



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

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Santa Barbara County Flood Control & Water Conservation District and Water Agency

**Regional General Permit Number:** 49 (File No. 200301473-MWV)

**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:** The proposed reauthorization of Regional General Permit (RGP) 49 would permit the Santa Barbara County Flood Control & Water Conservation District and Water Agency (District) to conduct maintenance activities in 17 debris basins located in 14 different waterways between the cities of Carpinteria and Goleta in the foothills of the Santa Ynez Mountains along the south coast of Santa Barbara County, California. Maintenance activities would include: annually clearing a 15-foot-wide pilot channel through each basin and building windrows on each side of the pilot channel, as well as removing vegetation on the face of the embankment and along a 10-foot-wide swath at the toe of the embankment using hand tools and herbicide (herein routine maintenance); episodically cleaning out the entire basin when 25% of the basin's capacity has been filled (herein long-term maintenance); emergency clean out of a basin following severe environmental conditions (e.g., a major storm event early in the rainy season, fire in the upper watershed late in the dry season, etc.); selective pruning of riparian vegetation for use as a propagule source in District revegetation projects; and, modifying several of the basins' embankments to facilitate fish passage. For additional information concerning the location and description of work, please reference the attached public notice.

**Project Location:** The project is located in 17 debris basins located in 14 different waterways between the cities of Carpinteria and Goleta, in the foothills of the Santa Ynez Mountains along the south coast of Santa Barbara County. The basins are located in Arroyo Paredon, Cold Springs, Franklin, Gobernador, Maria Ygnacio (Main and East Fork), Mission, Montecito, Rattlesnake, Romero, San Antonio, Santa Monica, San Roque, San Ysidro, and Toro (East Fork, Lower West Fork, and Upper West Fork) Creeks.

**General Conditions:**

1. The time limit for completing the authorized activity ends on 23 September 2009. 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 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 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. 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.
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 with the terms and conditions of your permit.

**Special Conditions:**

1. The permittee shall notify the Corps at least 15 days prior to conducting routine or long-term maintenance. The permittee shall notify the Corps at least 1 day prior to conducting emergency maintenance. Notification shall include a description of the work to be conducted, the anticipated work schedule, and the name of the company and/or persons contracted to do the work.
2. The permittee shall clearly demarcate the designated work areas in the basins with stakes, flags, and/or fencing. Staking, flagging, or fencing shall be conducted prior to each maintenance activity. All construction personnel shall be instructed to remain within the boundaries of the demarcated areas and the reasons for this restriction.
3. The permittee shall conduct pre-project surveys for sensitive species, including federally listed endangered or threatened species, in each basin prior to each year's routine or long-term maintenance. Only qualified biologists who understand the life histories of, and have

experience surveying for, federally listed species shall conduct the pre-project surveys. Surveys for California red-legged frog (*Rana aurora draytonii*) shall be conducted in accordance with U.S. Fish and Wildlife (USFWS) protocols dated 18 February 1997. If work is proposed during the breeding bird season (i.e., between March 1 and September 1), the permittee shall survey for active bird nests.

4. Pre-project surveys shall be provided to the Corps along with the proposed work notification at least 15 days prior to beginning the routine and long-term maintenance. Survey documentation shall include location and description of area surveyed, time and date of survey, all survey methods used, name and qualifications of the biologist(s) completing the surveys, and all sensitive species observed during surveys. If steelhead are observed, the documentation shall include estimated abundance, developmental stage (i.e., parr, smolt, or adult), size, habitat use and behavioral observations.

5. In basins where federally listed threatened or endangered species are known to occur, maintenance activities under this RGP shall not be authorized until the Corps has determined that the work would not affect the listed species, the USFWS and/or NMFS has concurred with a "not likely to adversely affect" determination, or the Corps has demonstrated compliance with the Endangered Species Act (ESA) by completing formal Section 7 consultation.

6. In basins designated as critical habitat for federally listed threatened or endangered species, maintenance activities under this RGP shall not be authorized until the Corps has determined that the work would not adversely modify designated critical habitat, the USFWS and/or NMFS has concurred with a "not likely to adversely modify critical habitat" determination, or the Corps has demonstrated compliance with the ESA by completing formal Section 7 consultation.

7. In basins where active bird nests are located during pre-project surveys, the permittee shall postpone maintenance activities until after August 15.

8. Prior to conducting modifications to any of embankment outlet structures, the permittee shall submit to the Corps and NMFS the design specifications for review and written approval. Approval may require additional consultation with NMFS under Section 7 of the ESA and the permittee shall not conduct the work until after such consultation has concluded or written notification that consultation is not necessary.

9. If any previously unknown cultural resources are discovered during non-emergency excavation activities, all work shall cease, and the permittee shall contact the Corps and the California State Historic Preservation Officer immediately. Work shall not resume until after the Corps has completed the Section 106 compliance process and has provided written notification to the permittee.

10. No work under this General Permit shall permanently disrupt the movement of aquatic species indigenous to the tributary/basin, including those species that normally migrate through the areas.

11. With the exception of constructing the pilot channel windrows and short-term temporary impacts associated with long-term maintenance, the permittee shall ensure that no excavated material be disposed of into waters of the U.S., or be placed in such a manner whereby these materials would be washed into a water of the U.S. via rainfall or runoff.

12. The permittee shall ensure all standard best management practices (BMPs) are implemented during maintenance activities to prevent the degradation of water quality and riparian habitat. All structures installed in the basins to implement the BMPs shall be removed following completion of the maintenance activity.

13. The District Engineer reserves the right to invoke discretionary authority on a case-by-case, basis as defined in 33 CFR Part 330.4(e), when the Corps believes maintenance activities would have more than minimal individual and cumulative impacts. If new information becomes available, additional special conditions may be added unilaterally by the Corps.

14. Prior to conducting any maintenance, the permittee shall conduct a pre-project conference with all newly hired personnel (e.g., contractors, sub-contractors, equipment operators, etc.) to discuss sensitive resources surrounding the basins, the legal requirements for their protection, and the specific conditions of this permit.

15. The permittee shall conduct non-native invasive vegetation (e.g., arundo, castor bean, Russian thistle, cocklebur, fennel, etc.) removal in the basins via hand-cutting during routine maintenance. Selective spraying of non-native invasive vegetation is permitted with herbicides approved for aquatic use by the EPA only when hand-cutting is impractical. Cut vegetation shall be disposed of in a manner that prevents re-establishment in the basins or in other waters of the United States.

16. The permittee shall submit to the Corps a photographic record of routine maintenance operations and natural resource development in the basins. Photographs shall be taken from designated photo stations shown on a map. Photographs, or color copies of photographs, shall be submitted annually to the Corps following routine maintenance.

**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).
- (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).

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.

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.

\_\_\_\_\_  
David J. Castanon  
Acting Chief  
Regulatory Branch

\_\_\_\_\_  
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



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

**CERTIFICATION OF COMPLIANCE WITH  
DEPARTMENT OF THE ARMY PERMIT**

**Permit Number:** 200301473-MWV

**Name of Permittee:** Santa Barbara County Flood Control & Water Conservation District and Water Agency

**Date of Issuance:** September 23, 2004

Upon completion of the activity authorized by this permit, sign this certification and return it to the following address:

Regulatory Branch - Los Angeles District, Ventura Field Office  
ATTN: CESPL-CO-R-200301473-MWV  
2151 Alessandro Drive, Suite 110  
Ventura, California 93001

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

---

Signature of Permittee

---

Date