US Army Corps of Engineers®

SPECIAL PUBLIC NOTICE

LOS ANGELES DISTRICT

LETTER OF PERMISSION PROCEDURES FOR THE
San Luis Obispo Creek Waterway Management Plan and
Stream Management and Maintenance Program

Public Notice/Application No.: SPL-2003-01466-TS
Comment Period: October 21, 2008 through November 20, 2008
Project Manager: Theresa Stevens, Ph.D. (805) 585-2146, Theresa.Stevens@usace.army.mil

Applicant
City of San Luis Obispo

Contact
Barbara Lynch, City of San Luis Obispo
(805) 781-7191

Co- Applicant
County of San Luis Obispo
Public Works Department (Zone 9)

Location
The affected area includes portions of San Luis Obispo Creek (SLO Creek) and Stenner Creek in the City and County of San Luis Obispo, California. The SLO Creek watershed is approximately 84 square miles in size. SLO Creek originates in the foothills of the Santa Lucia Range near Cuesta Grade and discharges to the Pacific Ocean at San Luis Bay, a distance of approximately 18 miles. The City of San Luis Obispo covers an area of approximately 9.5 square miles within the center of the watershed, and the remaining watershed area is within County jurisdiction. Portions of several other creeks may also be affected, including East Fork of SLO Creek, Prefumo Creek, Froom Creek, Brizziolari Creek (a tributary to Stenner Creek), See Canyon Creek, Old Garden Creek (a tributary to Stenner Creek), and Davenport Creek.

Activity
As part of the effort to address cumulative impacts and a comprehensive mitigation strategy in the affected area, the U.S. Army Corps of Engineers (Corps) Los Angeles District proposes to establish an alternate permitting process involving new Letter of Permission (LOP) procedures to authorize discharges of fill material in waters of the U.S. for bank stabilization projects and routine annual maintenance activities that would not substantially affect aquatic resource functions and values.

This Special Public Notice concerns only the Corps' proposal to use LOPs for bank stabilization and routine annual maintenance activities within the affected area to authorize eligible activities for

applicants who performed effective pre-application coordination with the Corps, complied with the Section 404(b)(1) Guidelines and included compensatory mitigation for unavoidable impacts. Implementation of LOP procedures in the SLO Creek watershed would allow the Corps to undertake the appropriate level of permit review in consideration of the quality of the aquatic resources that could be affected.

The proposed activities which may be covered under the LOP include bank stabilization projects described in the Waterway Management Plan (WMP) and routine annual maintenance activities described in the Stream Management and Maintenance Program (SMMP). The applicants have also prepared a Drainage Design Manual (DDM) to guide project designs toward bioengineering solutions where appropriate.

The WMP describes program policies and identifies projects. Specifically, the WMP identifies three categories of projects and activities including five Capital Improvement Projects, and 48 specific public and private projects where bank stabilization may take place. The WMP also establishes priority for each of the 48 individual projects and provides a recommended approach to bank stabilization with an emphasis on bioengineered solutions.

The SMMP describes routine maintenance and repair activities that may take place at existing and proposed public and private facilities, and provides a notification and reporting procedure for annual routine maintenance under this LOP process. The DDM is an updated design manual that will replace the former "Pink Book" and provides engineering design guidance for development projects and drainage facility improvements in the watershed, including those described in the WMP.

The LOP procedures under consideration by the Corps may be applied to eligible bank stabilization projects and/or routine annual maintenance activities described in the WMP and the SMMP but will not be applied to any major project or activity, or CIP project described in the WMP, or emergency actions taken in response to natural disasters; these actions will require additional review and authorization by the Corps.

The LOP authorization is an abbreviated method for issuing a permit, whereby a decision to issue permit authorization is made after coordination with federal and state fish and wildlife agencies and a public interest evaluation. A subsequent public notification of the effective date of the LOP would be published and circulated to inform interested parties.

For more information see page 4 of this notice and attached figures and tables.

Interested parties are invited to provide their views on the proposed LOP procedures for implementation in the SLO Creek watershed. Comments will become a part of the administrative record and will be considered in the final decision. The proposed LOP procedures would be adopted pursuant to Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344).

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
Ventura Field Office (Attention: Theresa Stevens)
2151 Alessandro Drive, Suite 110
Ventura, California 93001

Alternatively, comments can be sent electronically to: Theresa.Stevens@usace.army.mil

Evaluation Factors

The decision whether to establish alternative permitting procedures will be based on an evaluation of the probable impact including cumulative impacts of proposed projects/activities on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, the proposal will be evaluated through application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposal. Any comments received will be considered by the Corps of Engineers to determine whether to establish alternative LOP procedures. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposal.

Preliminary Review of Selected Factors

EIS Determination- On October 19, 1995, the Corps of Engineers asserted discretionary authority over bank stabilization measures within the portion of SLO Creek and its tributaries located in the City of San Luis Obispo pursuant to 33 CFR 330.1(d). The Corps' determination was based on evidence that existing bank stabilization measures resulted in substantial fragmentation of habitat, loss of wildlife movement corridors, severe loss of floodplain values, channel constriction and incision. The Corps also determined that any subsequent proposal to channelize or otherwise substantially impact San Luis Obispo Creek and its tributaries would result in greater than minimal cumulative impacts and would require authorization under a standard individual permit. In response to the Corps, the City and County of San Luis Obispo prepared the WMP, SMMP and DDM. Further, because potential significant cumulative impacts to waters of the U.S. as a result of bank stabilization were identified, an EIS was prepared. The public review and comment period for the Draft EIS was completed on May 9, 2005. One comment letter on the Draft EIS was received (U.S. EPA letter dated June 17, 2005). Responses to EPA comments were made available in the Final EIS on June 29, 2007. The Record of Decision is pending.

