

SPECIAL PUBLIC NOTICE

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

BUILDING STRONG®

Regional General Permit No. 41 Removal of Invasive, Exotic Plants

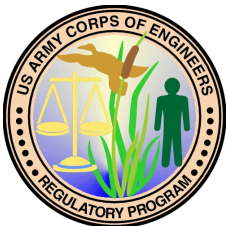
Corps File No.: SPL-2003-01094-EBR
Public Notice Date: September 10, 2019

The U.S. Army Corps of Engineers (Corps), Los Angeles District has issued Regional General Permit No. 41 (RGP 41), which authorizes the mechanized removal of invasive, exotic plants (exotics) from waters of the U.S., including wetlands, located within the portions of California in the Los Angeles District of the Corps of Engineers (Los Angeles, Orange, Riverside, San Diego, San Bernardino, Imperial, Ventura, Santa Barbara, Mono, Inyo, Kern, and San Luis Obispo counties).

This Regional General Permit authorizes the mechanized removal of the invasive, exotic plants (see full list in RGP 41) from waters of the U.S. including wetlands, within the California portion of the Los Angeles District of the Corps of Engineers, for the purposes of aquatic habitat recovery. Year round activities are authorized in “fully-infested stands” and seasonally in “partially-infested stands”. Areas are classified as “fully infested stands” if they contain 80% or more relative or canopy cover of exotics. Areas that contain 50% to 80% relative or canopy cover of exotics are classified as “partially infested stands.” This RGP is not applicable in areas that have less than 50% relative or canopy cover of exotics. For a parcel to be considered a “stand” it must be at least 0.5 acre in size or completely isolated from contiguous native riparian habitat. Following flood, fire, disease, or other natural event which scours or destroys an area, the area shall be classified based on the areal coverage of exotics immediately prior to natural disturbance. This general permit has been issued under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and applies to anyone requesting to remove exotics in a manner which is consistent with the terms and conditions of RGP 41.

The Corps issued RGP 41 with an expiration date of September 5, 2024. RGP 41 is available for viewing at: <http://www.spl.usace.army.mil/Missions/Regulatory/RegionalGeneralPermits.aspx>.

For additional information, please contact Emma Ross at 805-350-4157 or via email at emma.b.ross@usace.army.mil. This Special Public Notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
 - To ensure the Corps provides the regulated public with fair and reasonable decisions.
 - To enhance the efficiency of the Corps' administration of its regulatory program.
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U.S. ARMY CORPS OF ENGINEERS - LOS ANGELES DISTRICT
60 S CALIFORNIA STREET, SUITE 200
VENTURA, CALIFORNIA 93001

WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT
NUMBER 41 FOR
MECHANIZED REMOVAL OF INVASIVE, EXOTIC PLANTS (EXOTICS)
FROM WATERS OF THE U.S.**

SPONSOR AND ISSUING OFFICE: U.S. Army Corps of Engineers, Los Angeles District

PERMIT NUMBER: Regional General Permit (RGP) No. 41 (File No. SPL-2003-1094-EBR)

ISSUANCE DATE: September 5, 2019

PERMITTEE: Public agencies, businesses, or private parties (i.e., the public in general)

The District Engineer, Los Angeles District U.S. Army Corps of Engineers hereby issues the Regional General Permit (RGP) No. 41 (SPL-2003-01094-EBR), which authorizes the mechanized removal of invasive, exotic plants (exotics) from waters of the U.S., including wetlands.

This permit is being issued under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) and 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 which are substantially similar in nature, which cause only minimal individual and cumulative environmental impacts. This RGP applies to anyone wishing to remove exotics in a manner which is consistent with the terms and conditions of this RGP. Los Angeles District's regional conditions apply.

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 Location: This Regional General Permit applies to anyone within the California portion of the Los Angeles District of the Corps of Engineers as shown on the attached map (Los Angeles, Orange, Riverside, San Diego, San Bernardino, Imperial, Ventura, Santa Barbara, Mono, Inyo and San Luis Obispo counties).

