



**LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS**

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT (RGP) NUMBER 73
FOR MAINTENANCE OPERATIONS IN THE CITY OF HEMET**

Permittee: Richard Masyczek, City of Hemet
Permit Number: Regional General Permit No. 73 (Corps File No. 200501921-JPL)
Issuing Office: Los Angeles 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 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 permit authorizes the City of Hemet (City) to perform maintenance activities (grading, dredging, bank stabilization, removal of woody vegetation) within mostly roadside ditches and retention basins totaling at least 60.08 acres of waters of the U.S. as described in the enclosed figures (Appendix A) from the City's application in the 42 drainage facilities listed in those figures. The following routine and modified maintenance activities are proposed for implementation: 1) bank stabilization to include reshaping and/or road shoulder repair; 2) desilting/dredging and sediment removal; and 3) removal of established woody riparian vegetation. This permit authorizes the temporarily discharge of fill to approximately 60.08 acres of "waters of the United States" (waters), including 1.07 acres of jurisdictional wetlands, and would irregularly result in permanent impacts to waters of the U.S. as a result of any necessary bank stabilization activities. No more than 6.7 acres of impact to jurisdictional waters of the U.S. is authorized annually. It is anticipated that special circumstances may arise requiring maintenance activities not described in the public notice or evaluated in this environmental assessment. If need for non-covered activities occurs, separate permit applications would be processed

Project Location: Forty-two jurisdictional drainage facilities, all of which are tributary to, and including Salt Creek, all within the city of Hemet, Riverside County, California

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on August 13, 2012. 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. 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 from 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 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. For your convenience, a copy of the certification is attached if it contains such conditions.
5. 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 with the terms and conditions of your permit.

Special Conditions:

1. Notification:

(A) Timing: The project proponent, the City of Hemet (City) must notify the District Engineer as early as possible and shall not begin any activity:

- 1) Until notified by the District Engineer that the activity may proceed under the RGP with any special conditions imposed by the District or Division Engineer.
- 2) The applicant may notify the Corps by November first of each year with a complete list of proposed maintenance activities for the upcoming rainy season but may not proceed until written verification that the activities are covered by RGP No. 53 is issued by the Corps.
- 3) In the event emergency authorization is required, the project must be authorized either under a different Corps permit that addresses those situations or by implementing emergency procedures at 33 CFR Part 325.2(e) (4). A separate application may be required.

(B) Contents of Notification: The notification should be in writing and include the following information:

- 1) Location of the proposed project including latitude and longitude or UTM coordinates;
- 2) Brief description of the work to be performed;
- 3) Type of structure that will be maintained, e.g., box culvert, etc;
- 4) Total area that will be impacted, e.g., .02 acre of unvegetated waters of the U.S. and .03 acre of emergent wetland;
- 5) Description of the adjacent habitats likely to be affected.
- 6) Proposed mitigation. To ensure that all mitigation is commensurate with expected impacts, mitigation requirements shall be based upon: a) quality of existing habitat including consideration of the historical or ultimate habitat types that would be present if there had not been ongoing maintenance activities in the past, and b) frequency of proposed disturbance.

- a) Areas with more than minimal wetland/riparian habitat. - Maintenance activities which occur in areas with more than minimal wetland vegetation will require mitigation based on the frequency of the proposed maintenance activities.

High Frequency Maintenance Activities. - Maintenance activities that occur more frequently than once every 3 years and that are in areas with more than minimal wetland vegetation will require mitigation through creation, restoration, and/or enhancement. All required wetland mitigation would be on a one-time basis. Future maintenance impacts to mitigation areas would require new mitigation as replacement.

- ii. Low Frequency Maintenance Activities. - Maintenance activities that occur less frequently, once every 3 years or longer can be mitigated by a program of giant reed (*Arundo donax*) and/or other exotic species removal. The amount of exotic species removal required will be commensurate with the quantity and quality of the habitats being impacted and enhanced and will range from 1:1 to 4:1.
- b) Areas with minimal or no wetland/riparian habitat. - No mitigation will be required for maintenance activities that occur in areas where there is currently little or no wetland vegetation and no substantial increases in wetland vegetation would be expected to occur in the absence of maintenance activities.

To determine whether an area falls into category 1 or 2 (see above) the Corps will evaluate each site based on specific parameters. The parameters would include:

percent vegetation cover, diversity of species, width of existing stream, percent of exotic species present, and whether a site is mowed or treated with herbicides.

(C) Form of Notification: The standard permit application form (Form ENG 4345) may be used for each site, or a series of sites, as the notification and must include all of the information required in (B) (1)-(6) of Special Condition 1. A form may also be used that will be prepared by the Corps in consultation with the permittee, that will contain all relevant information.