Water Quality- The Corps is submitting all relevant documents to and coordinating with the Central Coast Regional Water Quality Control Board (CCRWQCB) with respect to development of this LOP. Prior to Letter of Permission authorization for projects described in each Annual Work Plan (AWP, described below), Section 401 of the Clean Water Act requires that any applicant requesting authorization under Section 404 provide proof of water quality certification to the Corps. After the Corps receives proof of water quality certification of a particular project, a final permit decision would be issued for projects described in each AWP. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- For those projects or activities authorized by the LOP and in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan.

Cultural Resources- Archeological evidence suggests that Native American use of the central California coast region may have begun during the late Pleistocene, as early as 9,000 B.C. A literature search at the University of California at Santa Barbara for all of the reaches in the affected area showed that some reaches contain known archaeological sites or have been surveyed and are known to not contain archaeological resources. The Corps will complete an analysis for potential impacts on cultural and historic resources and comply with Section 106 of the Historic Preservation Act prior to authorizing any project under the LOP.

Endangered Species- Four federally listed threatened or endangered species are known to occur in, or are potentially present in the affected area. The listed species are: Chorro Creek bog thistle (*Cirsium fontinale* var. *obispoense*), southern steelhead (*Oncorhynchus mykiss irideus*), California red-legged frog (*Rana aurora draytonii*), and tidewater goby (*Eucyclogobius newberryi*). Of the listed species identified above, critical habitat for the southern steelhead and red-legged frog has been designated and includes the affected area. A recovery plan outline and a recovery plan have also been prepared for the southern steelhead and red-legged frog, respectively.

Preliminary determinations indicate that bank stabilization measures may potentially affect the southern steelhead and red-legged frog or their critical habitat in the SLO Creek watershed. The Chorro Creek bog thistle may be present along Froom Creek and other areas with serpentine soils. The Corps has been coordinating with the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) to ensure that any impacts to federally listed species or their critical habitat that could occur from implementation of the proposed LOP procedures are avoided, minimized, and compensated consistent with the requirements of the Endangered Species Act (hereafter ESA, 16 U.S.C. 1531 et seq., 1973, as amended). Further, since the critical habitat for southern steelhead and red-legged frog are designated in the affected area, formal consultation under Section 7 of the ESA will be required. The Corps will initiate a programmatic formal consultation for the proposed LOP procedures with NOAA Fisheries and FWS in a forthcoming letter, pursuant to Section 7 of the ESA for potential effects on the above listed species and their critical habitat. In addition, the Corps will consider the applicability of two existing programmatic biological opinions with the FWS[1] for projects described in each Annual Work Plan (described below).

Magnuson-Stevens Fishery Conservation Management Act (Act) – Essential Fish Habitat (EFH)- This notice initiates the EFH consultation requirements of the Act. However, due to the inland location of many of the proposed activities and limited extent of the predicted project activity impacts on EFH resources, our initial determination is the proposal would not have a substantial adverse impact on EFH or federally managed fisheries in California waters. In a forthcoming letter to NOAA Fisheries, the Corps will request concurrence that LOPs issued for projects/activities identified in the WMP and SMMP would not affect EFH.

---

[1] Programmatic Consultation and Conference for Listed Coastal Species Ventura, Santa Barbara, San Luis Obispo, Monterey, Santa Cruz Counties, California (1-8-96-F-11, August 29, 1997); Programmatic Formal Endangered Species Act Consultation on Issuance of Permits Under Section 404 of the Clean Water Act or Authorizations Under the Nationwide Permit Program for Projects That May Affect California Red-Legged Frog (January 26, 1999).

Public Hearing- A scoping meeting for the EIS was held on January 25, 1999 and one comment letter was received from the Port San Luis Harbor District (letter dated February 12, 1999). The Harbor District requested the EIS be coordinated with the Land Conservancy of San Luis Obispo, an include analyses of sediment movement into the San Luis Obispo Bay, historic (seasonal) flow calculations, water quality, and biological resources including effects of the project on intertidal organisms.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Additional Information

In response to a determination of potentially significant cumulative impacts on the aquatic ecosystem as a result of development and flood/erosion, sediment, and vegetation management measures in the SLO Creek watershed, the Regulatory Division of the Los Angeles District of the Corps of Engineers required a comprehensive plan to evaluate bank stabilization projects and routine annual maintenance activities, develop design guidelines that include bioengineering solutions, and effective compensatory mitigation approaches. This effort was undertaken by public and private stakeholders including the City and County of San Luis Obispo, regulatory agencies, special districts and private property owners. As a result of this effort, the policies and Best Management Practices described in the WMP, SMMP, and DDM provide the framework to implement a more effective permitting process that prioritizes eligible projects and activities, and establishes standard mitigation measures to protect and enhance sensitive resources while minimizing project delays.

A key component of the WMP and SMMP is the provision to prepare and submit a comprehensive Annual Work Plan (AWP) for eligible projects and activities including those that address flood/erosion protection, sediment management, vegetation control, and routine maintenance activities of existing and/or newly constructed facilities. In addition, annual reports of completed projects and activities will be required to ensure compliance with the terms and conditions of projects authorized by this LOP process.

The San Luis Obispo Creek watershed supports a variety of ecosystem functions and values including storm water conveyance, water quality, habitat for threatened and endangered species and wildlife movement. These functions and values will be protected and may be improved via the comprehensive evaluation of impacts and mitigation that will occur following submittal of annual work plans and annual reports. Overall, the WMP and SMMP will assist applicants and the Corps in complying with the Section 404(b)(1) Guidelines through more effective and proactive avoidance, minimization, and compensation of impacts to aquatic ecosystems.

