

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

**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT NO. 64
Eradication of *Caulerpa sp.***

Permittee: This Regional General Permit (RGP) applies to anyone in the California portion of the Los Angeles District of the Corps of Engineers. The proposed project area includes salt and brackish waters located in southern California, generally south of Point Conception, in Ventura, Los Angeles, Orange, and San Diego Counties.

Permit Number: 2001-00878-RLK

Issuing Office: Los Angeles District

Effective Date: March 10, 2003

Expiration Date: March 10, 2008

The District Engineer, Los Angeles District U.S. Army Corps of Engineers hereby issues Regional General Permit (RGP) No. 64, which authorizes the eradication of *Caulerpa sp.* when detected in waters of the United States, in southern California.

This permit is being issued under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and is in accordance with provisions of the Regulatory Programs of the Corps of Engineers (33 CFR Part 322.2(f)) for activities that are substantially similar in nature, which cause only minimal individual and cumulative environmental impacts. This RGP applies to anyone wishing to eradicate *Caulerpa sp.* in a manner that is consistent with the terms and conditions herein.

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: To establish a 5-year programmatic mechanism to expedite the regulatory framework process for permitting the eradication of *Caulerpa sp.* Eradication methods shall be conducted in a manner that is consistent with the Caulerpa Control Protocol for the Invasive Green Alga, *Caulerpa taxifolia* (National Marine Fisheries Service, Version 1.2b, adopted January 31, 2003).

REGIONAL GENERAL PERMIT CONDITIONS.

General Conditions:

1. The time limit for completing the authorized activity ends on February 10, 2008. Based on an ongoing evaluation of the general permit, the Corps maintains the discretion to reissue, modify, rescind, or exclude certain activities or areas from the RGP.
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. No activity is authorized under this RGP that 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 (ESA), or that is likely to destroy or adversely modify the critical habitat of such species. Federal agencies should follow their own procedures for complying with the ESA. A non-federal permittee shall notify the District Engineer (DE) if any listed species or critical habitat might be affected or is in the vicinity of the project and shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the Fish and Wildlife Service and National Marine Fisheries Service. The Corps may require focused endangered species surveys be performed prior to verification of compliance with this RGP.
5. You shall not commence work until verification of compliance with this RGP is received from the Corps and you receive a notice to proceed (NTP) from the Corps. The Corps maintains discretion to add Special Conditions to RGP verifications to clarify compliance with the terms and conditions of this RGP or to ensure that the proposed project would have only minimal individual and cumulative adverse impacts to the environment. In addition, you shall ensure that all contractors receive a copy of this RGP and are made aware of the conditions and restrictions it contains.
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.

7. You also understand and agree that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States. For projects occurring in navigable waters of the United States, you shall notify the Commander Eleventh Coast Guard District POW, BLDG 50-6 Coast Guard Island, Alameda, California, 94501-5000, (510) 437-2968, at least two weeks prior to start of activity and 30 days if buoys are to be placed. The notification should include the following information:

- a. Location of the work site;
- b. Size and type of equipment that will be performing the work;
- c. Name and radio call signs for working vessels, if applicable;
- d. Telephone number for on-site contact with project biologists; and
- e. Schedule for completing the project.

2. Prior to the commencement of each work effort in waters of the United States, you shall obtain a notice to proceed (NTP) letter from the Corps. To obtain a NTP letter from the Corps, the following information shall be provided to the Corps and consistent with the Caulerpa Control Protocol (NMFS, Southwest Region, 2003):

- a. Name, address and telephone number of the prospective permittee;
- b. Location of the proposed project, including a vicinity map;
- c. Project description and timeline.

(1) Brief description of the proposed project, including the aerial extent of work being proposed and the method of removal;

(2) Acreage of "fully infested stands" and "partially infested stands" which would be affected (eradicated) by the proposed project;

- d. Proposed Treatment Methodology.

- e. Monitoring Efforts and Reporting Protocol.
- f. Summary of Resource Agency Coordination.

(1) Document showing compliance with the ESA. Copy of a letter to the U.S. Fish and Wildlife Service (USFWS) inquiring about the presence or absence of any federally-listed endangered or threatened species or designated critical habitat in the proposed project area that may be affected by the proposed activity.

