

# REGIONAL GENERAL PERMIT FOR FISH PASSAGE/SEDIMENT REDUCTION PROJECTS AT WATER CROSSINGS

**Sponsor:** U.S. Army Corps of Engineers, San Francisco District

**Permit No.:** Regional General Permit 1 (RGP 1, formerly RGP 99-1)  
Corps File No: 241030

**Issuing Office:** San Francisco District

## To Whom It May Concern:

The District Engineer, San Francisco District, U.S. Army Corps of Engineers (Corps), is hereby establishing Regional General Permit (RGP) 1 under the provisions of 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). This RGP authorizes the public to renovate existing water crossings to facilitate fish passage and/or reduce sediment entering the aquatic ecosystem and perform stream restoration within 300 feet upstream and downstream of crossings. **Crossings shall be authorized under this RGP only after the Corps notifies the permittee that the project complies with the requirements of the RGP.** The Corps regulates the discharge of dredged or fill material in waters of the United States pursuant to Section 404 of the Clean Water Act and work in, over and under navigable waters pursuant to Section 10 of the Rivers and Harbors Act.

This RGP is valid for use by the public (including federal, state, or local agencies) within the San Francisco District (Appendix A). Renovation of currently serviceable structures must occur between June 1 and October 15, unless there is an urgency for immediate replacement (see General Condition 2). All excess material excavated during construction must be placed in an upland location. Fill in waters for abutments must be minimized as much as practicable.

## Authorization Area:

This RGP is valid only within the San Francisco District, Corps of Engineers (See Appendix A). Work, including the discharge of dredged or fill material, is authorized in all waters of the United States within the District Boundary.

## Activities Authorized:

Authorized work includes the renovation, replacement, or removal of existing road, rail or trail crossings of waters of the United States, and other related activities, such as temporary work access, debris removal, dewatering and channel work, to provide fish passage. All work must be performed according to the attached general terms and conditions of RGP 1 and must enhance fish passage characteristics of the waterbody (without increasing sediment introduction) and/or reduce sediment introduction into the aquatic ecosystem. **In no case shall work be authorized for flood control projects such as channelization or the removal of vegetation for such purposes, or for projects that impact over 1 acre of waters of the United States.**

Authorized work includes the discharge of dredged or fill material associated with the following:

- Projects that improve fish passage, including the placement of backwater or other passage structures.

- The removal of road crossings, including culverts and fill, to limit sediment introduction caused when such crossings fail.
- The replacement of culverts to increase hydraulic capacity where this can be shown to decrease the risk of failure, and where fish passage is considered in the design.
- The cleaning of culverts where failure to clean can be shown to impair normal streamflow or would reduce stability and cause greater introduction of sediment to the stream upon failure.
- The placement of temporary stream crossings to access work sites authorized by this RGP.
- The construction of coffer dams to aid construction of projects authorized by this RGP.
- The construction of fish passage facilities above and below culverts and road crossings.

Work authorized would also include mitigation work to minimize impacts of the above activities provided all work is accomplished according to the terms and conditions of this permit. See Appendix C for references for stream crossing designs and criteria. **Work conducted pursuant to this authorization must be in accordance with the terms and conditions specified below.**

**Limitations of Authorization:**

Work authorized shall be limited to existing water crossings. In some cases, work may be authorized in the channel upstream or downstream of the road crossing to place structures or modifications for fish passage, as recommended by a fish passage analysis or to gain access for project construction. The Corps shall work with the resource agencies to determine if the fish passage analysis is valid. Work may also be authorized upstream or downstream of the road crossing to provide temporary access around the work site, but in no case shall work be authorized more than 300 feet upstream or downstream of the crossing.

**Permit Application Procedures and General Conditions:**

**Notification Procedures:**

1. The applicant must submit a complete notification package to the Corps and receive authorization from the Corps prior to commencing work.
2. Contents of the notification package shall include:
  - A. Name, address, and telephone numbers of the permittee.
  - B. Project location on a topo map showing project boundary and any access roads, and a vicinity map.
  - C. A brief description of the project purpose, types of repairs and location of repairs or construction, including estimated quantities of fill or excavation and an estimated area of construction impacts to waters of the United States.
  - D. An analysis of fish passage under existing conditions, a description of how the proposed project will improve fish passage, and a proposed three-year monitoring and maintenance program to evaluate passage effectiveness.
  - E. A plan view drawing showing north arrow, project dimensions, water's edge boundary including the ordinary high water mark (non-tidal waters), or the high tide line and mean high water line (tidal waters). Wetland or riparian areas to be disturbed by activities should be delineated and located on drawings. The plan view shall depict all work including road access to site and temporary crossings, cofferdams and other temporary fills. Drawings shall be to scale. The plan view shall also document all waters of the United States present within the project boundaries, and any special wildlife areas