This Special Public Notice addresses establishment of an alternative permit procedure for discharges of fill material in waters of the U.S. associated with eligible projects and activities within the affected area. The implementation of this alternative permitting approach will depend on the location of the proposed project/activity within waters of the U.S., and whether the project/activity would affect high quality resources. To this end, the Corps retains the right to invoke discretionary authority over projects/activities described in each AWP and require evaluation of those projects under other permitting procedures.

Letter of Permission Procedures

The Corps proposes to issue LOPs for projects and activities within the affected area that are consistent with the purposes and goals of the WMP and SMMP. Such projects and activities would have undergone effective pre-application coordination, complied with the Section 404(b)(1) Guidelines and included effective compensatory mitigation for unavoidable impacts to waters of the U.S. The LOP is an abbreviated method for issuing a permit where a decision to issue a final permit is made after coordination with federal and state fish and wildlife agencies, a public interest evaluation , and a concise environmental review. In addition, review involving other resource agencies will ensure adverse impacts are minimized to the maximum extent practicable.

The LOP procedures would apply to eligible projects and activities that may have more than minimal but less than significant impacts to waters of the U.S. Unlike general permits, LOPs are not limited to certain classes of activities. As proposed, the SLO Creek watershed LOP process would not have acreage thresholds. Despite the potentially higher acreages of permanent impacts that may be allowed, adverse impacts would be avoided due to the more detailed review by resource agencies compared to the Nationwide Permit (NWP) permit process.

Eligible/Ineligible Projects and Activities

Certain projects/activities may be eligible for LOPs while ineligible projects/activities would require standard individual permits or other general permits. See attached tables for additional detail.

Eligible projects/activities include:

- Category 1 projects as described in the WMP or SMMP (see attached Table IV-1 from the EIS/EIR).
- Category 2 projects as described in the WMP or SMMP(see attached Table IV-1 from the EIS/EIR).
- Priority 1, 2 and 3 bank repair projects as described in the WMP or SMMP (see attached Table IV-2 from the EIS/EIR).

Category 1 projects/activities (as described in the EIR/EIS) are those the applicants have determined to be exempt from the California Environmental Quality Act but may require a Section 404 permit from the Corps.

Category 2 projects/activities usually require a Section 404 permit from the Corps and permits from other regulatory agencies, including the forty eight (48) bank stabilization activities described in the WMP. For example, the length of the bank stabilization projects ranges from approximately six (6) feet to approximately sixty seven (67) feet.

Ineligible projects/activities include:

- Emergency projects/activities conducted in response to a flood, fire or other natural disaster.
- Category 3 projects as described in the WMP or SMMP.

Emergency projects/activities are taken in response to imminent threats to life and property, and in some cases are completed in advance of written authorization due to an urgent need for action. The Corps typically authorizes emergency projects/activities via a Regional General Permit (RGP) and works closely with applicants to ensure program conditions are addressed to the maximum extent practicable after the fact.

Category 3 projects include major sediment removal activities, structural solutions to erosion protection, engineered channel improvements, and Capital Improvement Projects described in the WMP. These projects are expected to involve substantial new work or construction and result in potentially adverse and unavoidable impacts to waters of the U.S. and aquatic values and functions.

Pre-Application Coordination for LOPs

Pre-application coordination is optional but recommended for each AWP. Pre-application coordination should involve the Corps, CDFG, the CCRWQCB, NOAA Fisheries, the USFWS and the State Office of Historic Preservation. The following information may be submitted in advance of the LOP application to evaluate AWP projects/activities consistency with the terms and conditions of the LOP:

- A delineation of waters of the U.S. including wetlands, for the project/activity area(s).
- A site location and plan view of the project/activity area(s) and acreage to be impacted showing permanent and temporary impacts to waters of the U.S.
- A draft compensatory mitigation plan if unavoidable impacts occur to riparian habitat and/or wetlands.

Information Needed for Application

The following items are needed for a complete application for the LOP process:

1. A completed Department of the Army application form Eng. Form 4345.
2. An Annual Work Plan (AWP) including the following elements:
   a) A project/activity description including a statement of purpose and need for the work as well as design, construction and maintenance requirements.
   b) A site location map and plan view of the project/activity area including a table with linear feet and acreages of waters of the U.S. to be permanently and temporarily impacted, on 8.5" x 11" or 11" x 17" sheets; 40 scale preferred.
   c) Location coordinates: latitude/longitude or UTM coordinates and datum for each project/activity.
   d) Volume, type and source of materials to be placed in waters of the U.S.
   e) A delineation and map of waters of the U.S., including wetlands located in the project/activity area on legible 8.5" x 11" or 11" x 17" sheets; 40 scale preferred.
   f) A description of methods to avoid, minimize, or mitigate adverse impacts to water quality and aquatic functions including Best Management Practices to control siltation and erosion;
   g) A cultural resources inventory, records search, and/or Phase 1 survey report.
   h) A recent threatened and endangered species survey report for the project/activity area(s). Recent means no more than two (2) years old.
   i) Any other information pertinent to the wetlands, stream or waterbody involved.
   j) A project/activity construction and mitigation schedule.

3. A summary of any pre-application coordination with Corps, CDFG, the CCRWQCB, NOAA Fisheries and the USFWS. The summary must document comments and concerns made by each agency and a discussion of how agency comment/concern was addressed.
4. A statement addressing the Section 404(b)(1) Guidelines alternatives analysis for new construction.
5. A compensatory mitigation, monitoring and reporting plan addressing unavoidable impacts to waters of the U.S. and the program goal of no net loss of wetlands. This plan shall be prepared in accordance with the Mitigation Rule (April 2008).

