



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398

DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT 15

PERMITTEE: East Bay Regional Park District

PERMIT NO.: SPN-2005-289020S

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.

You are authorized to perform work in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION: This Regional General Permit (RGP15) authorizes minor fill discharges into waters of the U.S. for specific routine maintenance activities and restoration projects. These activities include: maintenance of road crossings, culvert replacement and maintenance, bank stabilization, maintenance dredging, maintenance of other existing structures (wells, levees, swim dams, etc.) and other minor discharges of fill material for new structures as necessary. These specific maintenance activity types and restoration projects have been described in detailed (Enclosures A and B) for the purposes of this RGP. The number of projects performed under this RGP would vary by year. Routine maintenance activities involving stream, creeks, lakes, wetlands, bay shorelines or ponds would be annually identified in the field by park operations staff and/or EBRPD management who are intimately familiar with their park's infrastructure.

If there is any question as to which activity category a proposed activity would apply to, the Corps will determine the applicable the activity category.

Terms of this RGP:

1. Applying for RGP authorization: Prior to commencing a proposed activity, the East Bay Regional Park District (EBRPD) will submit a detailed list of proposed maintenance activities and restoration projects for the upcoming year (the annual pre-construction project list) to the Corps generally prior to May 1 each year for review and approval. Construction season would correspond to the portion of the year when the potential for aquatic and aquatic species impacts will be minimal, normally from May 15 through October 31. At the conclusion of the construction season, EBRPD will submit a second report documenting which projects were actually constructed and the impacts associated with each, including the area and volume of permanent fill in waters of the U.S. At a minimum, the annual pre-construction project list will include the following information:
 - A description of activities/projects proposed and their locations
 - Location and extent of habitat disturbance (e.g. temporary and permanent)
 - Anticipated effects to listed species
 - Conservation measures to be implemented during project work (Enclosure C)
 - Identify any special approaches or conditions to complete the project
 - Identify any projects that may impact any historical or cultural resources
 - Provide spreadsheets with required information (e.g. project location, waters of the U.S.) in current format for uploading to Corps' national regulatory database for proposed projects.
2. After-the-fact projects: This RGP may not be used to authorize activities after they have impacted waters of the U.S.
3. This RGP does not cover any activities in waters of the U.S. conducted in emergency situations.
4. Special conditions: The Corps may add special conditions to an authorization to ensure the activity complies with

the terms and conditions of the RGP, and/or that adverse impacts on the aquatic environment or other aspects of the public interest are individually and cumulatively minimal.

5. Activity completion: Any activity authorized by the Corps under the RGP must be completed prior to the RGP expiration date. Activities authorized under the RGP that are under construction or under contract for construction in reliance upon this authorization will remain authorized provided the activity is completed within 12 months of the date of the RGP's expiration, modification or revocation, unless the Corps exercises its discretionary authority to modify, suspend, or revoke the authorization of a specific project. The "authorization date" is the date the Corps verifies in writing that the activity meets the terms and conditions of the RGP.
6. Discretionary Authority: The Corps has the discretion to suspend, modify, or revoke authorizations under this RGP. This discretionary authority may be used by the Corps to also further condition or restrict the applicability of the RGP for cases in which it has concerns associated with the Clean Water Act Section 404(b)(1) Guidelines, or regarding any public interest factor. Should the Corps determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to aquatic resources or otherwise be contrary to the public interest, the Corps will modify the authorization to reduce or eliminate those adverse effects, or notify the applicant that the proposed activity is not authorized by the RGP and provide instructions on how to seek authorization under an individual permit. The Corps may restore authorization under the RGP at any time it determines that the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. The Corps may also use its discretionary authority to modify, suspend, or revoke the RGP at any time.

PROJECT LOCATION: Alameda and Contra Costa Counties, California. The permit area includes all East Bay Regional Park District (EBRPD) managed lands within the following watersheds: Alameda, Alhambra, Claremont, Garrity, Rheem, Kirker, Marsh, Mount Diablo, Pinole, San Pablo, San Leandro, San Lorenzo, Walnut and Wildcat Creeks, San Francisco Bay, San Pablo Bay, and Suisun Bay. Enclosure A – Map of Regional General Permit Area.

