

FINDING OF NO SIGNIFICANT IMPACTS (FONSI) FOR THE SUPPLEMENTS TO THE 2007 NATIONWIDE GENERAL PERMIT AND THE SAN FRANCISCO DISTRICT'S REGIONAL CONDITIONS DECISION DOCUMENTS

General Permits, such as the Nationwide Permit (NWP) Program and Regional General Permits provide the U.S. Army Corps of Engineers (Corps) the opportunity to expeditiously permit activities, pursuant to Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act, that have minimal adverse effect, both individually and cumulatively, on the aquatic environment. More specifically, the NWP Program was established to allow the Corps to maintain protection of the aquatic environment, while directing the Corps to focus limited resources towards more extensive evaluation of projects with the potential for causing environmentally damaging adverse effects. NWPs allow smaller, repetitive, low impact projects with minimal effects on the aquatic environment, to be reviewed and authorized under a streamlined process and in a shorter period than is required for larger, more complex projects under the Individual Permit review process.

As the Corps is committed to reissuing NWPs that result in no more than minimal adverse effects on the aquatic environment, Corps Headquarters published in the Federal Register, dated September 26, 2006 (71 FR 56258), its proposal to re-issue all of the NWPs and to solicit public comment. On March 12, 2007, the Corps published a Federal Register notice (72 FR 11092) containing the final text of the NWPs and their general conditions. In addition, to solicit comments on its proposed regional conditions for the NWP program, the San Francisco District (comprised of portions of San Luis Obispo County, Monterey County, San Benito County, Santa Clara County, Santa Cruz County, San Mateo County, San Francisco County, portions of Alameda County, portions of Contra Costa County, portions of Solano County, Napa County, Sonoma County, Marin County, Mendocino County, Trinity County, Humboldt County, Del Norte County, and Siskiyou County) released a public notice and request for public comments about its proposal to establish regional conditions on October 4, 2006 (Attachment A). These reissued NWPs became effective on March 19, 2007.

Regional conditions may be developed by Division Commanders in recognition of regional differences in aquatic resource functions and values across the country and to implement mechanisms and procedures to further their protection within the respective Divisions. After identifying the geographic extent of aquatic systems, Division Commanders may either change “notification” thresholds and/or require “notification” for all activities within a particular watershed or waterbody to ensure that NWP use and authorization only occurs for activities with minimal individual and cumulative adverse effects.

Effective regional conditioning of permits protects aquatic systems at the local level and helps to ensure that Corps Districts remain in compliance with statutory requirements, specifically which NWPs result in no more than minimal individual or cumulative adverse effects on the aquatic environment. Thus, to assist the Corps in

identifying appropriate regional conditions on the reissued NWP, the Corps coordinates efforts among tribes, state and federal agencies, and other Corps Districts, as well as solicits and incorporates public comments into the process.

Pursuant to Section 401 of the CWA, tribal or state Water Quality Certification, or waiver thereof, is required for activities authorized by NWPs that may result in a discharge of dredged or fill material into waters of the U.S. In addition, any state with a federally-approved Coastal Zone Management (CZM) plan has the opportunity to concur or not concur with the Corps' determination that activities authorized by NWPs are either within the state's coastal zone, or will affect any land or water uses, or natural resources within the state's coastal zone, are consistent with the CZM plan. In accordance with Corps regulations at (33 CFR 330.5 (c) and (d)), any state or tribal 401/CZM conditions for a particular NWP become regional conditions for that NWP. The Corps recognizes that with some tribes or states there will be a need to add regional conditions, or for individual tribal or state review for some activities to ensure compliance with water quality standards or consistency with CZM plans. Thus, after the Division Commander establishes regional conditions, the District will issue a final Public Notice announcing the final 401/CZM determinations, including 401/CZM regional conditions and Corps regional conditions.