6. Local approvals or other evidence that the project or activities have been reviewed by the appropriate local governmental body and were found to be consistent with state and local land use plans and policies, particularly state and local wetland policies.
7. Appropriate surveys, inventories or reports that will allow the Corps to make a determination of the effect of the proposed project or activity on threatened or endangered species or their critical habitat.
8. Evidence of compliance with the National Historic Preservation Act.

Processing Procedures

When the applicant has submitted an application to the Corps, the Corps will review the submittal and assign an action ID number and determine if the application is complete. If an application is complete or incomplete, the Corps would notify the applicant within thirty (30) days. For incomplete applications, the applicant will be required to submit supplemental application materials. Within fifteen (15) calendar days of receiving a complete application, the Corps will submit materials to the resource agencies (CDFG, CCRWQCB, NOAA Fisheries, U.S. EPA, SHPO, and the FWS) via fax or electronic mail attachment and request the agencies provide comments. The request agency comments within fifteen (15) calendar days, consistent with 33 CFR 325.2(d)(2). Substantive comments should be provided to the Corps by fax or letter.

During its review, the Corps will assess:

- Conformity with the WMP or SMMP and the analysis in the EIS.
- Accuracy of the wetland delineation and resource assessment.
- Minimization of impacts to the maximum extent practicable.
- Consistency of proposed mitigation with the Corps and U.S. EPA mitigation policy.
- Whether threatened or endangered species issues have been resolved consistent with the Federal Endangered Species Act.
- Compliance with the National Historic Preservation Act.

The Corps will review the comments received and make a final determination within 60 calendar days of receiving a complete application. After all comments are received from the resource agencies, the Corps will perform a final evaluation of the project or activity. Any problems identified during the notification process to the resource agencies will be resolved before the LOP is issued. If a project or activity fails to meet the criteria for LOP authorization, the Corps will notify the applicant of the need for review through a standard individual permit process.

Section 401 water quality certification or waiver must be obtained from the CCRWQCB. An LOP cannot be issued until Section 401 certification or waiver thereof is obtained. If no response to a request for Section 401 certification or waiver has been issued within 60 days after submittal of a complete application and AWP, the Corps will issue the LOP.

Proposed General Conditions

The Corps proposes the following general conditions for the LOP:

1. **Mitigation Policy**. The applicant(s) must comply with compensatory mitigation policy adopted by the Corps and U.S. EPA as described in the final rule for compensatory mitigation for losses of aquatic resources (Federal Register Vol. 73, No. 70, page 19594, April 10, 2008).
2. **Ineligible Impacts**. Projects/activities not eligible for this LOP process include those involving the conversion of a soft-bottom channel to a lined or hardened channel in the affected

watershed. Ineligible projects as described above (e.g., Capital Improvement Projects, emergency actions, etc.).

3. **Soil Erosion and Siltation Controls**. Erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw bales or other means designed to minimize turbidity in the watercourse shall be installed at the time of project implementation and shall be maintained in effective operating condition for the duration of the project. All exposed soil and/or fill must be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation and no later than November of the year the project/activity is conducted to avoid erosion from storm events. Temporary erosion and siltation controls shall be removed promptly following completion of construction.
4. **Equipment**. Heavy equipment working in or crossing wetlands must be placed on temporary construction mats, or other measures must be taken to minimize soil disturbance such as using low pressure equipment. Temporary construction mats shall be removed promptly following completion of construction.
5. **Suitable Material**. No discharge of dredged or fill materials may consist of unsuitable materials (e.g., trash, debris, car bodies, asphalt, etc.) and materials discharged must be free from pollutants in toxic amounts (see Section 307 of the Clean Water Act).
6. **Management of Water Flows**. To the maximum extent practicable, the project/activity must be designed to maintain pre-project downstream flow conditions (e.g., location, capacity, and flow rates). Further, the project/activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill materials must withstand expected high flows.
7. **Removal of Temporary Fills**. Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing conditions, including any native riparian and/or wetland vegetation.
8. **Pollution Prevention Measures**. Measures must be implemented to prevent potential pollutants from entering waters of the U.S. Construction materials and debris, including fuels, oil, and other liquid substances, shall not be stored in or adjacent to waters of the U.S., and these areas must be shown on construction plans.
9. **Staging of Equipment**. Staging, storage, fueling, and maintenance of equipment must be located outside of the waters of the U.S., and these areas must be shown on construction plans.
10. **Fencing of Project Limits**. The limits of the work area shall be depicted on construction plans. Prior to initiation of a project/activity, the boundaries of the impact area must be delimited by the placement of temporary construction fencing, staking, and/or signage. Any additional acreage impacted outside of the approved project/activity area shall be mitigated at a 5:1 ratio. In the event that additional mitigation is required, the type of mitigation shall be determined by the Corps and may include wetland enhancement, restoration, creation, or preservation.
11. **Avoidance of Steelhead Migration and Spawning Period**. To the maximum extent practicable, work in waters of the U.S. (e.g., vegetation removal, water diversion, etc.) shall avoid the period from November 1 to July 1 so as to minimize impacts on migrating, spawning and/or rearing southern steelhead (*Oncorhynchus mykiss irideus*) and their critical habitat. Additional requirements or seasonal restrictions specified by the Section 7 consultation shall take precedence over this condition.
12. **Avoidance of Breeding Season**. With regard to federally listed amphibian species, including the California red-legged frog (*Rana aurora draytonii*), and migratory birds, avoidance of the breeding season requirements shall be those specified in the Section 7 consultation for the LOP procedures.
13. **Invasive Exotic Vegetation Species Management**. All exotic vegetation species, including but not limited to, giant reed (*Arundo donax*) and castor bean (*Ricinus communis*), shall be removed from a project/activity site and disposed of in a manner which prevents re-establishment.

