



**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:** Timothy Chorey, California Department of Fish and Wildlife (CDFW)

**REGIONAL GENERAL PERMIT (RGP) 12;** CDFW Fisheries Restoration Grant Program (File # SPN-2003-279220)

**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.

This RGP will be used to authorize projects in accordance with the terms and conditions specified below:

**PROJECT DESCRIPTION:** RGP12 will be used to authorize salmonid habitat restoration projects funded by CDFW under their Fisheries Restoration Grant Program (FRGP) and North Coast Coho Recovery (NCCR) program. Funded projects are designed to restore, enhance, or expand anadromous salmonid habitat with the goal of increasing wild populations of native anadromous fish in California coastal streams and watersheds. All funded projects will be consistent with methods and procedures found in the latest approved version of CDFW's *California Salmonid Stream Habitat Restoration Manual* (2010; <https://wildlife.ca.gov/Grants/FRGP/guidance>) or other restoration manuals approved by CDFW. Instream restoration activities would be implemented annually during the summer/fall low-flow period, typically between June 15 and November 1.

Restoration projects authorized under this RGP may include minor fill discharges of earth, rock, and wood into streams, ponds, wetlands, and/or nearshore tidal waters subject to Clean Water Act (CWA) section 404, as well as other work in tidal waters subject to Rivers and Harbors Act (RHA) section 10. Covered projects will generally fall within the following categories:

**HI – Instream Habitat Improvements:** Includes the installation of boulder structures (boulder weirs; boulder clusters; single and opposing boulder wing-deflectors), log and root wad structures (divide logs; digger logs; spider logs; engineered log jams; log weirs; upsurge weirs; single and opposing log wing-deflectors; and log, root wad and boulder combinations), off-channel and/or side channel habitat construction and floodplain connectivity, beaver dam analogs, and grading to restore/enhance channels in freshwater or estuarine areas. This category also includes the creation of living shorelines, salt marsh remediation, the removal of structures to improve water quality (e.g. chemically treated wood pilings), and the restoration and re-establishment of submerged aquatic vegetation (e.g., eelgrass beds).

**HB – Instream Barrier Modification for Fish Passage:** Includes removal or modification of barriers such as grade control structures (weirs), flashboard dams, small dams' debris basins, water diversion structures, log jams, beaver dams (removal or modification of beaver dams would only be in service of a larger restoration effort), waterfalls, chutes, landslides, tide gates, and log debris accumulations that prevent or impede the passage of adult and juvenile salmonids. Projects may include removing low-flow barriers, tide/flood gates, low-risk small dams, and failing Denali and Alaska steep-pass fishways; installing rock weirs to deepen low-flow impediments; notching grade control structures; placing baffles within concrete-lined sections of channel and installing engineered stream bed ramps on small dams and on flood-control structures such as debris basins to improve instream salmonid migration. This category may also include the creation of beaver habitat and installation of beaver dam analog structures where appropriate to improve fish passage.

**FP – Fish Passage at Stream Crossings:** Includes modification/removal of stream crossing barriers such as paved or unpaved roads, railroads, trails and paths, fair-weather Arizona crossings, bridges, and box, pipe, or concrete culverts and baffles which limit or impede salmonid migration. Projects include activities that provide fish friendly crossings where the crossing width is at least as wide as the active channel, crossings are designed to withstand a 100-year storm flow, and/or crossing bottoms are buried below the streambed. Examples include replacement of barrier stream crossings with bridges, bottomless arch culverts, embedded culverts, or fords.

HU – Watershed Restoration (Upslope): Upslope watershed restoration projects are designed to reduce sediment delivery to anadromous streams through road decommissioning, road upgrading, and storm proofing roads (replacing high risk culverts with bridges, installing culverts to withstand the 100-year flood flow, installing critical dips, installing armored crossings, and removing unstable sidecast and fill materials from steep slopes).

HR – Riparian Habitat Restoration: Includes projects to increase stream shading and lower water temperatures, as well as increase future recruitment of woody debris to streams, and increase invertebrate forage production. This category may include livestock exclusionary fencing, bioengineering, revegetation projects, tree and natural material revetment, mulching, willow wall revetment, willow siltation baffles, brush mattresses, check-dams, brush check-dams, waterbars to reduce erosion, and eradication of non-native, invasive vegetation species and revegetation with native riparian species.

WC – Water Conservation Measures: Includes projects which reduce or provide more efficient use of water diverted from stream systems, and which result in an increase in flows that benefit aquatic species. Off-channel water storage, changes in the timing or source of water supply, moving points of diversion, irrigation ditch lining, piping, stock-water systems, installation of efficiency irrigation systems, graywater, and rainfall collection systems, and agricultural tailwater recovery/management systems are included in this category when the water savings are quantified and dedicated for instream beneficial flows for salmonids. Water savings for these projects must include an instream dedication of 100% of the water saved due to project implementation and in a manner to support fish during water limited seasons, and shall dedicate to the stream for anadromous salmonid benefits through a mechanism such as a Forbearance Agreement, an Instream Flow Lease, or a formal dedication or transfer of water rights through Chapter 10, Section 1707 of the California Water Code.

WD – Water Measuring Devices (Instream and Water Diversion): Includes projects which install, test, and maintain instream water diversion measuring devices. Instream gauges must be installed so they do not impede fish passage in anadromous streams.

PD – Project Design: Design and planning work may require RGP12 authorization if it involves geotechnical surveys or temporary monitoring (i.e., ground water wells) to collect data necessary to inform the design of restoration projects.

MO – Monitoring Watershed Restoration (Large-scale and Project-scale): Includes implementation monitoring, effectiveness monitoring, and/or validation monitoring of completed restoration projects. Monitoring may require RGP12 authorization if it involves a fill discharge, redistributing stream substrate, or work in tidal waters to install fish monitoring devices or equipment.