In a letter dated May 1, 2007 the California State Water Resources Control Board (SWRCB) elected to issue certifications for those NWPs covering activities that are categorically exempt from the California Environmental Quality Act (CEQA). This resulted in certification for 14 of the 49 NWPs (Nos. 1, 4, 5, 6, 9, 10, 11, 20, 22, 24, 28, 32, 34, and 38) contingent on adherence to associated conditions (Attachment B). Any authorization for NWPs not certified by the SWRCB must receive independent evaluation through the Section 401 water quality certification process.

In a letter dated April 17, 2007 the California Coastal Commission stated that re-issuance of the NWP program was not consistent with Section 30233 of the California Coast Act. The Commission recommended that procedures followed during the previous five years by the District and the Commission continue to be implemented for the NWP program in the next five years (Attachment C).

In a letter dated November 22, 2006 the San Francisco Bay Conservation and Development Commission (BCDC) requested that Corps state that NWP verifications shall not become effective until the Commission has issued a Commission permit that authorizes the proposed activity. The inclusion of this language with NWP authorizations will continue to be standard practice for the District (Attachment D).

The U.S. Environmental Protection Agency (EPA) Region 9, in a letter dated January 11, 2007, provided conditional water quality certification of the NWPs for activities proceeding on tribal lands within Region 9. In San Francisco District, only the Hoopa Valley Tribe has been delegated certifying authority by EPA. The EPA's conditional water quality certification does not apply to activities proposed to occur within the Hoopa Tribe's lands but would apply on other tribal lands. Thirty of the NWPs

were programmatically certified and fifteen were certified with permit-specific conditions (Attachment E). In addition, notification submitted to EPA Region 9 is required for any activity proposed to occur on tribal land (with the exception of Hoopa Valley tribal lands).

The South Pacific Division Commander considered the need for additional modifications of the NWP by establishing regional conditions. These regional conditions identify regionally important high-value waters and other geographic areas in which the NWP should be regionally conditioned or excluded from the NWP eligibility as described below, to further ensure the NWP do not authorize activities that could exceed the minimal adverse effects threshold.

The following are the regional conditions would be implemented in the San Francisco District:

A. General Regional Conditions that apply to all NWP in the San Francisco District:

1. Notification to the Corps (in accordance with General Condition No. 27) is required for any activity permitted by NWP if it will take place in waters or wetlands of the U.S. that are within the **San Francisco Bay diked baylands** (undeveloped areas currently behind levees that are within the historic margin of the Bay. Diked historic baylands are those areas on the Nichols and Wright map below the 5-foot contour line, National Geodetic Vertical Datum (NGVD) (see Nichols, D.R., and N. A. Wright. 1971. Preliminary map of historic margins of marshland, San Francisco Bay, California. U.S. Geological Survey Open File Map)). The notification shall explain how avoidance and minimization of losses of waters or wetlands are taken into consideration to the maximum extent practicable (see General Condition 20(a)).
2. Notification to the Corps (in accordance with General Condition No. 27) is required for any activity permitted by NWP if it will take place in waters or wetlands of the U.S. that are within the **Santa Rosa Plain** (Attachment F). The notification will explain how avoidance and minimization of losses of waters or wetlands are taken into consideration to the maximum extent practicable in accordance with General Condition No. 20(a).
3. Notification to the Corps (in accordance with General Condition No. 27), including a compensatory mitigation plan, habitat assessment, and extent of proposed-project impacts to Eelgrass Beds are required for any activity permitted by NWP if it will take place within or adjacent to **Eelgrass Beds**.
4. Notification to the Corps (in accordance with General Condition No. 27) is required for any activity permitted by NWP in **Essential Fish Habitat** (EFH) designated by the Pacific Fishery Management Council (examples of designated EFH are, but not limited to: the Pacific Ocean, estuaries like Tomales, San Francisco and Humboldt Bays, and watersheds utilized by coho and chinook salmon). Notification shall

include a habitat assessment and extent of proposed-project impacts to EFH. Notification under this regional condition is not required if another federal agency has completed consultation with the National Marine Fisheries Service on EFH, and the project is either authorized by a non-reporting NWP or does not require notification by another regional condition.