Further, the applicant must ensure that project/activity sites remain free from invasive exotic species for a period of five (5) years from completion of the work.

14. **Site Inspection**. The Corps shall be allowed to inspect the project/activity site at any time during and immediately after initiation of construction provided a 24-hour advance notice is given to the permittee. Compliance inspections of all mitigation sites shall be allowed at any time.
15. **Posting of Conditions**. A copy of the LOP conditions must be included in all bid packages for the project/activity and be available at the work site at all times during periods of work. A copy of the LOP conditions must be presented upon request by any Corps or other agency personnel with a reasonable reason for making such a request.
16. **Post-Project Report**. For any new construction in waters of the U.S., a post-project report shall be submitted within thirty (30) days of completion of construction. An annual report of routine maintenance activities conducted in waters of the U.S. shall also be submitted.
17. **Water Quality**. Section 401 water quality certifications must be obtained for all projects/activities in each AWP (see 33 CFR 325.2(b)(1)).
18. **Coastal Zone Management**. An individual state coastal zone management consistency concurrence must be obtained or waived for any project/activity that may affect the Coastal Zone (see 33 CRF 325.2(b)(2)).
19. **Endangered Species**.
    a) No project or activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Permittees shall not begin work on the project or activity until notified by the Corps that the requirements of the federal Endangered Species Act have been satisfied and the project or activity is authorized.
    b) Authorization of a project/activity under an LOP does not authorize "take" of a threatened or endangered species as defined by the federal Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained from the offices of the USFWS or NOAA Fisheries, or their internet sites at http://www.fws.gov/ventura/ or http://swr.nmfs.noaa.gov/.
20. **Fish Passage**. Any structure constructed in the affected area must comply with NOAA Fisheries and California Department of Fish and Game requirements for fish passage.
21. **Historic Properties**. No activity that may affect historic properties listed, or eligible for listing in the National Register of Historic Places (NRHP) is authorized until the Corps has complied with Section 106 of the National Historic Preservation Act (NHPA). If the proposed activity may affect any historic properties listed, determined to be eligible, or which the Corps has reason to believe may be eligible for listing on the NRHP, the permittee shall not begin the activity until notified by the Corps that the requirements of the NHPA have been satisfied and the activity is authorized. Information on the location and existence of historic properties can be obtained from the State Historic Preservation Office (SHPO, http://ohp.parks.ca.gov/) or the NRHP.

The Applicants propose the following general condition:

1. **Protecting Cultural Resources**
    a) Prior to submittal of a project for inclusion into the AWP, the project proponent shall retain a qualified archaeologist to conduct a literature search and surface survey to determine if any cultural or historic resources are present on the site. The archaeologist shall determine whether there are any recorded sites in the area of

potential effect (APE) and document any artifacts that are found during the survey. The archaeologist shall develop recommendations for additional survey or preservation work if cultural resources are found during surveys. The archaeologist, in consultation with the project proponent and the permittee, shall determine if there are any alternatives to avoid or minimize effects on cultural resources. The archaeologist shall also determine if there are any historic resources on the site, and if there are, a qualified historian shall conduct a historic evaluation to determine if the site contains substantial evidence that the project site may be eligible for listing as a historic site.

b) If resources are important and require recovery and cannot be avoided, then the project will not be included in the AWP. If impacts to cultural resources are considered insignificant or can be mitigated without affecting the resources, then a mitigation plan shall be submitted as part of the AWP.

c) If the literature search and surface survey does not indicate evidence of cultural resources but the project site is within an area determined to be sensitive, the mitigation shall include the presence of an archaeologist on site during initial vegetation removal and grading in native soil material to inspect the disturbed area for prehistoric and historic artifacts.

d) During construction, if cultural or historic resources are found, work shall cease immediately within a 150-radius of the find. The permittee shall be immediately notified, and it will be the project proponent's responsibility to retain a qualified archaeologist to determine the importance of the find and mitigate accordingly.

e) In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, work efforts shall cease and no further excavation or disturbance of the site shall occur until the San Luis Obispo County Coroner has been notified. The Coroner will determine the necessary action to be taken regarding cause of death, and if it is determined to be historic, the project proponent shall immediately contact the permittee and it will be the project proponent's responsibility to retain a qualified archaeologist and nearest living descendent to determine the importance of the burial.

f) If cultural or historic resources or Native American remains are found within the jurisdiction of the Corps of Engineers, the Corps shall be immediately notified and the Corps 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.

Activity-Specific Conditions

For each project or activity, additional activity-specific conditions may be included. These will be determined as each AWP is submitted for review by the Corps.