SC – Fish Screens: This category includes the installation of fish screens on existing water intakes, which may involve site excavation, forming and pouring a concrete foundation and walls, and installation of the fish screen structure. Pile driving may be needed for certain types of screens. Typically, if the fish screen is placed within or near flood-prone areas, rock or other armoring is installed to protect the screen. Fish screen types include self-cleaning screens (including flat plate and other designs, including rotary drum screens and cone screens with a variety of cleaning mechanisms), and non-self-cleaning screens (including tubular, box, and other designs). All screens must be consistent with NMFS fish screening guidelines. The category does not include installation of new water diversion structures or intakes.

**PROJECT LOCATION:** RGP 12 will be used within the USACE San Francisco District (enclosure 1) in central and northern coastal California to authorize salmonid habitat restoration projects in the Counties of Del Norte, Siskiyou, Humboldt, Trinity, Mendocino, Sonoma, Napa, Marin, San Francisco, San Mateo, Santa Cruz, Santa Clara, Monterey, and San Benito; the western portions of Solano, Contra Costa, and Alameda Counties; and the inland (Salinas River watershed) portion of San Luis Obispo County. Projects may occur in coastal estuarine and tidal waters, but RGP 12 does not cover tidally influenced areas within the San Francisco Bay.

**PERMIT CONDITIONS:**

**GENERAL CONDITIONS:**

1. The time limit for completing the work authorized ends on December 31, 2027. 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. Projects may not be authorized under this RGP until a CWA section 401 water quality certification is issued for those projects. Once a conditioned water quality certification has been issued for your project(s), you must comply with the conditions specified in the certification.
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 species shall be fully implemented as stipulated in the biological opinions (BOs) issued by the U.S. Fish and Wildlife Service (USFWS) on April 26, 2022 (enclosure 2), and by the National Marine Fisheries Service (NMFS) on May 18, 2022 (enclosure 3). The USFWS BO addresses incidental take and other adverse effects to the California red-legged frog (*Rana draytonii*) and its designated critical habitat, San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), California freshwater shrimp (*Syncaris pacifica*), and tidewater goby (*Eucyclogobius newberryi*) and its designated critical habitat. The NMFS BO addresses incidental take and other adverse effects to Southern Oregon/Northern California Coast (SONCC) and Central California Coast (CCC) coho salmon (*Oncorhynchus kisutch*); Northern California (NC), Central California Coast (CCC), and South-Central California (S-CCC) steelhead (*O. mykiss*); and Coastal California (CC) Chinook salmon (*O. tshawytscha*). 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 and NMFS are, however, the authoritative federal agencies 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 program is not likely to adversely affect the following federally-listed species or their designated critical habitat:

- California tiger salamander (*Ambystoma californiense*) and critical habitat
- least Bell's vireo (*Vireo bellii pusillus*)
- southwestern willow flycatcher (*Empidonax traillii extimus*)
- marbled murrelet (*Brachyrampus marmoratus*) and critical habitat
- northern spotted owl (*Strix occidentalis caurina*) and critical habitat
- western snowy plover (*Charadrius nivosus nivosus*) and critical habitat
- yellow-billed cuckoo (*Coccyzus americanus*)
- Point Arena mountain beaver (*Aplodontia rufa nigra*)
- All listed plant and butterfly species within the RGP area

Their concurrence was premised, in part, on species specific avoidance measures described on pages 2-9 of enclosure 2. These measures are incorporated as special conditions to this permit to ensure unauthorized incidental take of species or loss of critical habitat does not occur.

3. NMFS concurred with the determination that the program is not likely to adversely affect the North American green sturgeon (*Acipenser medirostris*, southern DPS), Pacific eulachon (*Thaleichthys pacificus*, southern DPS), or designated critical habitat for these species. Their concurrence was premised, in part, on project measures listed on pages 9-15 of enclosure 3. These measures are incorporated as special conditions to this permit to ensure unauthorized incidental take of species or loss of critical habitat does not occur.
4. CDFW shall submit an annual workplan of proposed restoration projects via email to USACE, USFWS, and NMFS at least 60 days prior to the commencement of work each calendar year. The submitted report shall include the types of activities planned, anticipated dates of commencement and completion, locations and descriptions of the proposed projects, and a summary of any impacts to streams, wetlands, or other waters including proposed dewatering, grading, or other temporary or permanent fill discharge for each project. The annual workplan shall also include:
  - Latest version of the USACE ORM Aquatic Resources and Consolidated Upload Spreadsheet, using the Aquatic Resources tab and Impacts tab to provide required information for all proposed projects, including details on the aquatic resources and proposed fill impacts for each project.
  - Summary of cultural resource information for each project area, including surrounding archaeological sensitivity, and any known or suspected historic property, tribal cultural property, or other cultural resource within project areas. For any proposed project with the potential to affect a historic property, CDFW shall include sufficient information for USACE to initiate consultation with the State Historic Preservation Officer under section 106 of the National Historic Preservation Act
5. CDFW shall forward a digital copy of the annual section 401 water quality certification to USACE upon receipt from the State Water Resources Control Board.
6. For any proposed projects within the coastal zone, CDFW shall contact the appropriate California Coastal Commission (CCC) office to determine the need for a coastal zone permit. If required, CDFW shall obtain a

coastal zone permit, or concurrence from the CCC that the project is consistent with the State's certified Coastal Zone Management Program and provide a copy of the permit or concurrence to USACE.

**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.

\_\_\_\_\_  
Katerina Galacatos (DATE)  
South Branch Chief, Regulatory Division

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)