Project Description: This Regional General Permit authorizes the mechanized removal of the following invasive, exotic plants from waters of the U.S. including wetlands, within the California portion of the Los Angeles District of the Corps of Engineers, for the purposes of habitat recovery:

giant reed - *Arundo donax*
 salt cedar - *Tamarix spp.*
 tree tobacco - *Nicotiana glauca*
 castor bean - *Ricinus communis*
 Russian thistle - *Salsola tragus*
 Italian thistle – *Carduus pycnocephalus*
 milk thistle – *Silybum marianum*
 tocalote – *Centaurea melitensis*
 star thistle - *Centaurea solstitialis*
 artichoke thistle - *Cynara cardunculus*
 thistle - *Cirsium arvense and vulgare only*
 bristly ox-tongue – *Picris echioides*
 fountain grass - *Pennisetum setaceum*
 cape ivy - *Delairea odorata* (formerly called German Ivy, *Senecio mikanioides*)
 alligator weed - *Alternanthera philoxeroides*
 perennial pepperweed - *Lepidium latifolium*
 white top, hoary cress - *Cardaria draba*
 Russian olive - *Elaeagnus angustifolia*
 myoporum - *Myoporum laetum*
 eucalyptus – *Eucalyptus spp.*
 evergreen ash – *Fraxinus udhei*
 bottle brush – *Callistemon citrinus*
 California (Peruvian) pepper – *Schinus molle*
 Brazilian pepper- *Schinus terebinthifolius*
 carrotwood – *Cupaniopsis anacardiodes*
 Chinese elm – *Ulmus parvifolia*
 oleander – *Nerium oleander*
 Mexican fan palm – *Washingtonia robusta*
 Canary Island date palm – *Phoenix canariensis*
 Geraldton carnation weed – *Euphorbia terracina*
 edible fig (*Ficus carica*)
 blue crown passion flower (*passiflora caerulea*)
 pecan (*Carya illinoensis*)
 fennel- *Foeniculum vulgare*
 water hyacinth-Eichlornia crassipes
 Spanish sunflower- *Pulicaria paludosa*
 Kikuyu grass- *Pennisetum clandestinum*
 pampass grass- *Cortaderia selloana*
 Andean pampass grass- *Cortaderia jubata*
 Himalayan blackberry- *Rubus discolor*
 Spanish broom- *Spartium junceum*
 purple loosestrife- *Lynthrum salicaria*
 olive- *Olea europea*
 Virginia creeper (*Parthenocissus quinquefolia*)
 stinkwort (*Dittrichea graveolens*)

In addition to the species listed above, the project manager assigned to each project has the opportunity to approve projects requesting to eradicate/remove species on the California Invasive Species Council (Cal IPC) (<https://www.cal-ipc.org/plants/inventory/>) on a case-by-case basis.

For the purposes of this RGP, areas are classified as “fully infested stands” if they contain 80% relative or canopy cover of exotics. Areas that contain 50% and 80% relative or canopy cover of exotics are classified as “partially infested stands.” This RGP is not applicable in areas that have less than 50% relative or canopy cover of exotics. For a parcel to be considered a “stand” it must be at least 0.5 acre in size or completely isolated from contiguous native riparian habitat. Following flood, fire, disease, or other natural events which scours or destroys an area; the area shall be classified based on the areal coverage of exotics immediately prior to natural disturbance.

The following activities are authorized on a year-round basis in “fully-infested stands”:

1. Broadcast foliar application of herbicides which are approved by the U.S. Environmental Protection Agency (USEPA) for use in wetlands and by the California Department of Pesticide Regulation for use within the State. Application of herbicides in any area supporting threatened and/or endangered species should be consistent with the USEPA’s Office of Pesticide Programs, Endangered Species Protection Program county bulletins. To reduce potential impacts to migratory birds using parcels adjacent to “fully infested stands”, no aircraft (*e.g.* helicopter) based application may occur between March 15 and September 15.

2. Mechanized land clearing, mechanical mulching (*i.e.* Hydro-Ax), mechanized removal, chipping, and excavation of living or dead invasive plants and any associated debris. Native riparian vegetation should be avoided to the maximum extent practicable. Any native riparian trees 3-inches DBH (diameter at breast height) or larger which are removed from fully infested stands, must be replaced on-site at a 2:1 ratio.