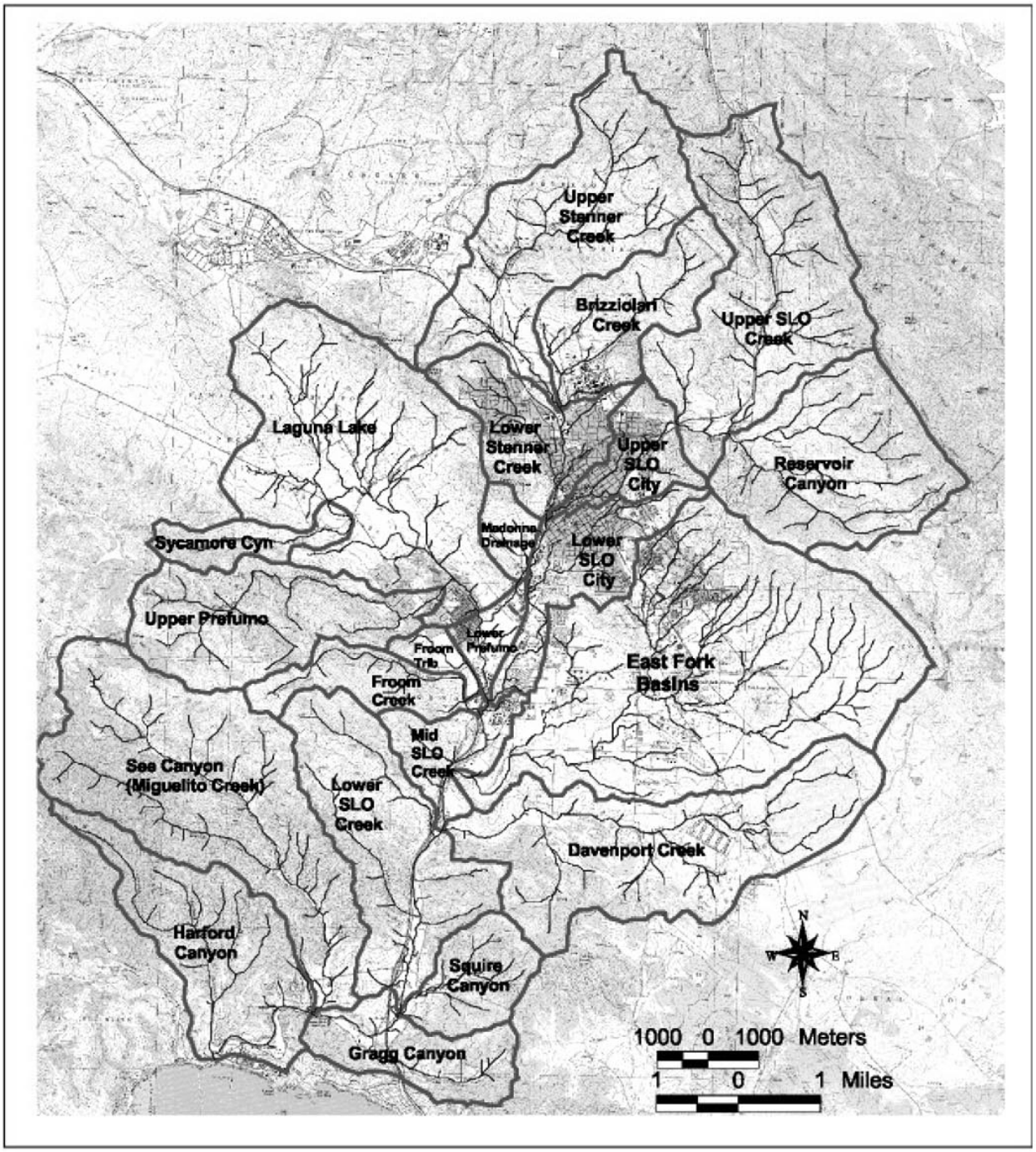
General Mitigation Policies

1. **Mitigation Sequencing and Approach**. The discharge of dredged or fill materials into waters of the U.S. shall be avoided and/or minimized to the maximum extent practicable. Compensatory mitigation shall be determined after avoidance and minimization measures

have been implemented in accordance with the Section 404(b)(1) Guidelines (40 CFR 230) and the Memorandum of Agreement (MOA) between the U.S. EPA and the Department of the Army (dated February 6, 1990), and the Final Rule for compensatory mitigation for losses of aquatic resources (Federal Register Vol. 73, No. 70, Page 19594, April 10, 2008).

2. **No Net Loss in Acreage and Functions**. Consistent with the Corps-EPA MOA and the Final Rule, overall ecosystem values and functions should not be reduced within the watershed on a program level. In addition, all permanent impacts shall be mitigated at a minimum of 1:1 ratio (acre created : acre impacted). Temporary impacts shall be mitigated at a 1:1 ratio.
3. **Mitigation for Temporal Loss of Ecosystem Values and Functions**. As discussed in the Final Rule for compensatory mitigation for losses of aquatic resources, temporal loss is defined as the time lag between the loss of aquatic resources functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site. Higher compensation ratios may be required to compensate for temporal losses. In the event an aquatic resource has a long development time (e.g., cottonwood gallery forest, etc.) or is difficult to replace (e.g., bogs, fens, wetlands, etc.), higher compensatory mitigation ratios may be required.
4. **Implementation.** Temporarily impacted areas shall be restored on site to pre-construction elevations/contours and vegetation to the maximum extent practicable and concurrent with construction activities or within one month of project/activity completion. In the event exposed earth surfaces on site cannot be stabilized immediately, interim measures to stabilize soil from wind and water erosion, and prevent colonization by invasive exotic vegetation species shall be implemented. Interim measures may include jute net, straw mats, and the like. Mitigation for permanently impacted areas shall commence within three months of project/activity completion unless an alternative implementation schedule is approved by the resource agencies and the Corps.
5. **Preparation of a Compensatory Mitigation Plan**. All mitigation plans shall conform with the Los Angeles District's "Final Mitigation Guidelines and Monitoring Requirements" (dated April 19, 2004) and the Final Rule for compensatory mitigation for losses of aquatic resources (Federal Register Vol. 73, No. 70, Page 19594, April 10, 2008). A copy of the District's Guidelines is available at http://www.spl.usace.army.mil/regulatory/, and a copy of the Final Rule is available at http://www.usace.army.mil/cw/cecwo/reg/citizen.htm. All compensatory mitigation plans shall be approved by the Corps.
6. **Delays in Implementing Compensatory Mitigation**. The Corps may consider requiring additional mitigation for temporal losses of aquatic functions and values if implementation of an approved mitigation plan is not implemented within twelve (12) months of completion of construction activities. The need for additional mitigation will be evaluated on a case-by-base basis and the amount will depend on the quality of the affected aquatic resource and the anticipated time to habitat recovery.
7. **Functional Assessments**. A landscape level functional assessment may be completed by the applicants and submitted to the Corps to assist the Corps in developing an appropriate mitigation ratio and mitigation plan. The approach used to complete a functional assessment must be approved by the Corps prior to its initiation to ensure sample and/or survey methodologies are consistent with current Corps guidance and policy.

