



**DEPARTMENT OF THE ARMY REGIONAL PERMIT 13
FOR
THE SANTA CRUZ COUNTY PERMIT COORDINATION PROGRAM**

SPONSORS: Santa Cruz County Resource Conservation District

PERMIT NO.: 27564S

ISSUING OFFICE: San Francisco District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

Authorized Work: This Regional General Permit (RGP) authorizes minor fill discharges into waters of the U.S. in association with implementation of projects by landowners in Santa Cruz County participating in the Santa Cruz Countywide Partners in Restoration Permit Coordination Program (Program). The Program will authorize fifteen specific restoration and conservation practices, implemented in coordination with the Santa Cruz County Resource Conservation District (RCDSCC), under the terms and conditions developed in coordination with each of the regulatory agencies. RGP 13 Table 1 provides a description of the practices and the maximum dimensions allowable for each under the Program. These descriptions and maximum allowable dimensions were refined in coordination with the regulatory agencies issuing approvals for the Program. Under the proposed Program, regulatory agencies enter into programmatic agreements with the RCDSCC to approve these fifteen specific, standardized, conservation practices that will improve habitat and soil stability. The conservation practices are limited in size, have demonstrated a net environmental benefit, and are usually performed for erosion control or restoration in and around waterways. Landowners agree to follow designs and specifications for conservation work. Follow up and monitoring on each conservation project is done by the RCDSCC.

Under this Program, the RCDSCC shall assist ranchers, growers, land managers, and individual property owners (Cooperators) in implementing one or more of the fifteen conservation practices on private properties in Santa Cruz County according to the terms and conditions established by the resource agencies issuing approvals for the Program. Multiple qualifying projects may be constructed each year. The RCDSCC will assist Cooperators in project design and monitor implementation and maintenance of conservation practices to ensure performance with the conditions of the Regional General Permit and the terms and conditions of other permitting agency approvals. The RCDSCC will follow the NRCS' Conservation Planning Process for all projects carried out under the Program. A Cooperator that works with the RCDSCC, and who signs a Cooperator Agreement in which they agree to follow the design and construction specifications provided in the "Project Plans and Specifications" developed in cooperation with the RCDSCC, will be allowed to implement the associated conservation practices without the need to seek separate Corps authorization. The RCDSCC will ensure that the terms and conditions of the Corps Regional General Permit and the terms and conditions of the other regulatory approvals and agreements from permitting agencies are adhered to for each project implemented under the Program. RGP 13 Appendix B provides the description of General Protection measures developed in coordination with the regulatory agencies issuing approvals for the Program.

The conservation practices have been categorized in a tiered impact matrix, an approach developed by the Central Coast Regional Water Quality Control Board (CCRWQCB). The matrix provides a framework of

environmental protection measures that increase in complexity with a practice's or project's increasing impact or complexity. The tiered approach enables the classification of a proposed project into one of four possible tiers. With increasing impacts, a project would be classified into a higher tier, requiring additional environmental protection measures (Note: CCRWQCB's tiered approach included a fourth tier for projects involving streambank rock riprap protection and the removal of in-stream barriers. Tier IV of this program would entail work in coho-bearing streams or in streams having high intrinsic potential – see Appendix A - *Proposed Project Tier System for the 10-Year Program Renewal*).

Projects with very limited resource impacts (upland projects with no expected impacts to special status species) would be placed in Tier I. Tier I projects would have the fewest requirements for surveys, monitoring and other special conditions. Tier I projects would also have a lower level of documentation, shorter notification period (10 days) and would have one to two notification dates. Work in streams (bed and bank) would automatically place projects in Tier II or higher; the presence of threatened and endangered species (in streams or uplands) and projects that include rock riprap bank protection materials or that propose the removal of large instream barriers would be placed in Tier III. Projects in coho-bearing streams would be included in Tier IV and would require early consultation with regulatory agency staff. Agency staff would provide detailed input into designs, monitoring, etc. for projects in this tier.

The projects authorized by the RGP will result in water quality improvements and enhancement of wildlife habitat, including enhancement of salmonid habitat quality and removal or modification of barriers to migration to allow for increased passage. One of the long-term goals of the Program includes the improvement of wetland functioning in the County's watersheds. Additionally, these conservation practices will be used to restore natural aquatic functions; stabilize erodible soils to prevent soil accumulation in wetlands; collect sediments before they enter waterways and wetlands; and to provide watering areas for livestock away from sensitive habitats. The practices include improvements to access roads (to existing infrastructure), critical area plantings, installation of swales and grassed waterways to slow runoff, installation of filter strips, grade stabilization structures in gullies, fish habitat enhancements, removal and disposal of unwanted items from waterways such as abandoned cars and appliances, installation of sediment basins and associated outlets and energy dissipating structures, installation of pipelines to shift livestock to constructed water sources (existing sources) and away from streams, lakes and other sensitive habitats, and restoring and conserving rare or declining native vegetation communities by removing exotic, invasive plants and restoring native vegetation. For individual projects carried out under the RGP, total permanent (fill) impacts to waterways and wetlands may not exceed 0.5 acre and may not result in (permanent) fill of more than 0.1 acre of wetland per project.

Not all projects carried out under the Program would require Corps authorization. This RGP would only authorize those projects that fall under Corps jurisdiction.

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on **September 1, 2016**.
2. Staging areas shall be on upland sites if available. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance (e.g., use of low ground pressure vehicles).