3. Stockpiling of invasive plants and associated debris which have been excavated, except during the flood season (November 15- April 15), when stockpiling is prohibited. Stockpiles must be placed in previously disturbed or degraded areas, cannot be placed within 50 feet of flowing water, must be placed in such a manner that it is not dispersed by currents or other forces, and must be disposed of within 3 months of initial creation of the stockpile by either removal to an appropriate upland disposal area or by burning. Prior to upland disposal or burning of any stockpiles or debris, all appropriate state and local permits must be obtained. To reduce potential impacts to migratory birds using parcels adjacent to “fully infested stands,” burning cannot occur within 1,000 feet of native riparian or wetland habitat areas between March 15 and September 15.

4. Construction of access roads provided that the width and length of the road are the minimum necessary for access to the exotics removal site. Native woody riparian vegetation in the access road alignment must be flagged and avoided. Placement of fill, such as decomposed granite, gravel, or concrete, on newly constructed or existing access roads within waters of the

U.S. is not authorized under this RGP. All appropriate Best Management Practices must be used to preclude increased turbidity and to ensure that road construction does not restrict or impede the passage of normal or expected high flows or cause the relocation of the water. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment, or abandoned access roads must be restored with appropriate native riparian or wetland vegetation.

The following activities are authorized on a seasonal basis, between September 16 and March 14, in "partially infested stands":

1. Plant-specific application of herbicides which are currently approved by the USEPA for use in wetlands. Application of herbicides in any area supporting threatened and/or endangered species should be consistent with the USEPA's Office of Pesticide Programs, Endangered Species Protection Program county bulletins. Plant specific techniques may consist of application via a backpack sprayer and/or the cut/paint technique (cutting of the plant, followed by immediate direct application of herbicide to the freshly cut stump). No herbicide may be applied to native riparian vegetation.

2. Mechanized landclearing, mechanical mulching (*i.e.* Hydro-Ax), mechanized removal, chipping, and excavation of living or dead invasive plants and any associated debris. Native riparian vegetation must be flagged prior to commencement of any mechanized activities and must be avoided.

3. Construction of access roads provided that the width and length of the road are the minimum necessary for access to the exotics removal site. Native woody riparian vegetation must be flagged and avoided. Placement of fill, such as decomposed granite, gravel, or concrete, on newly constructed or existing access roads within waters of the U.S. is not authorized under this RGP. All appropriate Best Management Practices must be used to preclude increased turbidity and to ensure that road construction does not restrict or impede the passage of normal or expected high flows or cause the relocation of the water. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment or abandoned access roads must be restored with appropriate native riparian or wetland vegetation.

4. Broadcast foliar application of herbicide and stockpiling are prohibited in "partially infested stands". Hand clearing (including use of chain saws) is generally not subject to Corps jurisdiction under Section 404. However, if hand clearing occurs in "partially infested stands" native riparian vegetation should be flagged and avoided.

5. Invasive plant removal from "partially infested stands" during the migratory bird breeding season (March 15 - September 15) may be authorized by the Corps under this RGP on a case-by-case basis. Prior to requesting such authorization, the proposed project area must be surveyed by a qualified biologist in accordance with all appropriate U.S. Fish and Wildlife Service protocols. Results of these surveys must be submitted to the Corps as part of the Notification requirement.

Notification requirement – notification to the Corps requesting authorization under this RGP shall include the following information:

- a. Name, address and telephone number of the prospective permittee;
- b. Location of the proposed project, including a vicinity map;
- c. Project purpose;
- d. Brief description of the proposed project, including the areal extent of work being proposed and the method of biomass removal/disposal;
- e. Acreage of “fully infested stands” and “partially infested stands” which would be affected by the proposed project;
- f. Citation of this RGP;
- g. Copy of a letter inquiring about the presence or absence of listed and/or eligible sites for listing in the National Historic Register in the proposed project area and a list of tribal contacts
- h. Copy of a letter to the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) 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;
- i. For work occurring on tribal land, an approval letter from the tribe;
- j. Results of a migratory bird survey (if work is being proposed in “partially infested stands” between March 15 and September 15).

A copy of this notification package should be sent to the USFWS, NMFS (if appropriate), California Department of Fish and Wildlife, California Coastal Commission (for projects that may affect the coastal zone), State Water Resources Control Board, and the appropriate Regional Water Quality Control Board.