For additional information please contact Theresa Stevens, Ph.D. of my staff at (805) 585-2146 or via email at Theresa.Stevens@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



city of san luis obispo	**Watershed and Major Sub-Basins** **Drainage Design Manual** **City of San Luis Obispo** QUESTA ENGINEERING CORPORATION	**Figure** DDM **1-2**

FILE REFERENCE: c:\proview projects\98202 slo phase II\98202 hydrology.apr
LAYOUT: Figure 1 - Basin Map II
DATE: Feb 4, 2002

WATERSHED MAP
FIGURE IV-2

TABLE IV-1
Components of the Proposed Action

PROGRAM ACTION ELEMENTS	Waterway Management Plan volume	SECTION REFERENCE	CATEGORY 1	CATEGORY 2	CATEGORY 3 (Tiered review)*	OTHER AGENCIES requiring permits or consultation for project construction
STREAM MAINTENANCE						
Sediment Removal - Minor	SMMP	Section 3.2.6		X		NMFS, USFWS, CDFG, RWQCB
Sediment Removal - Major	SMMP	Section 3.2.6			X	NMFS, USFWS, CDFG, RWQCB
Trash Removal	SMMP	Section 4.1	X			CDFG, RWQCB
Fence Repair	SMMP	Section 4.1	X			CDFG, RWQCB
Graffiti Removal	SMMP	Section 4.1	X			CDFG, RWQCB
Access Road Maintenance	SMMP	Section 4.1	X			CDFG, RWQCB
Repair/ Replace In-kind Hydraulic Structures	SMMP	Section 3.2.7	X			NMFS, USFWS, RWQCB, CDFG
Repair Bank Stabilization Structures In-kind	SMMP	Section 3.2.3	X			NMFS, USFWS, RWQCB, CDFG
Repair/Replace Revetments In-kind	SMMP	Section 3.2.3	X	X		NMFS, USFWS, RWQCB, CDFG
STREAM MANAGEMENT						
Upgrade Existing Hydraulic Structures	SMMP	Section 3.2.7		X		NMFS, USFWS, RWQCB, CDFG
Vegetation and Woody Debris Control	SMMP	Section 3.2.5	X			NMFS, USFWS, RWQCB, CDFG
BANK STABILIZATION AND REPAIR						
Repair Sites 1-48	WMP	Section 5.4		X		NMFS, USFWS, RWQCB, CDFG
Install Erosion Protection-Vegetative/Biotechnical Techniques	SMMP	Section 3.2.3		X		NMFS, USFWS, RWQCB, CDFG
Install Erosion Protection-Structural/Integrated Techniques	SMMP	Section 3.2.3		X	X	NMFS, USFWS, RWQCB, CDFG
Install Erosion Protection / Habitat Enhancement - Channel Bed/Instream Techniques	SMMP	Section 3.2.3		X		NMFS, USFWS, RWQCB, CDFG
CHANNEL DESIGN						
No Adverse Impact	DDM	Section 3.3		X		
Channel Design Flow Regulations	DDM	Section 5.2		X		
CHANNEL IMPROVEMENTS						
Constructed Natural Channel	DDM	Section 5.3.1			X	NMFS, USFWS, RWQCB, CDFG
By-pass Channel	DDM	Section 5.3.2			X	NMFS, USFWS, RWQCB, CDFG
Modified Channel	DDM	Section 5.3.3			X	NMFS, USFWS, RWQCB, CDFG
DEVELOPMENT DRAINAGE DESIGN						
Conduits, Culverts, and Open Modified Channels	DDM	Section 7		X		
Stormwater Management Facilities	DDM	Section 9		X		
DRAINAGE DESIGN POLICIES						
Mid-Higuera Special Zone #1	DDM	Section 3.5.2		X		
Special Floodplain Management Zone #2	WMP DDM	Section 5.2.2 Section 3.5.3		X		

PROGRAM ACTION ELEMENTS	Waterway Management Plan volume	SECTION REFERENCE	CATEGORY 1	CATEGORY 2	CATEGORY 3 (Tiered review)*	OTHER AGENCIES requiring permits or consultation for project construction
Infill Floodplain regulations	DDM	Section 3.5.1		X		
REVEGETATION	SMMP	28-30; 41-42	X			NMFS, USFWS, RWQCB, CDFG
EXOTICS CONTROL	SMMP		X			NMFS, USFWS, RWQCB, CDFG
RIPARIAN HABITAT IMPROVEMENTS	WMP SMMP	Section 5.5.3 Section 4.4	X			NMFS, USFWS, RWQCB, CDFG
AQUATIC HABITAT IMPROVEMENT	WMP	Section 5.5.2		X		NMFS, USFWS, RWQCB, CDFG
CAPITAL IMPROVEMENT PROJECTS						
Channel and Bridge/Culvert Placement-LOVR	WMP	Section 6			X	NMFS, USFWS, RWQCB, CDFG
Elks Lane By-pass Channel	WMP	Section 6			X	NMFS, USFWS, RWQCB, CDFG
Mid-Higuera By-pass Channel	WMP	Section 6			X	NMFS, USFWS, RWQCB, CDFG
Cuesta Park Detention Enhancement	WMP	Section 6			X	NMFS, USFWS, RWQCB, CDFG
Stenner Creek Bridges Replacement	WMP	Section 6			X	NMFS, USFWS, RWQCB, CDFG
East Fork-Airport Specific Plan Detention Basin and Channel	WMP	Section 6			X	NMFS, USFWS, RWQCB, CDFG