- (rookeries, spawning areas, elk grazing lands, roosting and nesting sites, etc.).
- F. Typical cross-sections of individual sites depicting slope, ordinary high water mark or high tide and mean high water lines. Detailed sections shall be included for engineered structures such as bridges, culverts or channel modification, with reference elevations.
  - G. An erosion control plan, which shows measures to reduce sediment delivery to channels during construction. The erosion control plan may include the use of silt fences or straw bales, clean gravel crossings, temporary mulch, etc. The plan should address both sediment control in excavated areas and the stabilization of temporary fills.
  - H. A water management plan which describes how flow will be diverted and fish passage maintained during construction. This plan should note the location and number of water crossings (permanent and temporary), and include culverting flow during construction, routing flow around the work site, etc.
  - I. A restoration, mitigation and monitoring plan for impacts to waters of the United States or riparian areas disturbed by construction must be submitted with the application. No project shall be authorized by this regional permit if there is either a reduction in the acreage or the functioning capability of waters of the United States.
  - J. Pre-project photos of the project area and wetland or riparian vegetation to be disturbed.
  - K. Anticipated timing of equipment operations.
  - L. A listing of any listed threatened or endangered plant or animal species or their habitat known to be present in the area. Information on the location of threatened and endangered species and their habitat can be obtained from the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS). Please see Appendix B for more information.
  - M. All structures that are 45 years or older that are within the project area shall be documented on the application.

The Corps shall review the notification package for completeness and determine if the RGP 1 is applicable to the proposed project. The Corps shall notify the NMFS, USFWS and the California Department of Fish and Game (CDFG) prior to authorization. These agencies shall have up to 30 days to review and submit comments to the Corps.

If the Corps determines that a proposed project that affects a threatened or endangered species or listed critical habitat is covered by an existing biological opinion, the Corps shall request concurrence from the NMFS or the USFWS. (The NMFS and the USFWS shall respond within the 30 day comment period.) The Corps shall initiate consultation if the project is not covered by an existing biological opinion. After completing any required coordination and consultation, the Corps shall issue a verification letter if the proposed activity meets the requirements of RGP 1. Work may begin only if the Corps verifies the work is authorized.

#### **General Conditions:**

1. This authorization will expire five years from the date it is signed (i.e., March 3, 2005). All work authorized by this RGP must be completed by that date, or within one year of the date on the Corps verification and authorization, whichever is later.
2. All work activities shall occur between June 1 and October 15.
3. Emergency work occurring between October 15 and June 1 to reduce storm related impacts could progress after receiving Corps verification and after obtaining other required permits. A work plan

describing all work to be accomplished, including the method of stabilizing newly exposed surfaces and the timing of work, shall be submitted with the application.

4. Work shall not begin until the District Engineer has notified the permittee that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.
5. All adverse aquatic impacts, including temporary impacts, must proceed through a sequencing of impact reduction: avoidance, reduction in size of impact, and compensation (mitigation). Mitigation may be proposed to compensate for the adverse impacts to waters of the United States. Mitigation shall generally be in kind, with a no net loss of waters of the U.S. on a per project basis. Mitigation work should proceed in advance or concurrently with project construction. Projects that would eliminate a riffle/pool complex, however, will not be authorized by this RGP. Heavy equipment working in wetlands shall be placed on mats, or other measures shall be taken to minimize soil disturbance.
6. All discharges of dredged or fill material into the waters of the United States must be first avoided and then minimized to the maximum extent possible at the project site. All temporary fills must be gravel based, sealed devices or solid structures (i.e. sandbags, water bladders, pre-cast concrete or wooden platforms). Unless conditioned, all temporary fills must be removed in their entirety and the disturbed area restored on or prior to October 15.
7. No activity authorized under this RGP shall substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.
8. If previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this RGP, the permittee must immediately stop work and notify the Corps. The Corps 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.
9. Any discharge of a pollutant into waters of the United States authorized under RGP 1 must obtain Section 401 certification of water quality from the State Water Resources Control Board (SWRCB). The Corps requested water quality certification from the SWRCB in the Public Notice dated December 21, 1998. The SWRCB had not responded by February 22, 2000. The Corps assumes the SWRCB has waived water quality certification for RGP 1.
10. For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the permittee obtain concurrence from the California Coastal Commission that the project is consistent with the State's certified Coastal Zone Management Program. For activities within the coastal zone that require a coastal zone consistency determination from the Commission, the permittee shall contact the Commission office to request concurrence with the CZMA. For activities within the coastal zone that require a coastal zone consistency determination from a local government with a certified local coastal program, the permittee shall contact the appropriate local government. Work occurring in the coastal zone in the San Francisco Bay region must be permitted by the San Francisco Bay Conservation and Development Commission (BCDC). Proof of concurrence or waiver shall be submitted to the Corps prior to commencing work.
11. Any project occurring in a river that is designated under the "Wild and Scenic Rivers Act" must obtain written authorization from the Federal Agency responsible for managing that portion of the

river. Applicants should send a copy of their application to the responsible agency at the same time they submit an application to the Corps.