Work may not commence until verification of compliance with this RGP is received from the Corps or thirty days have passed since the Corps receives a complete notification package. 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 cases where the proposed project does not comply with the terms and conditions of this RGP or the Corps determines that the proposed project would be contrary to the public interest or would result in greater than minimal individual or cumulative adverse impacts to the environment, the applicant will be notified by the Corps of Engineers within thirty days of receipt of a complete notification. Under these circumstances, an individual permit would likely be required to perform the proposed work.

General conditions of this RGP:

1. This Regional General Permit shall expire September 5, 2024. Based on continuing evaluation of the general permit, the Corps retains discretion to reissue, modify, rescind, or exclude certain activities or areas from authorization under the RGP.
2. No activity may substantially disrupt the movement of those species of aquatic life indigenous

to the water body, including those species which normally migrate through the area.

3. No activity may cause more than minimal adverse effects on navigation and activities shall 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, the permittee shall provide appropriate notifications to the U.S. Coast Guard as described below at least two weeks prior to start of activity and 30 days if buoys are to be placed:

Commander, 11th Coast Guard District (dpw)
TEL: (510) 437-2980
E-mail: d11LNM@uscg.mil
Website: <http://www.uscg.mil/dp/lnmrequest.asp>

U.S. Coast Guard, Sector LA-LB (COTP)
TEL: (310) 521-3860
E-mail: john.p.hennigan@uscg.mil

Notification should include the following information:

- a. Project description;
- b. Location of the work site;
- c. VHF-FM radio frequencies monitored by vessels on scene, if applicable;
- d. Point of contact and 24 -hour phone number;
- e. Potential hazards to navigation; and
- f. Project schedule.

4. The Permittee shall make every effort to ensure that vegetation nodes, root stalks, or other debris resulting from their activity do not enter or remain in any actively flowing watercourse.

5. The Permittee shall not stockpile invasive plants and associated debris during the flood season (November 15 to April 15). Stockpiling is allowed between April 16 and November 14; however, it must occur in previously disturbed or degraded areas. Stockpiles cannot be placed within 50 feet of flowing water, must be placed in such a manner that is not dispersed by currents or other forces, and must be disposed of within 3 months of initial creation of the stockpile by either removal to an appropriate upland disposal area or by burning. Prior to upland disposal or burning of any stockpiles or debris, all appropriate state and local permits must be obtained.

6. Burning of stockpiles shall not occur within 1,000 feet of native riparian or wetland habitat areas between March 15 and September 15.

7. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment or are abandoned must be restored with appropriate native riparian or wetland vegetation.

8. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. For projects proposed on most tribal

lands, the Permittee shall submit an approval letter from the tribe with their notification package and shall obtain Section 401 water quality certification, or waiver thereof, from the U.S. Environmental Protection Agency. For projects proposed on lands controlled by the Pine Paiute Tribe of Owens Valley, the Bishop Paiute Tribe, or the Twenty-Nine Palms Band of Mission Indians, the prospective permittee must obtain Section 401 water quality certification, or waiver thereof, directly from those tribes.

9. No activity is authorized under this RGP 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. Federal agencies should follow their own procedures for complying with the Endangered Species Act. Non-federal permittees shall notify the District Engineer 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 District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of the threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The Corps may require focused endangered species surveys be performed prior to verification of compliance with this RGP. In addition, the USFWS may require the submittal of an Integrated Pest Management Plan.

10. No activity is authorized which may adversely affect historic properties listed, or eligible for listing, in the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing in the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). Federal permittees should follow their own procedures for compliance with the requirements of the National Historic Preservation Act and other Federal historic preservation laws. 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 the discovery. 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.

11. Discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of water.

12. In partially infested stands, native riparian vegetation must be flagged prior to commencement of any mechanized activities and must be avoided. In fully infested stands, native riparian vegetation should be avoided to the maximum extent practicable. Any native riparian trees of 3 inches DBH (diameter at breast height) or larger that are removed from fully

infested stands must be replaced on site at a 2:1 ratio.

13. The permittee shall ensure all project sites are marked in such a way as to warn the public about the local use of herbicides during project implementation.

