



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: Ms. Rita Di Candia, City of Pleasanton

PERMIT NO.: Regional General Permit (RGP) 39, SPN-2020-00142

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 (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

This RGP will be used to authorize the City of Pleasanton's stream and stormwater maintenance activities, in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION:

The City of Pleasanton (City) would conduct routine stream maintenance activities including periodic removal of debris, sediment, and vegetation from seventeen stream sections and eight stormwater detention ponds to maintain their flood control and stormwater conveyance capacity. Some of the maintenance locations may require coffer dams for dewatering, or minor instream grading during sediment or vegetation removal, and would therefore be subject to Clean Water Act (CWA) section 404 (enclosures 1 and 2). All material removed from channels and ponds would be loaded into dump trucks and hauled to the City's existing Laguna Creek soil disposal site. The City would conduct all maintenance work between April 15 and October 31 each year, and would submit an annual work plan to regulatory agencies prior to each work season for review and approval of the following work activities:

Weed Abatement in Detention Basins: A tractor equipped with a flail or rotary type mower would mow weeds in and around each basin. Each site would require one to two days to complete, depending on the size of the basin. Dewatering may be required and would result in temporary impacts within Bernal Central and West Detention Ponds (P-02 and P-04), Oak Tree Farms Detention Pond (P-06), and Vineyard East Detention Pond (P-08).

Silt and Rock Removal in Detention Basins: Dump trucks, backhoes, and excavators would scrape silt or washed-in rock materials from the basin floor, and off-haul sediment and debris to an upland stockpile site. Each site would require one to four days to complete. Dewatering may be required and would result in temporary impacts within Bernal Central and West Detention Ponds (P-02 and P-04), Oak Tree Farms Detention Pond (P-06), and Vineyard East Detention Pond (P-08).

Weed Abatement in Streams: A tracked Bobcat with a mowing attachment would mow along maintenance roads and stream bank tops, and within the channel itself. Weed abatement along steeper banks or areas unreachable by the Bobcat would be performed with gas-powered string trimmers. Small sites would require two to three hours to complete. Larger sites for which a Bobcat is required would take four to 12 hours. This work may occur at most stream sites. This activity would not include dewatering or other fill impacts to waters of the U.S., and would therefore not be subject to CWA section 404.

Silt and Rock Removal in Stream: Infrequent silt and rock removal may occasionally be needed within stream areas. Dump trucks and a backhoe or excavator would be used to remove and off-haul silt or washed in rock materials from the stream channel. Each site would require from one to three days to complete. Dewatering may be needed within streams and ponds.

Tule Removal from Streams: Dump trucks and an excavator would be used to dig out tules (bulrush) and their roots from streambeds in order to allow flow through existing channels and culverts or other instream infrastructure. Tule removal in locations with the potential presence of the federally listed California Tiger Salamanders may use herbicide treatment instead of mechanical control in order to avoid and minimize the potential to disturb moist soils. Each site would require from one to five days to complete. Annual/biannual tule removal may require dewatering of Junipero Canal (C-10) and Mission Park Creek (C-11), and would result in permanent impacts to 1.16 acres/2,372 linear feet of C-10, and 0.14 acre/246 linear feet of C-11.

Riparian Tree Maintenance: Hand-powered equipment would be used to prune and trim riparian trees along the tops of stream banks, as necessary. This activity would not include dewatering or other fill impacts to waters of the U.S, and would therefore not be subject to CWA section 404.

Dewatering: Sites would be dewatered when necessary to avoid work in flowing or standing water. Cofferdams or other diversion structures would be constructed from materials that are fully contained and can be completely removed from aquatic habitat, such as clean, bagged gravel or rubber bladders. Cofferdams or other diversion structures would be completely removed upon completion of a maintenance activity. Proposed dewatering plans would be included in annual work plans submitted to regulatory agencies and would require monitoring by a qualified biologist during coffer dam installation, dewatering of the site, and coffer dam removal.

All work shall be completed in accordance with the project description above and with the plans and drawings titled "USACE File SPN-2020-00142, Regional General Permit (RGP) 39, City of Pleasanton Stream and Pond Maintenance Program, Alameda County, CA," dated March 31, 2023, and in 10 sheets, provided as enclosure 1.