12. Permittees shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure compliance with the terms and conditions of this permit.
13. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. Work on tribal land must obtain the appropriate tribal permits before work can commence. A letter to the Corps from the tribal council or appropriate tribal office shall document tribal concurrence.
14. Endangered species information should be submitted to the Corps along with the application. Applicants are advised to see Appendix B for information regarding endangered species and how they may facilitate agency review of their proposed projects.
15. All equipment access shall minimize crossing wetted areas. Equipment used in and around waters of the United States shall be in good working order and shall be free of dripping or leaking engine fluids. All vehicle maintenance, staging and materials storage shall occur outside all waters of the United States.

**Further Information:**

*Congressional Authorities:* Projects verified for use under this RGP will be authorized to undertake the activity described above pursuant to:

- (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
- ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

*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.

*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 modification, suspension, or revocation of this permit.

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

- a. Failure to comply with the terms and conditions of this permit.
- b. The information provided the permittee proves to have been false, incomplete, or inaccurate.
- 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 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. 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.

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



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Peter T. Grass  
Lieutenant Colonel, Corps of Engineers  
District Engineer

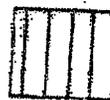
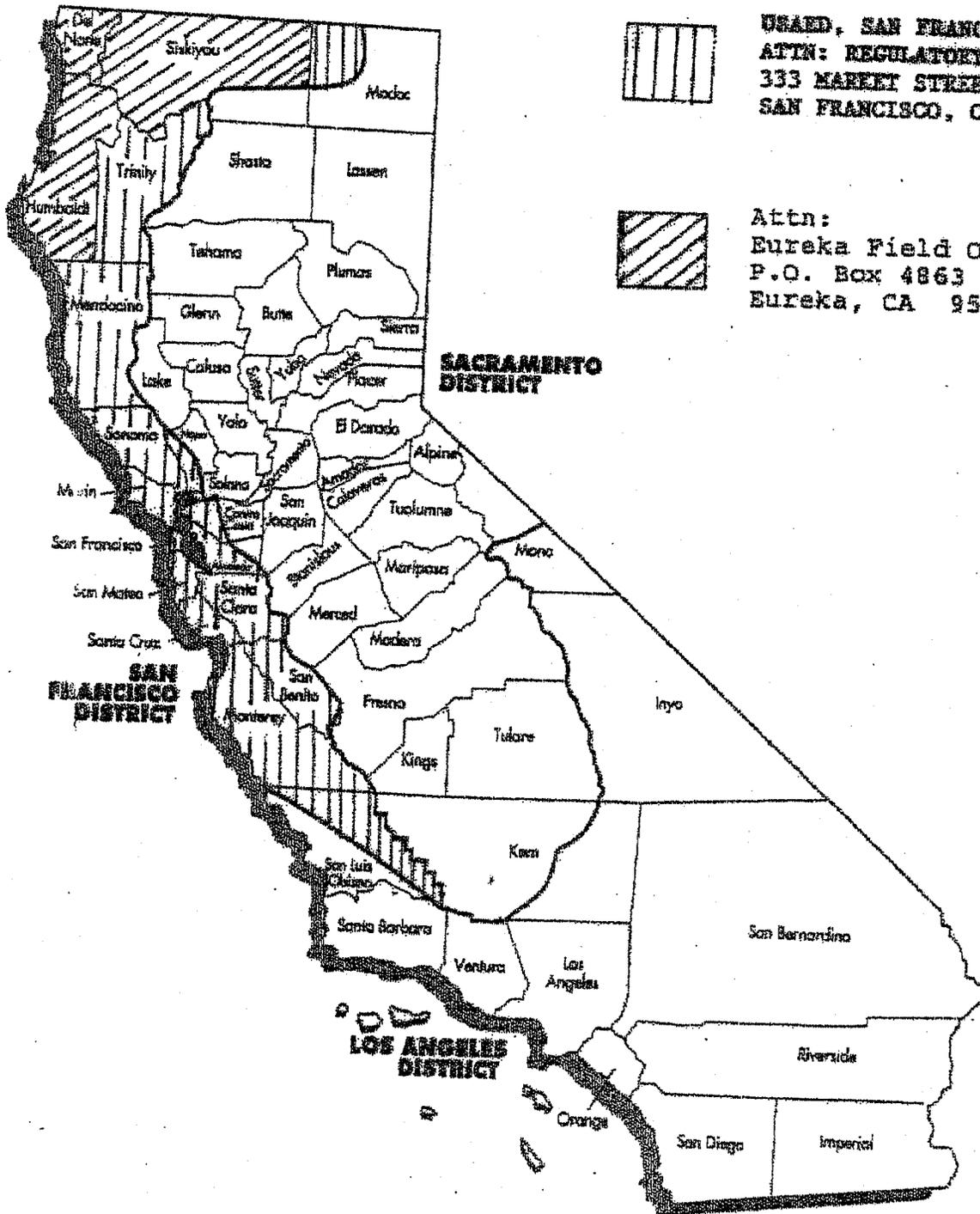
*3 March 2000*

