. Existing above ground lines proposed to be buried or replaced in-kind would be considered improvement or replacement. New electric utility lines or telecommunication lines must be specifically approved by this office under separate authorization.

TERMS OF AUTHORIZATION:

1. Avoidance and Minimization: Activities must be designed and constructed to minimize adverse effects to waters of the U.S., including navigable waters, to the maximum extent practicable.

2. Section 401 Water Quality Certification: Water quality certification (WQC) is required by Section 401 of the Clean Water Act, for an activity which may result in a discharge from a point source into waters of the United States. This office will send letters to certifying agencies (i.e., states, authorized tribes, or EPA region, as appropriate) to request water quality certification for this RGP. Water quality certification for this RGP may be granted without conditions, granted with conditions, denied, or waived. If a certifying agency denies WQC, then the discharges are not authorized unless and until a project proponent obtains individual WQC for the specific discharge, or a waiver occurs.

3. Thresholds: Loss of waters of the U.S., including the loss of streambed, shall be determined using the definition in Section F of the March 15, 2021, *Federal Register Notice for Reissuance and Modification of Nationwide Permits; Final Rule (86 FR 2744)*, which can be found at: <https://www.federalregister.gov/documents/2021/01/13/202100102/reissuance-andmodification-of-nationwide-permits>.

a. Loss of waters of the U.S., including wetlands, shall not exceed 0.5 acre or 300-linear feet of streambed; and,

b. The linear foot loss of streambed shall be included in the 0.5-acre threshold for loss of waters of the U.S.

4. Restoration: To be authorized by this RGP, restoration activities must restore the aquatic resource to pre-fire conditions (e.g., the same stream width, depth, slope, and vegetation), to the maximum extent practicable, and must resemble an appropriate aquatic ecological reference site. An ecological reference may be based on the characteristics of one or more intact aquatic habitats or riparian areas of the same type that exist in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area. This office retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this permit.

5. Bank Stabilization: Any activity that involves new bank stabilization shall be done using bioengineered design techniques, such as vegetative plantings, root wads, and/or large woody debris, unless determined to be not practicable by this office. Bank stabilization must not be more than 1,000 feet along the length of the treated bank, below the plane of the ordinary high-water mark or the high tide line, unless this office waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects. Restoration of damaged bank stabilization must not exceed the contours or length that existed before the damage occurred.

6. Repair, Replacement, or Rehabilitation of Existing Structures or Fills: Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.

7. Removal of Accumulated Sediment, Debris, and Vegetation: The removal of sediment, debris, and/or vegetation is limited to the minimum necessary to restore the waterway. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States, unless otherwise specifically approved by this office under separate authorization. Proper sediment controls must be used (*see 401 water quality certification*).

8. Temporary Construction, Access, and Dewatering: Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if this office determines that it will not cause more than minimal adverse environmental effects. Following completion of construction, temporary fills must be removed, and the affected areas must be restored to pre-construction elevations. The affected areas must also be revegetated, as appropriate. Structures left in place after construction is completed require a separate section 10 permit if located in navigable waters of the United States. (*See 33 CFR part 322*).

9. Wetland Protection Matting: Mats must be adequately anchored, of sufficient weight, or installed in a manner that prevents relocation by expected high flows. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable. Temporary mats must be removed upon completion of the work, in accordance with the requirements for temporary fills.

10. Temporary and Permanent Access Roads: All access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this permit. Temporary access roads must be removed upon completion of the work, in accordance with the requirements for temporary fills.

11. Utility Line Activities: Material resulting from trench excavation may be temporarily side cast into waters of the United States for no more than 90 days, provided the material is not placed in such a manner that it is dispersed by currents or other forces. This office may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches

of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody. There must be no change in pre-construction contours of waters of the United States. This RGP authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities. These remediation activities must be done as soon as practicable, to restore the affected waterbody. This office may add special conditions to this permit to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities.