5. Mitigation that is required by special condition to the permitted activity shall be completed before or concurrent with project construction. Where project mitigation involves the use of a mitigation bank, the required payment must be made before commencing construction of the permitted activity. If the permittee cannot comply with this condition, the permittee shall provide the Corps with sound reasoning why this condition cannot be met, and shall propose reasonable alternatives to ensure the required mitigation will be fully met and completed in a timely manner.
6. Any request to waive the 300 linear foot limitation for intermittent and ephemeral streams must include the following:
 - a) an analysis of the impacts to the stream environment;
 - b) measures taken to avoid and minimize losses;
 - c) other project alternatives that would be considered but were found not to be practicable;
 - d) a mitigation plan as to how the unavoidable losses will be offset.
7. Notification to the Corps (in accordance with General Condition No. 27) shall include: Accurate drawings are **always** required. The drawings can be schematic but should contain, at minimum, an appropriate title block, legends and scales, amount (in cubic yards) and size (in acreage or fraction thereof) of fill or activity in Corps jurisdiction, including both permanent and temporary fills/structures. If a waterbody is involved, the ordinary high water mark, estimated highest tide line, or mean high water mark should be shown (in feet); if possible, based on NGVD or other appropriate referenced elevation. The drawings should clearly depict the project location, and include plan and cross-section views.

B. Regional Conditions that apply to specific Nationwide Permits:

3. MAINTENANCE:

1. To the extent practicable, excavation equipment shall work from an upland site (e.g., from the top of the bank, the road bed of the bridge, or culverted road crossing) to minimize adding fill into waters of the U.S. If it is not practicable to work from an upland site, or if working from the upland site would cause more environmental damage than working in the stream channel, the excavation equipment can be located within the stream channel but it must minimize disturbance to the channel (other than the removal of accumulated sediments or debris). As part of the notification to the Corps (in accordance with General Condition No. 27), an explanation as to the need to place excavation equipment in waters of the U.S. is required, as well as a statement of any additional necessary fill (e.g., cofferdams, access road, fill below the ordinary high water mark for a staging area, etc.).

2. If the activity is proposed in a special aquatic site, the notification to the Corps (in accordance with General Condition No. 27) shall include an explanation of why the special aquatic site cannot be avoided, and the measures to be taken to minimize impacts to the special aquatic site.
3. To the maximum extent practicable, any new or additional bank stabilization must incorporate structures or modifications beneficial to fish and wildlife (e.g., soil bioengineering or biotechnical design, root wads, large woody debris, etc.). Where these structures or modifications are not used, the applicant shall demonstrate why they were not considered practicable.

11. TEMPORARY RECREATIONAL STRUCTURES:

1. Notification to the Corps (in accordance with General Condition No. 27) is required if any temporary structures are proposed in wetlands or vegetated shallow water areas (e.g. in eelgrass beds). The notification shall include the type of habitat and areal extent affected by the structures.

12. UTILITY LINE ACTIVITIES:

1. Excess material removed from the trench shall be disposed of at an upland site away from any wetlands or other waters of the U.S. so as to prevent this material from being washed into aquatic areas.
2. This NWP permit does not authorize the construction of substation facilities. Utility line substations can usually be constructed in uplands.