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Date

# APPENDIX A

## California Map of U.S. Army Corps of Engineers District Offices



USAED, SAN FRANCISCO  
ATTN: REGULATORY BRANCH  
333 MARKET STREET  
SAN FRANCISCO, CA 94105



Attn:  
Eureka Field Office  
P.O. Box 4863  
Eureka, CA 95502-4863

**SAN FRANCISCO DISTRICT**

**SACRAMENTO DISTRICT**

**LOS ANGELES DISTRICT**

## Appendix B Endangered Species

**California red-legged frog:** Projects that occur in non-tidal waters in Alameda, Contra Costa, Monterey, Napa, San Benito, San Francisco, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Solano and projects that occur in coastal draining watersheds in Marin and Sonoma counties.

If determined necessary by the Corps, project applicants shall submit surveys conducted according to the U.S. Fish and Wildlife Service survey protocol on the California red-legged frog. The protocol titled Guidance on Site Assessment and Field Surveys for California Red-legged Frogs, dated February 18, 1997, is available at the Service addresses below. Please coordinate with the Corps before conducting surveys for the California red-legged frog.

**Salmonid Species:** Projects in all counties should obtain information on salmonid presence at their project sites. Recommended information should include:

1. Species of salmonids present; life stages that are present (adult, egg (redd formation), fry, juvenile). Some information can be obtained from the CDFG.
2. Timing of species present in the stream at the project site.
3. Current stream conditions and type of habitat present.

**Northern Spotted Owl (NSO):** Projects within 0.25 miles of NSO habitat are recommended to include the following operating requirements:

1. Project construction avoids the breeding season of February 1 to July 9, and;
2. There is no removal of woody vegetation greater than 6 inches diameter at breast height (dbh).

**Marbled Murrelet:** Projects within 0.25 miles of marbled murrelet habitat are recommended to include the following operating requirements:

1. Project construction avoids the breeding season of March 24 to September 15, and;
2. There is no removal of woody vegetation greater than 6 inches dbh.

**Other listed species:** Other listed species may be affected by a proposed project. Applicants are advised to contact the FWS and the NMFS for a listing of species that may be impacted by their project. Applicants should contact these agencies at least six weeks prior to submitting an application.

U.S. Fish and Wildlife Service\*  
Sacramento Fish & Wildlife Office  
2800 Cottage Way, W-2605  
Sacramento, California 95825  
(916) 414-6600/6601

National Marine Fisheries Service\*  
Southwest Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-6528  
(707) ~~696-0827~~ 575-6050

\* The office that actually handles your area may be different. Inquire with these offices as to the correct office that you should contact. Additional offices are listed on the following page.

## Appendix C Stream Crossing References

1. Baker, C.O. and F.E. Votapka. 1990. Fish Passage Through Culverts.
2. Federal Highways Administration & USDA Forest Service. FHWA-FL-90-006. 67 pages. (Available from USDA Forest Service publications, San Dimas Laboratory, CA).
3. California Department of Fish and Game. 1998. California Salmonid Stream Habitat Restoration Manual. Inland Fisheries Division.
4. Weaver, W.E., and D.K. Hagans. 1994. Handbook for forest and ranch roads. Mendocino County Resource Conservation District. 161 pages.
5. State of Washington guidelines posted on the web at: [www.wa.gov/wdfw/hab/engineer/cm/culvertm.htm](http://www.wa.gov/wdfw/hab/engineer/cm/culvertm.htm).
6. National Marine Fisheries Service will post guidelines at [www.swr.ucsd.edu](http://www.swr.ucsd.edu).

Additional Field Offices to contact regarding Endangered Species.

U.S. Fish and Wildlife Service  
Arcata Fish and Wildlife Office  
1655 Heindon Road  
Arcata, California 95521  
707-822-7201

National Marine Fisheries Service  
Arcata Field Office  
1655 Heindon Road  
Arcata, California 95521  
707-822-7201

U.S. Fish and Wildlife Service  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003  
805-644-1766