14. All pesticide mixing shall occur outside waters of the U.S. or at locations devoid of vegetation.

15. No mechanized equipment, rubber tired vehicles, track vehicles, or other equipment shall be stored, staged, or fueled in waters of the U.S., including wetlands.

16. Following the use of this General Permit, permittees shall ensure that the project site contains less than 5% relative coverage of invasive non-native vegetation (i.e., the invasive species covered by this RGP) for a period of two years from completion of the initial vegetation removal. At the end of this two-year period, the permittee shall submit to the Corps a brief description of the status of the site including photo documentation and an estimate of the degree of infestation and amount of native flora before and after the project.

17. Permittees shall take steps to secure, as appropriate, a Streambed Alteration Agreement with the California Department of Fish and Wildlife (CDFW) for activities involving the mechanized removal of invasive exotic species. In order to ensure that beneficial uses associated with State fish and wildlife and especially those state-listed species' habitats are adequately protected, a copy of the full notification package prepared by prospective permittees for the Corps shall be sent concurrently to the CDFW. For projects in Santa Barbara, Ventura, Los Angeles, Orange, and San Diego Counties, the package should be sent to the Department of Fish and Wildlife, 3883 Ruffin Road., San Diego, California 92123. For projects in Inyo, Mono, San Bernardino and Riverside Counties, packages should be sent to 3602 Inland Empire Boulevard, Suite C-220, Ontario, California 91764. For projects in Kern and San Luis Obispo Counties, the package should be sent to the Central Region Headquarters Office, 1234 E. Shaw Avenue, Fresno, California. 93710. Addresses can be verified at www.wildlife.ca.gov.

18. The Permittee shall not commence work until verification of compliance with this RGP is received from the Corps or thirty days have passed since the Corps received a complete notification package (Special Condition No. 2). 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.

19. The Permittee shall ensure that all contractors receive a copy of this RGP and are made aware of the conditions and restrictions within. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in compliance with the terms and conditions of the permit.

20. You must maintain the activity authorized by this permit in good conditions of this permit. You are not relieved of this 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. 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 the permit from this office, which may require restoration of the area.

21. This RGP is certified pursuant to Section 401 of the Clean Water Act (Water Quality Certification) subject to the standard conditions that apply to all certifications as well as the following additional conditions:

- a. Applicant's of projects proceeding under RGP 41 shall provide a copy of the "Notification" package to the State Board and the appropriate Regional Water Quality Control Board (Regional Board). These copies shall be mailed at the same time to:

Program Manager
401 Certification and Wetlands Unit
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Program Manager
CWA Section 401 Water Quality Certification Program
Address and Appropriate Regional Board (addresses enclosed)

The applicant shall provide a fee (TBD) for review and processing of the notice per CCR Title 23, section 2200. If the applicant is not contacted by the Regional Board within 30 days of the postmarked date of the notification, the applicant may assume that the project meets the conditions of this certification and may proceed with the project.

- b. Extracted Plant Material Stockpile: Extracted plant materials stockpiled at sites known to experience flash flooding outside the flood season (November 15-April 15) shall be removed within 15 days of the initial creation of the stockpile in order to contain the potential spread of exotic, invasive plant material in such flash-flood prone areas.

- c. Other State Permits: Projects proceeding under RGP41 shall comply with all applicable National Pollutant Discharge Elimination System permits and Waste Discharge Requirements.

- d. California Environmental Quality Act (CEQA): Projects permitted under RGP 41 shall comply with CEQA.

- e. California Endangered Species Act: The discharge shall not result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of any such species unless the activity is authorized by the California Department of Fish and Wildlife pursuant to a permit, memorandum of understanding, or other document or

program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.

f. Pollution: The discharge shall not cause pollution, contamination, or nuisance as defined in California Code Section 13050.

g. Cumulative Impact: The discharge by itself or in combination with other discharges shall not have a significant cumulative effect or degrade water quality or beneficial uses.

h. Channel Destabilization: The Discharge shall not directly or indirectly destabilize the channel or bed of receiving water.

i. Toxic Substances: The discharge shall not include substances in concentrations toxic to human, plant, animal or aquatic life or produce detrimental physiological responses.

j. Hazardous substances: The discharge shall not include waste classified a “hazardous” or “designated waste” as defined in Title 22 CCRs section 66261 and California Water Code Section 13173.