3. No discharge of dredged or fill material into waters of the United States may consist of unsuitable material (e.g., trash, debris) and material discharged must be free of toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
4. Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent possible at each project site.
5. Any structure or fill authorized under this regional permit shall be properly maintained.
6. No activity authorized under this permit may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area.
7. If you discover any previously unknown historic or archeological remains while accomplishing an activity authorized by this permit, you must immediately notify this office of what you have found. We 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.
8. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
9. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS:

1. This Regional General Permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit or a Biological Opinion (BO) under ESA Section 7 with "incidental take" provisions with which you must comply). The U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) BOs dated June 23, 2011, and July 18, 2006, (reference numbers: 8-8-11-F-13 and 151422SWR2006SR00307:JMA) respectively contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BOs. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take authorized by the BOs, whose terms and conditions are incorporated by reference in this permit. NMFS is currently working on reissuing a Biological Opinion for this RGP. When that Biological Opinion is issued, all of the mandatory terms and conditions associated with incidental take authorized by that BO shall supersede the terms and conditions under the existing BO (151422SWR2006SR00307:JMA). Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take and it would also constitute non-compliance with this Corps permit. The FWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of their BOs and with the ESA.
2. The RCDSCC shall notify the Corps annually each spring of that year's proposed projects to allow review and approval prior to project construction. The annual report shall list participating land owners, describe each project purpose, area affected, natural biological enhancements, and amount of

yardage, cut and slope of the work. It shall list conservation benefits and any net gains in wetlands and riparian areas, describe actions taken to avoid adverse effects to listed species, and provide photo documentation of before and after site conditions for each project site. The permitting agencies may provide additional conditions on individual projects. The RCDSCC will then incorporate these additional agency conditions into the conservation plan and engineered design for a project.

3. The Corps will have 45 days from the date of receipt of the annual report to comment on the proposed projects or add additional special conditions if necessary. Construction on projects that have received no comments may not begin until the expiration of the 45 days, unless the Corps has provided a “no comment” response prior to the end of the 45 day period.
4. Impacts for each project shall not exceed the maximum limit allowed per restoration practice as detailed in the column titled “Practice Description and Maximum Size of the Practice Installed” in RGP 13 Table 1.
5. Total permanent (fill) impacts to waterways and wetlands may not exceed more than 0.5 acre and may not result in (permanent) fill of more than 0.1 acre of wetland, on each project site.
6. No project will be initiated under the RGP that results in a net loss in the quality, quantity and permanence of wetland acreage and values in Santa Cruz County watersheds.
7. The “*Environmental Protection and Mitigation Measures and Conditions for All Projects*” as listed in RGP 13 Appendix B shall be followed for the appropriate practices installed under the Regional General Permit.
8. The RCDSCC will protect cultural resources to the fullest extent possible. If, during the course of installing a conservation practice, the risk of affecting cultural resources increases (e.g., if an unanticipated resource is discovered, if an unevaluated resource will be affected, or if it is determined that cultural properties will be affected in a previously unanticipated manner), the RCDSCC will respond immediately. This will include requesting the landowner to halt actions in areas with potential to affect cultural resources and notify the Corps immediately. If human remains are uncovered, the RCDSCC will follow procedures established by the Native American Heritage Commission. This includes immediate cessation of work in the area and the notification of the County coroner. In such a circumstance, the Corps will inform the RCDSCC when work may resume.
9. Landowners shall agree to monitor the conservation practices, and to allow RCDSCC staff to monitor on-site compliance with all permit requirements, until implementation of practices is complete. Pre-construction and construction monitoring of Permit Coordination Program-sponsored conservation practices will consist of surveys and/or inspections, as needed, to ensure compliance with all permit requirements until implementation of practices is complete.
10. If a landowner and/or land manager does not carry out work in compliance with project design standards and specifications, including the previously agreed upon terms and conditions, the RCDSCC will notify the landowner and/or land manager and work directly with them to resolve the problem. If the landowner and/or land manager still fails to comply, the RCDSCC will notify the landowner and/or land manager that their activities are no longer covered by the Permit Coordination Program’s permits and agreements. The landowner and/or land manager will then be responsible for obtaining regulatory review and individual permits from the appropriate regulatory agencies and will be held liable for all violations. The RCDSCC will notify the Corps of any projects that are no longer covered under the Permit Coordination Program’s permits.

11. The RCDSCC shall require that each project establishes a sufficient number of photo-documentation points to evaluate the progress of the project. For each project, a site map with the photo-documentation points clearly marked will be prepared. Prior to construction, the RCDSCC shall photographically document the condition of the Project site. Following construction, the RCDSCC shall photographically document the immediate post-construction condition of the site. Pre-project photos, site maps with photo-documentation points, and post-construction photos shall be included in the annual Permit Coordination Program report to the Corps.
12. The RCDSCC will report the status of all projects to the permitting agencies in the form of an annual post-construction report, due January 31 of each year of the Permit Coordination Program. The report will list participating landowners, provide a description of each project, and a summary of the surface area affected, the yards of impact (as fill and/or excavation) and the slope of the work site. The report will list conservation benefits and any net gains in wetlands and riparian areas, describe actions taken to avoid adverse effects to listed species, and provide photo documentation of before project and current site conditions.
13. Post-construction monitoring of Permit Coordination Program-sponsored conservation practices will consist of erosion control inspections to determine if the system is still functioning as planned, photo-documentation, and preparation of an annual report to be submitted yearly to the resource agencies, as described below. Photographs shall be taken from staked photo-documentation points before construction and annually thereafter throughout the term of the monitoring program. All construction sites shall be inspected at least twice during the first rainy season after installation. Each site will also be inspected once at the end of the rainy season for the first 5 years following construction.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

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 project.

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 Permit 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 Item 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 C.F.R. Section 325.7 or enforcement procedures such as those contained in 33 C.F.R. Sections 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to 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 C.F.R. Section 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

- 6.** Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(Santa Cruz County Resource Conservation District)

(DATE)

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

Torrey A. DiCiro
Lieutenant Colonel, U.S. Army
Commanding

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)