13. BANK STABILIZATION:

1. Notification to the Corps (in accordance with General Condition No. 27) is required for all activities stabilizing greater than 300 linear feet of channel. Where the removal of wetland vegetation (including riparian wetland trees, shrubs and other plants) or submerged, rooted, aquatic plants over a cumulative area greater than 1/10 acre or 300 linear feet is proposed, the Corps shall be notified (in accordance with General Condition No. 27). The notification shall include the type of vegetation and extent (e.g., areal dimension or number of trees) of the proposed removal.
2. This permit allows excavating a toe trench in waters of the U.S., and, if necessary, to use the material for backfill behind the stabilizing structure. Excess material is to be disposed of in a manner that will have only minimal impacts to the aquatic environment. The notification to the Corps (in accordance with General Condition No. 27) shall include location of the disposal site.
3. For man-made banks, roads, or levees damaged by storms or high flows, the one cubic yard per running foot limit is counted only for that additional fill which encroaches (extends) beyond the pre-flood or pre-storm shoreline condition of the waterway. It is not counted for the fill that would be placed to reconstruct the original dimensions of the eroded, man-made shoreline.

4. For natural berms and banks, the one cubic yard per running foot limit applies to any added armoring.
5. To the maximum extent practicable, any new or additional bank stabilization must incorporate structures or modifications beneficial to fish and wildlife (e.g., soil bioengineering or biotechnical design, root wads, large woody debris, etc.). Where these structures or modifications are not used, the applicant shall demonstrate why they were not considered practicable.
6. As part of the notification to the Corps (in accordance with General Condition No. 27) requirement for bank stabilization activities in excess of 300 feet in length, the project proponent shall address the effect of the bank stabilization on the stability of the opposite side of the streambank (if it is not part of the stabilization activity), and on adjacent property upstream and downstream of the activity.

14. LINEAR TRANSPORTATION PROJECTS:

1. Notification to the Corps (in accordance with General Condition No. 27) is required for all projects filling greater than 300 linear feet of channel.
2. This permit does not authorize construction of new airport runways and taxiways.
3. To the maximum extent practicable, any new or additional bank stabilization required for the crossing must incorporate structures or modifications beneficial to fish and wildlife (e.g., soil bioengineering or biotechnical design, root wads, large woody debris, etc.). Where these structures or modifications are not used, the applicant shall demonstrate why they were not considered practicable. Bottomless and embedded culverts are encouraged over traditional culvert stream crossings.
4. As part of the notification to the Corps (in accordance with General Condition No. 27) requirement for stream crossing activities filling an excess of 300 feet in length, the project proponent shall address the effect of the bank stabilization on the stability of the opposite side of the streambank (if it is not part of the stabilization activity), and on adjacent property upstream and downstream of the activity.

23. APPROVED CATEGORICAL EXCLUSIONS:

1. Use of this NWP requires notification to the Corps (in accordance with General Condition No. 27). The notification shall include the following:
 - a) A copy of the Federal Categorical Exclusion (Cat/Ex) document signed by the appropriate federal agency. If the Cat/Ex is signed by a state or local agency representative instead of by a federal agency representative, then copies of all documentation authorizing alternative agency signature shall be provided.
 - b) Written description of Corps authority (e.g., Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act.);

- c) a list of conditions described in the Cat/Ex and/or attachments outlining measures that must be taken prior to, during, or after project construction to minimize impacts to the aquatic environment;
 - d) a copy of the jurisdictional delineation performed by qualified specialists showing the project limits and the location (delineated boundaries) of Corps jurisdiction within the overall project limits;
 - e) map(s) showing the locations of potentially permanent and temporary project impacts to areas within Corps jurisdiction;
 - f) a clear and concise description of all project impacts including, but not necessarily limited to:
 - a) quantification and description of permanent project impacts to areas within Corps jurisdiction,
 - b) quantification and description of temporary impacts to areas within Corps jurisdiction, and
 - c) linear extent of Corps jurisdiction affected by the project;
 - g) a general description of activities covered by the Cat/Ex that do not require Corps authorization but are connected or related to the activities in Corps jurisdiction;
 - h) a complete description of any proposed mitigation and/or restoration including, but not necessarily limited to, locations of any proposed planting, short- and long-term maintenance, proposed monitoring, success criteria and contingency plans;
 - i) written justification of how the project complies with the Nationwide Permit Program including less than minimal impact to the aquatic environment and compliance with the General Conditions.
 - j) For Federal Highway Administration (FHWA) Cat/Ex projects, the notification should describe how activities described in the Cat/Ex meet the description of the Cat/Ex project published in the August 28, 1987 Federal Register part 771.117 (a)(b)(c) and (d) (Volume 52, No. 167) or any updated version published in the Federal Register.
2. Only activities specifically described in the Cat/Ex project description will be covered by the NWP 23 authorization. If other activities not described in the Cat/Ex project description will be performed (e.g., dewatering, slope protection, etc.), these activities must receive separate NWP authorizations.
 3. Notification to the Corps (in accordance with General Condition 27) must include a copy of the signed Cat/Ex document and final agency determinations regarding compliance with Section 7 of the Endangered Species Act (ESA), Essential Fish