(D) District Engineer's Decision: In reviewing the notification for the proposed activity, the District Engineer will determine whether the activity falls within the guidelines of this RGP and if it will result in minimal adverse environmental effects. Activities that exceed the criteria authorized by this RGP will need to be reviewed separately for potential authorization under other general permits or an individual permit.

2. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps re-authorizes project construction, per 36 C.F.R. section 800.13.

3. Suitable Material: No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

4. The permittee shall dispose of all excavated sediment and debris at a legal disposal point. Disposal of sediment on adjacent native habitat areas, State or federal "waters" is prohibited.

5. Obstruction of High Flows: To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

6. Adverse Effects From Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

7. Waterfowl Breeding Areas: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

8. Removal of Temporary Fills: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation and revegetated with appropriate native riparian or wetland vegetation common to the area.

9. The permittee will remove noxious, invasive exotic plant species from areas immediately upstream, downstream, and adjacent to the area of project impacts where practical. Some species to be removed include: giant reed (*Arundo donax*), salt cedar (*Tamarix* spp.), common reed (*Phragmites australis*), tree tobacco (*Nicotiana glauca*), castor bean (*Ricinus communis*),

Russian thistle (*Salsola tragus*), star thistle (*Centaurea solstitialis*), artichoke thistle (*Cynara cardunculus*), thistle (*Cirsium* spp.) pampas grass (*Cortaderia selloana*), fountain grass (*Pennisetum setaceum*) and cocklebur (*Xanthium strumarium*). Removal of these plants will minimize the recruitment of exotic species within the maintenance activity area which is inherently vulnerable to such recruitment. The Corps will consider the removal of exotic plants as mitigation for certain maintenance activities.

10. The permittee shall submit to the Corps by June 1 of each year annual reports (including summary tables, scaled maps, and photographs of the impacts areas) that summarize activities performed under this RGP, and documents that impacts at each site were not exceeded and compliance with the conditions above.

11. This Corps permit does not authorize you to take any threatened or endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply).

12. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

13. Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps a complete set of final detailed grading/construction plans showing all work and structures in waters of the U.S. The plans shall be submitted on paper that is no larger than 11x 17 inches. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps approval of the final detailed grading/construction plans. The Permittee shall ensure that the project is built in accordance with the Corps-approved plans. These plans shall include a determination of the 25% capacity line for each of the channels and basins covered under this RGP.

14. The Permittee shall submit to the Corps a draft habitat mitigation and monitoring plan (HMMP) prepared in accordance with the Corps' Los Angeles District Mitigation Guidelines and Monitoring Requirements, dated April 19, 2004. The HMMP shall address the impact to waters of the U.S. in accordance with Special Condition 1(B)(6) above. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps approval of the final HMMP. The Permittee shall fully implement the final, Corps-approved HMMP.

15. The City shall develop a training program for field personnel performing activities regulated under this RGP and their managers, planning personnel, and other appropriate managers and staff. The training program shall cover Best Management Practices including management oriented for water quality, management oriented for wildlife, native flora and fauna expected on the site and mechanisms for avoidance, discussions of nesting season, native plants vs. invasive weeds, and endangered species protocol.

16. The City shall only remove sediment when greater than 25% of the basin/channel capacity is occupied by debris as defined by the following:

- a) when sediment in a sediment entrapment basin or drainage channel has reached the 25% capacity line or above.
- b) when a sediment entrapment basin has reached the 5% capacity line and more than 20% of the watershed of the sediment entrapment basin has burned within the previous 5 years.

17. At all sites where the 25%-capacity area exceeds 1 acre in size, pre-cleanout migratory bird and endangered species surveys must be completed annually by a Corps approved biologist(s) during appropriate seasons for potential species of concern. This requirement can be waived by the Corps of Engineers depending on the status of the habitat. The completed report must be submitted to the Corps for approval prior to cleanout.

18. No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or species proposed for such designation, as identified under the Federal Endangered Species Act. Nor is activity authorized which is likely to destroy or adversely modify the critical habitat of such species.

19. The permittee operating under this RGP shall maintain copies of the terms and conditions of this RGP on each site and will provide training to all personnel doing work on a site to insure that the conditions are implemented.

20. No work is authorized within the basin designated as Seattle Basin (Basin 11). Should the Regional Board issue a new Section 401 Clean Water Act certification, or modify the existing certification to include Basin 11, the City may request a modification of this permit authorization to include Basin 11 in any maintenance activities.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

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).

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 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 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 measure 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 CFR 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 you favorable consideration to a request for an extension of this time limit.