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on October 31, 2023. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. 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, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. 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.
3. If you discover any previously unknown historic or archeological remains while accomplishing the 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.
4. 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.
5. For your convenience, a copy of the water quality certification or waiver is attached. 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.

6. 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.
7. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you 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.

SPECIAL CONDITIONS:

1. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed Alameda whipsnake (Alameda striped racer) (*Masticophis lateralis*), California red-legged frog (*Rana draytonii*), California tiger salamander Central California DPS (*Ambystoma californiense*), Callippe silverspot butterfly (*Speyeria callippe callippe*), San Joaquin kit fox (*Vulpes macrotus mutica*), Ridgway's rail (California clapper rail) (*Rallus obsoletus obsoletus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), giantgarter snake (*Thamnophis gigas*), California least tern (*Sternula antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), delta smelt (*Hypomesustranspacificus*), and pallid manzanita (*Arctostaphylos pallida*) shall be fully implemented as stipulated in the Biological Opinion titled, "Formal Consultation on the East Bay Regional Park District's Routine Maintenance Activities, Contra Costa and Alameda Counties, California (Corps file number 2005-298020S; USFWS file number 08ESMF00-2013-F-0416)," and dated February 22, 2018 (Enclosure D). Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the authorization for your project. The U.S. Fish and Wildlife Service (USFWS) is, however, the authoritative federal agency for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act. The permittee shall comply with all applicable conditions of this Biological Opinion, including those ascribed to the Corps.
2. The Corps will initiate Section 7 consultation with the National Marine Fisheries Service (NMFS) for any project that may affect Sacramento River winter and spring-run Chinook Salmon (*Oncorhynchus tshawytscha*) Central California Central Valley steelhead (*O. mykiss*) DPS, North American green sturgeon southern DPS (*Acipenser medirostris*) and their critical habitat pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.).
3. The Corps will initiate consultation with the NMFS for any proposed project that may impact Essential Fish Habitat (EFH) for various life stages of fish species managed with the Pacific Groundfish Fishery Management Plan, the Coastal Pelagics Fishery Management Plan, and the Pacific Coast Salmon Fishery Management Plan, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act of 1996, as amended (16 U.S.C. § 1801 et seq.).
4. No activity is authorized under the RGP that does not comply with the mandatory requirements of the conservation measures stipulated within Enclosure C. Project authorization under this RGP is conditional upon your compliance with all of the mandatory requirements stipulated within the conservation measures. Failure to comply with the requirements of the conservation measures would constitute non-compliance with the RGP.

5. No activity may substantially disrupt the necessary life cycle movement of aquatic species indigenous to the water body, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low-flow conditions. If feasible, they should be designed as open-bottom culverts.
6. Heavy equipment working in wetlands must be placed on mats, or other measures, such as low-ground pressure equipment, must be implemented to minimize soil disturbance.
7. No activity or its operation may impair reserved Tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
8. Fill material must be clean and free of contaminants and noxious plants. Fresh cement or concrete is not allowed in waters unless it is placed in sealed forms. Unsuitable fill material includes vehicle bodies, farm machinery, appliances and other metal objects, asphalt, biodegradable construction debris and tires, concrete with exposed rebar.
9. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations and re-vegetated in accordance with the plans authorized under this RGP.
10. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration project).
11. The permittee must allow representatives from the Corps to inspect the authorized activity (and any avoidance or mitigation areas, if applicable) at any time deemed necessary to ensure that the activity is being, or has been, accomplished in accordance with the terms and conditions of the permit.
12. The permittee must submit an annual report in accordance with the following procedures: By February 15 of each year, you shall submit an annual report describing the activities performed the previous year and the resulting project disturbance. This report will include a description of the work performed, specifically noting any changes to proposed projects from what was outlined in the preconstruction project list. At a minimum, the annual report will include the following information for that year and in total for all years:
 - A description of activities/projects completed and their location (only for that year and denoting projects that failed to be implemented from the spring submittal of proposed projects);
 - Conservation measures implemented that year;
 - An annual cumulative summary updating project related impacts tracking each routine maintenance activity type (e.g. culvert replacement) over the five year duration of the permit.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).
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. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. §§ 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. § 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.

(PERMITTEE)

(DATE)

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

Travis J. Rayfield
Lieutenant Colonel, US Army
District Engineer

(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)