Habitat (EFH) under the Magnussen-Stevens Act, and Section 106 of the National Historic Preservation Act.

33. TEMPORARY CONSTRUCTION, ACCESS, AND DEWATERING:

1. Access roads shall be designed to be the minimum width necessary and shall be designed to minimize changes to the hydraulic flow characteristics of the stream and degradation of water quality (in accordance with General Conditions 9 and 21).
 - a) The road shall be properly stabilized and maintained during and following construction to prevent erosion.
 - b) Construction of the road fill shall occur in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself.
2. Vegetative disturbance in the waters of the U.S. shall be kept to a minimum.
3. Borrow material shall be taken from upland sources whenever feasible.
4. Stream channelization is not authorized by this NWP.

35. MAINTENANCE DREDGING OF EXISTING BASINS:

1. Use of this NWP will require notification to the Corps (in accordance with General Condition No. 27). The notification information should be provided on the Consolidated Dredging-Dredged Material Reuse/Disposal Application. This application and instructions for its completion can be found on our web site at: <http://www.spn.usace.army.mil/conops/applications.html>. The information must include the location of the proposed upland disposal site. A jurisdictional delineation of the proposed upland disposal site prepared in accordance with the current method required by the Corps may also be required.
2. The U.S. Coast Guard will be notified by the permittee at least 14 days before dredging commences if the activity occurs in navigable waters of the U.S. (Section 10 waters).
3. The permittee will be required to provide the following information to the Corps:
 - a) Dredge Operation Plan: Submit, for approval by this office, no earlier than 60 calendar days and no later than 20 calendar days before the proposed commencement of dredging, a plan which includes the following: **Corps file number**, a copy of the dredging contract or description of the work under which the contractor will do the permitted work; name and telephone numbers of the dredging contractor's representative on site; proposed dredging start and completion dates; quantity of material to be removed; dredging design depth and typical cross section including overdepth; and date of last dredging episode and design depth. The Dredge Operational Plan shall also provide the following information: The controls being established to insure that dredging operations

occur within the limits defined by the basin or channel dimensions and typical channel section.