**These projects are reviewed at the programmatic level and will require subsequent environmental review*

TABLE IV-2
Bank Repair Project Sites

Map Number	Creek Reach	Photo_path**	Length (ft)	Priority Category*	Shear (lb/ft2)	Recommended Approach Method 1	Recommended Approach Method 2	Recommended Approach Method 3
1	3	hotlinks/40374.gif	44.4	3	60	Brush Layering	Flow Deflectors	Loose rock with willow staking
2	3	hotlinks/40369.gif	52.1	3	60	Brush Layering	Loose rock with willow staking	Fiber Rolls
3	3	hotlinks/40367.gif	32.9	3	60	Brush Layering	Loose rock with willow staking	Fiber Rolls
4	3	hotlinks/40364.gif	25.4	3	60	Brush Layering	Loose rock with willow staking	Fiber Rolls
5	7	hotlinks/32330.gif	36.6	3	200	Brush Layering with Rock toe	Live Willow Staking	Fiber Rock Rolls
6	7	hotlinks/32325.gif	42.2	3	200	Brush Layering with Rock toe	Live Willow Staking	Fiber Rock Rolls
7	7	hotlinks/32315.gif	22	3	100	Brush Layering	Live Willow Staking	Fiber Rolls
8	7	hotlinks/32313.gif	35.9	3	100	Brush Layering	Live Willow Staking	Fiber Rolls
9	7	hotlinks/32311.gif	40.9	3	100	Brush Layering	Live Willow Staking	Fiber Rolls
10	7	hotlinks/32310.gif	13	3	100	Brush Layering	Live Willow Staking	Fiber Rolls
11	7	hotlinks/32309.gif	14.6	3	100	Brush Layering	Live Willow Staking	Fiber Rolls
12	7	hotlinks/32308.gif	24.4	3	100	Brush Layering	Live Willow Staking	Fiber Rolls
14	9	hotlinks/40538.gif	23.1	1	250	Brush Layering	Planted Rock Rip-rap	Fiber Rock Rolls
15	9	hotlinks/40536.gif	31.7	1	250	Brush Layering with Rock Toe	Regrade Slope, Rock Toe, Erosion Fabric	Vegetated Geogrids
16	9	hotlinks/40533.gif	34	1	250	Brush Layering with Rock Toe	Regrade Slope, Rock Toe, Erosion Fabric	Vegetated Geogrids
17	10	hotlinks/40508.gif	64.5	2	100	Regrade Slope, Rock Toe, Erosion Fabric	Brush Layering	Vegetated Geogrids
18	11	hotlinks/30956.gif	26	1	275	Vegetated geogrids above Ajacks toe	Vegetated geogrids above rock toe	Fiber rock rolls
20	12	hotlinks/30763.gif	6	1	150	Vegetated Geogrids	Brush Layering with rock toe	
21	12	hotlinks/30761.gif	61.7	1	200	Loose rock with willow staking	Brush Layering with rock toe	Planted rock rip-rap
22	12	hotlinks/30760.gif	24.3	2	200	Flow Deflectors	Rock toe with willow staking	
24	13	hotlinks/30735.gif	36.2	2	220	Loose rock with willow staking	Rock toe, regrade bank	Planted Fiber Rolls
25	14	hotlinks/33131.gif	29.2	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
28	14	hotlinks/33120.gif	42.3	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
29	14	hotlinks/33115.gif	28.9	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
32	14	hotlinks/33191.gif	37	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
33	14	hotlinks/33184.gif	8.1	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking

Source: WMP Table 5-3 - Bank Repair Program Project Sites *** Note: Photos are available at http://suntzu.larc.calpoly.edu/slo_creek*

Map Number	Creek Reach	Photo_path	Length (ft)	Priority Category*	Shear (lb/ft2)	Recommended Approach Method 1	Recommended Approach Method 2	Recommended Approach Method 3
35	14	hotlinks/30250.gif	39.7	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
36	14	hotlinks/30249.gif	29.9	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
37	14	hotlinks/30245.gif	59.6	3	0	Brush Layering	Planted Fiber Rolls	Loose rock with willow staking
40	14	hotlinks/30205.gif	3.7	2	0	Loose rock with willow staking	Ajacks	Fiber rock rolls
41	18	hotlinks/32226.gif	7.5	2	80	Drop Inlet w/ protected outfall	Planted Rock Rip-rap	Willow Wattling/Erosion Check
42	21	hotlinks/31668.gif	26	2	150	Loose Rock with Willow Staking	Fiber Rock Rolls	Ajacks
43	22	hotlinks/31625.gif	24.1	3	400	Loose rock with willow staking	Fiber rock rolls	Vegetated Geogrids
44	22	hotlinks/31601.gif	28.3	3	360	Brush Layering with rock toe	Flow Deflectors	Loose rock with willow staking
45	22	hotlinks/31576.gif	43.9	3	80	Brush Layering with rock toe	Loose rock with willow staking	Fiber rock rolls
46	22	hotlinks/31561.gif	49.2	3	280	Maintain existing willow stakes	Flow deflectors	Loose rock with willow staking
47	22	hotlinks/31555.gif	50.1	3	150	Planted rock rip-rap	Vegetated Geogrids	Loose rock with willow staking
48	22	hotlinks/31552.gif	67.3	3	150	Veg management (replace exotics w/ willows)	Fiber rolls/Erosion fabric	Loose rock with willow staking

* Priority Categories: 1) Highest Priority Repair Project 2) Medium Priority 3) Low Priority–monitoring recommended.