GENERAL CONDITIONS:

1. Pre-Construction Notification (PCN): Prior to commencing work in waters of the U.S., the permittee shall submit a PCN for the following activities:

- a. Discharges of dredged and/or fill material into special aquatic sites, including wetlands.
- b. Discharges of dredged and/or fill material into waters of the U.S. on Tribal lands.
- c. Discharges of dredged and/or fill material into perennial or intermittent streams exceeding 500 linear feet and into jurisdictional irrigation, water supply, or drainage ditches or canals exceeding 1,000 linear feet.
- d. Work in or affecting navigable waters of the United States.
- e. New bank stabilization, where none previously existed, that does not incorporate bioengineering techniques.
- f. Activities that would occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status.
- g. Activities that require permission from, or review by, 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 (a "USACE project").
- h. Activities that have the potential to adversely affect Essential Fish Habitat (EFH), as designated by the Pacific Fishery Management Council.
- i. Activities that may affect federally listed as threatened or endangered species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation), pursuant to Section 7 of the Federal Endangered Species Act (ESA); or,
- j. Activities which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, pursuant to Section 106 of the National Historic Preservation Act (NHPA).

Activities requiring PCN may not proceed under the authority of this RGP until you have been notified, in writing, by this office that the activity is authorized.

2. Navigation: No activity may cause more than a minimal adverse effect on navigation. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

3. Mitigation: This office will determine the need for appropriate and practicable compensatory mitigation necessary to ensure that adverse effects on the aquatic environment are minimal. 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. Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to an herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level. You may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, you must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR Part 332.

4. Discovery of Previously Unknown Remains and Artifacts: If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by this RGP, you must immediately notify this office of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. We 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.

5. Proper Maintenance: You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity or sell the property associated with this permit. You may make a good faith transfer to a third party. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

6. Aquatic Life Movements: No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and

constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

7. Spawning Areas: Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

8. Migratory Birds and Breeding Areas: Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee is responsible for ensuring that the action authorized by this permit complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

9. Suitable Material: No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

10. Adverse Effects from Impoundments: If the activity creates an impoundment of water, adverse effects to the aquatic ecosystem due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

11. Fills Within 100-Year Floodplains: The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

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

13. Soil Erosion and Sediment Controls: Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high-water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

14. Single and Complete Project: The activity must be a single and complete linear or nonlinear project, as defined in the Section F of the March 15, 2021, Federal Register Notice for Reissuance and Modification of Nationwide Permits; Final Rule (86 FR 2744), which can be found at: <https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits>.

15. Wild and Scenic Rivers: No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and

Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

16. Endangered Species: No activity is authorized which may 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 Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized which "may affect" a listed species or critical habitat unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action." Authorization of an activity by this RGP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the ESA prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their web pages at: <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/>.

17. Historic Properties: No activity is authorized which may have the potential to cause effects to 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) have been satisfied.

18. Inspections: You must allow representatives from this office 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 this permit.

19. 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.

20. Water Quality Certification: You shall comply with all terms and conditions of the attached [DATE], Section 401 General Water Quality Certification (*ID Number XXX*), which is expressly incorporated as condition of this RGP. If you cannot comply with the terms and conditions of this 401 WQC, then you must obtain individual 401 WQC, or waiver thereof, for the activity to be authorized by this RGP.

21. Post-construction Report: For activities that require PCN, you shall submit a post-construction report to this office, documenting all completed activities authorized by this RGP, within 45-days of

completing work and/or the discharge of dredged and/or fill material in waters of the United States. The report shall include:

a. Description of any completed emergency work, including:

(1) names, addresses, and telephone numbers of the persons who completed the work.

(2) location of the work.