- b) Pre-Dredge Survey: Submit no earlier than 60 calendar days and no later than 20 calendar days before commencement of dredging, a survey with accuracy to one-tenth foot that delineates and labels the following: areas to be dredged with overdepth allowances; existing depths; estimated quantities to be dredged to the design depth; and estimated quantities for overdepth dredging. **All surveys shall be signed by the permittee to certify their accuracy. Please include the Corps file number.**
- c) Solid Debris Management Plan: Submit no earlier than 60 calendar days and no later than 20 calendar days before commencement of work, a plan which describes measures to ensure that solid debris generated during any dredging operation is retained and properly disposed in areas not under Corps jurisdiction. **At a minimum, the plan shall include the following: source and expected type of debris; debris retrieval method; Corps file number; disposal method and site; schedule of disposal operations; and debris containment method to be used, if floatable debris is involved. (Please note that failure to provide all of the information requested in a, b, and c above may result in delays to your project. When your Dredge Operation Plan has been approved, you will receive a written authorization to commence with your project.)**
- d) Post-Dredge Survey: Submit, **within 30 days of the last disposal activity** (“last” is defined as that activity after which no further activity occurs for 15 calendar days), a survey with accuracy to one-tenth foot that delineates and labels the areas dredged and provides the dredged depths. **Also, include the Corps file number, actual dates of dredging commencement and completion, actual quantities dredged for the project to the design depth, and actual quantities of overdepth.** The permittee shall substantiate the total quantity dredged by including calculations used to determine the volume difference (in cubic yards) between the Pre- and Post-Dredge Surveys and **explain any variation in quantities greater than 15% beyond estimated quantities or dredging deeper than is permitted (design plus overdepth allowance).** **All surveys shall be accomplished by a licensed surveyor and signed by the permittee to certify their accuracy.** A copy of the post dredge survey should be sent to the National Ocean Service for chart updating:
NOAA/National Ocean Service,
Nautical Data Branch
N/CS26, SSMC3, Room 7230
1315 East-West Highway
Silver Spring, Maryland 20910-3282.
- e) **The permittee or dredge contractor shall inform this office when: 1) a dredge episode actually commences, 2) when dredging is suspended (suspension is when the dredge contractor leaves the dredge site for more than 48 hours for**

reasons other than equipment maintenance), 3) when dredging is restarted, and 4) when dredging is complete. Each notification should include the Corps file number. Details for submitting these notifications will be provided in the verification letter (to whom and how).

40. AGRICULTURAL ACTIVITIES:

1. This NWP does not authorize discharge of fill into the channel of a perennial or intermittent watercourse that could impede high flows. This limitation does not apply to watercourses that flow only when there is an irregular, extraordinary flood event.

41. RESHAPING EXISTING DRAINAGE DITCHES:

1. Compensatory mitigation may be required if the Corps determines there will be a detrimental impact to aquatic habitat.
2. Notification to the Corps (in accordance with General Condition 27) is required if the applicant proposes to re-grade, discharge, install channel lining, or redeposit fill material.
3. The notification to the Corps (in accordance with General Condition 27) shall include an explanation of the project's benefit to water quality.

42. RECREATIONAL FACILITIES:

1. If buildings are proposed to be built in waters of the United States, including wetlands, the applicant must demonstrate that there is no on-site practicable alternative that is less environmentally damaging as defined by the Section 404(b)(1) guidelines.

44. MINING ACTIVITIES:

1. This NWP is revoked for mining activities in Humboldt and Del Norte Counties.

The Corps believes that, in general, the activities authorized by the NWPs will not violate tribal or State water quality standards and will be consistent with the State CZM plans. Furthermore, the terms and conditions for the NWPs have been specifically developed to ensure that adverse environmental effects will be no more than minimal and are for the types of activities that, if evaluated under the Individual Permit process, would be routinely authorized. Preliminary determinations indicate these regional conditions are necessary to address important regional issues relating to the aquatic environment, which are identified in the regional decision documents. Again, the regional conditions are being required to ensure that the re-issued NWPs authorize activities that result in no more than minimal individual or cumulative adverse effects on the aquatic environment.

As proposed, the NWP general and regional conditions ensure that other federal statutory requirements are satisfied. The attached supplemental decision documents outline procedures which ensure local compliance with the Endangered Species Act (section 5.2) as provided in 50 C.F.R. Part 402.14 and the Magnuson-Stevens Act as provided in 50 C.F.R. part 600 subpart K (section 6.0). General condition 18 outlines the NWP program procedures for compliance requirements for Section 106 of the National

Historic Preservation Act. The San Francisco District will continue to implement these procedures as outlined.