PROJECT LOCATION: City of Pleasanton, Alameda County, CA

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on April 1, 2028. 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 (enclosure 3). 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, California red-legged frog (*Rana draytonii*), and the threatened Central California Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) shall be fully implemented as stipulated in the June 13, 2022, formal consultation from the U.S. Fish and Wildlife Service (enclosure 4) and the May 31, 2012, Programmatic Biological Opinion for the Corps Permitted Projects Utilizing the East Alameda County Conservation Strategy that May Affect Federally Listed Species in East Alameda County, California (Programmatic Biological Opinion; Service 2012, https://www.usace.army.mil/Portals/68/docs/regulatory/BOs/Prog/FWS_PBO_EastAlamedaCounty.pdf). 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 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.
2. The USFWS concurred with the determination that the project is not likely to adversely affect the federally listed Alameda whipsnake (*Masticophis lateralis euryxanthus*), or its designated critical habitat. Their concurrence was premised, in part, on conservation measures listed on pages 4-8 of the June 13, 2022 USFWS BO (enclosure 4). These conservation measures are incorporated as special conditions to the RGP authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.
3. By April 15 of each year, you shall submit to the Corps a work plan identifying the proposed maintenance activities for the year for Corps review and approval before work can commence. This work plan shall include details for any proposed dewatering, grading, or other temporary or permanent fill discharge, and any proposed temporary impacts associated with the dewatering or other fill discharge.
4. Maintenance activities are restricted to the following work windows: work in concrete-lined channels is restricted to April 15 to October 31, work in earthen channels is restricted to May 1 to October 31, and work in detention basins is restricted to August 15 through October 31.
5. Appropriate best management practices (BMP) as proposed in application materials shall be implemented for all maintenance activities to help minimize erosion and sedimentation of adjacent waterways and wetlands. BMPs shall include, but not necessarily be limited to, placement of silt fencing and/or hay bales at the toe of all exposed slopes adjacent to waterways and isolated wetlands to intercept sediments and stabilization of all exposed areas using erosion control blankets and/or hydroseeding with a California native plant seed mix at project completion.
6. If flowing water is present in the project site and dewatering is required, the by-pass pipe shall be sufficiently

sized to avoid any decrease in flow velocity at its inlet or outlet. The dewatering process shall be performed in a manner to minimize any disruption or alteration of normal water flow downstream of the project. Any temporary structures used to dewater the stream channel shall consist of clean washed gravel, sandbags or other non-erodible material and shall be completely removed from the work area at project completion.

7. You shall submit annual maintenance reports detailing the maintenance activities undertaken by January 31, following each year of maintenance activities. The annual report shall include the following:
 - A description of the extent to which the work plan was completed during the previous maintenance season (i.e., maintenance activities that were and were not implemented, and the status of any partially completed activities) and, for any maintenance activities that were not implemented, an explanation of why, and whether the project will be incorporated into the next year's work plan;
 - A statement of whether activities were conducted according to permitted maintenance descriptions and, if not, how the maintenance activity varied from the permitted description;
 - Site photographs of before and after maintenance activities;
 - For each project site, the quantification of the area and linear footage that was impacted by dewatering, sediment and vegetation removal, or regrading, as well as an estimate of the volume of sediment that was removed from each site;
 - A summary of impacts to all jurisdictional wetlands and waters that occurred at each work site for each year and a summary of running totals for all combined years; and
 - A description of whether any federally listed species were encountered during pre-activity surveys or project and adherence to the terms and condition of the May 31, 2012, Programmatic Biological Opinion for the Corps Permitted Projects Utilizing the East Alameda County Conservation Strategy that May Affect Federally Listed Species in East Alameda County, California (Programmatic Biological Opinion; Service 2012).
8. You shall complete compensatory mitigation as described in the "Habitat Mitigation and Monitoring Plan, City of Pleasanton Stream and Pond Maintenance Project" dated August 2021. Success criteria shall be adhered to as per the Mitigation Monitoring Plan, and an annual monitoring report shall be submitted to the Corps by December 31 for six years following the initial implementation of the mitigation site. This report shall include dated photographs that cover the entire project reach, including the creek and both banks. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions shall be provided.
9. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 8 will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.
10. To ensure compliance with Section 106 of the National Historic Preservation Act, all sediment removal activities or other in-channel ground disturbance authorized under this RGP within earthen sections of Junipero Canal (C-10) or Dublin Canyon Creek (C-14) shall be monitored by a qualified archaeologist. If any historic, cultural, or archeological remains or artifacts are discovered while accomplishing activities authorized by this RGP, the City must immediately notify the Corps of the discovery. The Corps will initiate the Federal, Tribal, and/or state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. The City shall avoid further construction activities that may affect the remains/artifacts until the required coordination has been completed.

FURTHER INFORMATION:

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

4/20/2023

(DATE)

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



James Mazza
Chief, Regulatory Division

27 April 2023

(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)