(3) direct and indirect adverse environmental effects caused by the action, including the amount of loss of wetlands, other special aquatic sites, and other waters as a result of the activity, in acres, linear feet, or another appropriate unit of measure; and,

(4) a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the activity.

b. Date(s) work within waters of the U.S. was initiated and completed.

c. Summary of compliance status with each special condition of this permit (including any non-compliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance).

d. Color photographs (including map of photo points) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified (e.g., before and after photographs should have the same field of view and include the date the picture was taken).

e. One copy of "as built" drawings of the completed work in waters of the U.S. Electronic submittal (Adobe PDF format) is preferred. All sheets must be dated and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and

f. Signed *Certification of Compliance* (attached).

22. Permit Transfer: If the property associated with this permit is sold, you shall transfer the verification to the new owner by submitting a letter to this office 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)

PRE-CONSTRUCTION NOTIFICATION PROCEDURES:

1. You may choose to request a pre-application meeting with us and other resource agencies. To learn more about requesting a pre-application meeting, please visit the appropriate District office website, listed below under *Contacts and Additional Information*.

2. In accordance with General Condition 1, you shall submit an electronic PCN to the appropriate District office consisting of a written request for verification under this RGP. Electronic submittals shall be sent to the following:

Los Angeles District:

a. North Coast Branch/Ventura Field Office (Ventura, Santa Barbara, San Luis Obispo, Inyo, and Mono Counties): *splregventura@usace.army.mil*

b. Los Angeles and San Bernardino Counties Section (Los Angeles, San Bernardino, and Kern Counties): *splreglasb@usace.army.mil*

c. South Coast Branch/San Diego and Imperial Counties Section (San Diego County, Imperial County, Salton Sea): *splregcbad@usace.army.mil*

d. South Coast Branch/Orange and Riverside Counties Team (Orange County, Riverside County, Special Area Management Plans): *splregorcs@usace.army.mil*

e. Transportation & Special Projects Branch (High-Speed Train, Mid-County Parkway/South Orange County/ Caltrans): *splregtsp@usace.army.mil*

Sacramento District: *SPKRegulatoryMailbox@usace.army.mil*

San Francisco District: *CESPN-Regulatory-Info@usace.army.mil*

3. The PCN shall include a letter or a completed Department of the Army Permit Application Form (*ENG 4345*), requesting authorization under this RGP, and shall contain the following information to be considered complete:

a. name, address, and telephone numbers of the prospective permittee.

b. location of the proposed activity.

c. a description of the proposed activity as follows:

(1) the activity's purpose.

(2) direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the activity, in acres, linear feet, or another appropriate unit of measure.

(3) a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and,

(4) any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed activity or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification.

The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow this office to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

d. a brief narrative describing how the proposed activity is wildfire related, such as the name and date of the specific wildfire for which the proposed activities would occur or evidence of a Federal, State, or local abatement order, demonstrating the proposed activities are wildfire related.

e. a brief narrative describing how the proposed activity would comply with all General Conditions of this RGP, a statement identifying why the General Condition does not apply or a description of why compliance with the General Condition is not practicable. Failure to comply with a General Condition may result in this office determining the proposed activity does not qualify for authorization under this RGP and will be evaluated under an alternative process.

f. for linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by this RGP but do not require PCNs). This information will be used by this office to evaluate the cumulative adverse environmental effects of the proposed linear project and does not change those non-PCN activities into PCN activities.

g. sketches showing that the activity complies with the terms of the RGP. Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans.

h. a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland and Ordinary High Water Mark delineations must be prepared in accordance with the current method required by the Corps.

i. for an activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a USACE project, the PCN must

include a statement confirming that the prospective permittee has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

j. if the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must explain why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

k. for non-Federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For activities that require a PCN, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.

l. for non-Federal permittees, if the activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For activities that require a PCN, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act; and,

m. for an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river."

4. Within 15-days following receipt of the PCN, this office will notify you via letter or email if:

- a. The proposed activity may qualify for authorization under the RGP.
- b. The PCN is complete; and,

(1) If consultation under Section 7 of the ESA, Section 305(b)(4)(b) of the Magnuson Stevens Fisheries Conservation and Management Act (MSFCMA) and/or Section 106 of the National Historic Preservation Act (NHPA) is required; and,

(2) If the proposed activity does not qualify for authorization under the RGP, the notification will identify specific modifications necessary for the proposed activity to qualify for authorization under the RGP, and/or instructions on how to apply for authorization under a different permit; and,

(3) If the PCN is complete, but additional information is necessary to make a decision, the notification will specifically identify the additional information required to be submitted; or,

c. The PCN is not complete, the notification will specifically identify the additional information required to be submitted.