In its entirety, this FONSI document includes the supplements to the national decision documents for the NWP, as finalized on June 29, 2007, which address the San Francisco District's Regional Conditions. To conform and comply with the different applicable regulations, this FONSI includes a stand alone supplemental decision document for each NWP. The supplements include an alternatives analysis, a supplement to the national impact analysis, and a cumulative impact discussion. In addition, the supplements include a discussion of regional conditions applicable to the NWP, and responses to comments received during the public notice period. Each document analyzes the potential impacts on the public interest factors both on an individual and cumulative basis. In addition, to ensure minimal impacts during the NWP verification evaluation, the San Francisco District Commander may add special conditions on a case-by-case basis or exercise discretionary authority by requiring an individual permit evaluation for those activities that have the potential of resulting in more than minimal individual and cumulative adverse effects on the aquatic environment. If, at a later time, there is clear, unequivocal evidence that the NWP would result in more than minimal adverse effects on the aquatic environment, individually and cumulatively, the modification, suspension, or revocation procedures at 33 CFR 330.4(e) or 33 CFR 330.5 will be used. If, at a later time, there is clear, unequivocal evidence that the regional condition(s) do not ensure minimal adverse effects on the aquatic environment, individually and cumulatively, the regional condition(s) will be modified at that time.

Based on the cumulative impact analysis for each of the NWPs and in consideration of projected increased use for some NWPs based on observed regional trends, approximately 250 NWP authorizations are expected to be issued annually in the San Francisco District over the next five years. The above 250 authorizations would result in annual permanent impacts to approximately 5,700 linear of feet or 25 acres of waters of the United States, including wetlands, in the San Francisco District. The majority of the above annual permanent impacts to waters of the United States would be associated with NWP 3 (800 linear feet, 4 acres), NWP 12 (600 linear feet, ¼ acre), NWP 13 (1,200 linear feet, 1 acre), NWP 14 (458 linear feet, 1 acre), NWP 33 (1,500 linear feet, 2.5 acres), and NWP 39 (500 linear feet, 5 acres). To minimize temporary impacts to waters of the United States, special conditions for NWP authorizations would usually require the use of best management practices during all work in and adjacent to jurisdictional areas as well as several other mitigation measures to minimize temporal impacts to the affected aquatic environment. To compensate for the above expected permanent impacts to waters of the United States including wetlands, the San Francisco District would require approximately 5,700 linear of feet or 25 acres of mitigation annually. Furthermore, in most cases the above temporary impact areas would be restored and revegetated as necessary at the conclusion of the authorized construction activities, avoiding any permanent loss of aquatic resources in the project area. However, if the temporary impacts result in a permanent loss of physical and biological functions, then additional compensatory mitigation would usually be required through conditioning of the NWP. The spatial distribution of the above permanent and temporary impacts to waters of the

United States, including wetlands, would be scattered in numerous watersheds throughout the San Francisco District.

When the expected annual cumulative impacts for the 2007 NWP's are compared to the cumulative impact analysis for the 2002 NWP's, the annual number of NWP authorizations would increase by approximately 10%. The majority of this projected increase is attributed to observed growth trends within the metropolitan areas in the San Francisco District. To minimize temporary impacts to waters of the United States, special conditions for NWP authorizations would usually require the use of best management practices during all work in and adjacent to jurisdictional areas as well as several other mitigation measures to minimize impacts to the affected aquatic environment. Furthermore, in most cases the above temporary impact areas would be restored and revegetated as necessary at the conclusion of the authorized construction activities, avoiding any permanent loss of aquatic resources in the project area.

Having reviewed the information provided herein, comments from all interested parties, and our assessment of environmental impacts contained in the different decision documents, pursuant to 33 C.F.R. 330.4(e)(1) and 330.5(c), I find that the abovementioned Nationwide Permits and regional conditions will not have a significant impact on the quality of the human environment. Furthermore, the Nationwide Permit Program will have no more than a minimal adverse individual or cumulative effect on the aquatic environment. Therefore, an Environmental Impact Statement will not be required to further evaluate the proposed Nationwide Permits or regional conditions as presented herein.



JOHN R. McMAHON
Brigadier General, U.S. Army
Commanding

12 Aug 2007
DATE