(2) Document stating compliance with the NHPA. Copy of a letter to the State Historic Preservation Office (SHPO) inquiring about the presence or absence of listed and/or eligible sites for listing in the National Historic Register in the proposed project area that may be affected by the proposed activity.

- g. Local mariners notification, which shall be posted 7 days prior to implementation efforts.

h. Citation of this RGP. A copy of the notification package must be delivered also to the Resource Agencies (i.e., National Marine Fisheries Service (NMFS) and the California Department of Fish & Game (CDFG)) for review and approval. If the Corps does not receive Resource Agency notification of approval or disapproval within 15-days of receipt of the notification package, the Corps will assume the project has been approved. If comments are provided to the Corps from the Resource Agencies within 15 days of receipt, you shall be required to appropriately and adequately address the raised concerns prior to the Corps issuing the NTP.

3. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities.

4. You (or your contractor) shall conduct all eradication efforts in accordance to the Caulerpa Control Program as approved by the NMFS and the CDFG.

5. You (or your contractor) shall provide monthly field observation notes during implementation to the Corps, and these notes shall include: project status of action(s) taken, conditions observed in the field, success of actions taken, failures, and contingency measures taken. Supporting documentation shall include underwater photographs and/or videotapes.

6. You shall limit truck traffic to off-peak commute periods along congested commuter corridors.

7. You shall be responsible for obtaining all other applicable state and local permits, as related to the activity described herein.

8. You shall monitor site recolonization of the treatment area immediately following eradication efforts and continue monitoring for a period of three years following the last detected occurrence of *Caulerpa* in the project area. This program is to include a combination of Phase 1 and Phase 2 surveys. Survey schedules to be followed are outlined in Table 1 below or as required by the Southern California *Caulerpa* Action Team (SCCAT). Additional surveys and spot eradication efforts shall be conducted on a biweekly basis and required in treatment areas if no subsequent post-application treatment is to be used following removal of PVC liners. If any additional incidents are detected, you shall reinitiate eradication and survey efforts as if the program were just beginning.

Table 1. Schedule of post-eradication survey efforts

PROJECT AREA	YEAR 1	YEAR 2	YEAR 3
Treatment Area	Monthly (May-Oct) Bimonthly (Nov-Apr)	Biannual (Sept, Mar)	Biannual (Sept, Mar)
Non-infested Areas in Vicinity	Biannual (Sept, Mar)	Annual (June)	Annual (June)
Lagoon-region/Ocean Shoreline	Biannual (Sept, Mar)	Annual (June)	Annual (June)
Other Waterbodies	As Determined By Long-term <i>Caulerpa</i> Control Plan		
Note that schedule modifications may occur with written approval of the SCCAT.			

9. You (or your contractor) shall provide the Corps with all post monitoring reports, as outlined in the *Caulerpa* Control Protocol. You (or your contractor) shall forward all survey notes to the Corps within one month of conducting any and all field investigations.

10. You (or your contractor) shall provide annual reports, on January 1 of each calendar year, documenting work efforts to date and program success. Annual reports shall present a summary of all actions taken to date, program success and other species information collected, including data on growth parameters of the species, ecological impacts on the benthic and epiphytic communities, and environmental characteristics of the infestation area. Eradication program documentation shall include use of video, still cameras, detailed notes, and archival of other records so that a future retrospective may be prepared to aid in application of information learned during the present efforts.

Further Information:

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

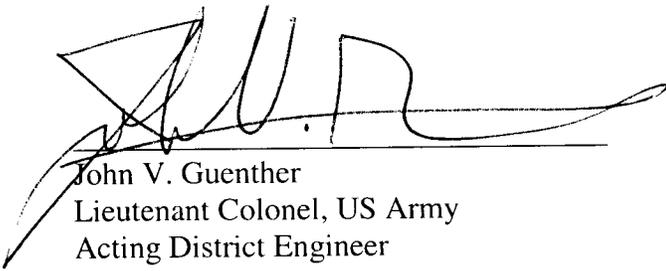
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

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.

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



John V. Guenther
Lieutenant Colonel, US Army
Acting District Engineer

4 March 2003
Date