5. Within 30-days following receipt of a complete PCN, and additional information necessary to complete the consultation(s), this office will initiate any required consultations under Section 7 of the ESA, Section 305(b)(4)(B) of the MSFCMA, and/or Section 106 of the NHPA.

6. Within 15-days following completion of any required ESA/NHPA/MSFCMA consultations and the 401 WQC process (if individual 401 WQC is requested), or, if consultation and individual 401 WQC is not required, within 30-days following receipt of a complete PCN, this office will notify you via letter if the activity is authorized under this RGP, subject to the terms and conditions of the authorization.

FURTHER INFORMATION:

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **Limits of this authorization:**

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

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

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

d. 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 this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of RGP Decision:** This office may reevaluate its decision on this permit 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 this office 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. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate.

You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Discretionary Authority:** This office has the discretion to suspend, modify, or revoke authorizations under this permit. This discretionary authority may be used by us to further condition or restrict the applicability of this permit 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 this office 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, we will modify the authorization to reduce or eliminate those adverse effects or notify you that the proposed activity is not authorized by this permit 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 us, such as a Nationwide Permit, Regional General Permit, Letter of Permission, or Standard Permit. This office 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. This office may restore authorization under this 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. We may also use our discretionary authority to modify, suspend, or revoke this permit at any time.

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 or Letter of Permission. 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. This office may include additional special conditions to a verification under this permit to ensure the activity has minimal impact.

PERMIT DURATION: This permit is valid for five years from issuance and will expire on [DATE-same as above]. This office may re-evaluate the terms and conditions of this permit at any time

it deems necessary to protect the public interest. If this office 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 this office at any time deemed necessary. In such instance, this office will issue a public notice concerning the proposed action. This RGP may be reissued, after public notice and documentation of the decision. Activities under this permit must be verified in writing by the Corps. Verifications are valid until the permit expires.

CONTACTS AND ADDITIONAL INFORMATION:

For questions, please contact the appropriate District office below.

U.S. Army Corps of Engineers
Los Angeles District, Regulatory Division
915 Wilshire Blvd., Suite 930
Los Angeles, California 90017
Office: (213) 452-3425
Email:
North Coast Branch/Ventura Field Office: splregventura@usace.army.mil
Los Angeles and San Bernardino Counties Section: splreglasb@usace.army.mil
Orange and Riverside Counties Section: splregorcs@usace.army.mil
San Diego and Imperial Counties Section: splregcbad@usace.army.mil
Transportation and Special Projects Branch: splregtsp@usace.army.mil
Website: <https://www.spl.usace.army.mil/Missions/Regulatory/>

U.S. Army Corps of Engineers
Sacramento District, Regulatory Division
1325 J Street, Room 1350
Sacramento, California 95814-2922
Office: (916) 557-5150
Email: SPKRegulatoryMailbox@usace.army.mil
Website: <https://www.spk.usace.army.mil/Missions/Regulatory/>

U.S. Army Corps of Engineers
San Francisco District, Regulatory Division
450 Golden Gate Ave., 4th Floor
San Francisco, California 94102-3404
Office: (415) 503-6795
Email: cespn-regulatory-info@usace.army.mil
Website: <https://www.spn.usace.army.mil/Missions/Regulatory/>

ATTACHMENTS:

- 1. 401 Water Quality Certification(s)
- 2. *Certification of Compliance*

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

David J. Castanon
Chief, Regulatory Division

Date

Michael S. Jewell
Chief, Regulatory Division

Date

James C. Mazza
Chief, Regulatory Division

Date