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).

(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.

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



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CASTANON.DAVID.J.1231966150
Date: 2019.09.05 13:43:34 -07'00'

David J. Castanon
Chief, Los Angeles District
Regulatory Division

State Water Resources Control Board

August 14, 2019

David Castanon
Chief, Regulatory Division
U.S. Army Corps of Engineers, Los Angeles District
60 South California Street, Suite 201
Ventura, California 93001

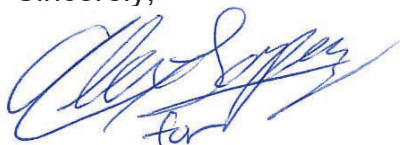
Dear Mr. Castanon:

RE: CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER FOR THE REGIONAL GENERAL PERMIT (RGP) 41 FOR REMOVAL OF INVASIVE PLANTS (SB19014GN)

Enclosed please find a Clean Water Act Section 401 Water Quality Certification and Order (Order), authorized by the State Water Resources Control Board. This Order is issued to the U.S. Army Corps of Engineers, Los Angeles District for Regional General Permit 41 for Removal of Invasive Plants (Project). Attachments A through C of the Enclosure are also part of the Order.

If you require further assistance, please contact me by phone at (916) 322-7781 or by email at Jean.Bandura@waterboards.ca.gov. You may also contact Beth Payne, Chief of the Wetlands Permitting and Planning Unit, by phone at (916) 341-5579 or email at Elizabeth.Payne@waterboards.ca.gov.

Sincerely,



Jean Bandura
Environmental Scientist
Division of Water Quality – Wetlands Permitting and Planning Unit
State Water Resources Control Board

Enclosures (1): Clean Water Act Section 401 Water Quality Certification and Order for Regional General Permit (RGP) 41 for Removal of Invasive Plants

cc: [Via email only] (w/ enclosure):

Sam Ziegler
Chief, Wetlands Regulatory Office
(WTR-8)
U.S. Environmental Protection Agency, Region 9
Ziegler.Sam@epa.gov

Emma Ross
Project Manager, North Coast Branch
U.S. Army Corps of Engineers, Los Angeles District
Emma.B.Ross@usace.army.mil

David Castanon
Chief, Regulatory Division
U.S. Army Corps of Engineers, Los Angeles District
David.J.Castanon@usace.army.mil

Karen Mogus, Deputy Director
Division of Water Quality
State Water Resources Control Board
Karen.Mogus@waterboards.ca.gov

CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
Stateboard401@waterboards.ca.gov

Phil Hammer
Program Manager
Central Coast Regional Water Quality Control Board
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State Water Resources Control Board

WATER QUALITY ORDER NO. 2019-0038-EXEC CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Effective Date: August 14, 2019

Program Type: Fill/Excavation

Project Type: Ecological Aquatic/Stream/Habitat Restoration

Project: U.S. Army Corps of Engineers Regional General Permit
No. 41 for Removal of Invasive Plants
Regulatory Measure (RM) ID: 430007
WDID: SB19014GN

Applicant: U.S. Army Corps of Engineers Los Angeles District
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For further assistance, please call State Water Resources Control Board (State Water Board) Staff listed above or (916) 341-5478 and ask to speak with the Wetlands Permitting and Planning Unit Supervisor.

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Attachment A	RGP 41 Area Map
Attachment B	Signatory Requirements
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I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) and attachments A through C is issued at the request of the U.S. Army Corps of Engineers, Los Angeles District (Corps), for Certification of Regional General Permit (RGP) 41 for Removal of Invasive Plants (Project). This Order is for the purpose described in the public notice issued by the Corps on April 3, 2019.

II. Public Notice

The State Water Resources Control Board (State Water Board) provided public notice of the application from May 13, 2019 to June 27, 2019. The State Water Board did not receive any comments during the comment period.

III. Project Purpose and Description

The Corps proposes to reauthorize RGP 41, which authorizes mechanized removal and chemical treatment of invasive, exotic plants (exotics) from waters of the U.S., including wetlands. RGP 41 authorizes treatment of two classes of areas:

- Fully infested stands: Areas containing at least 80% relative or canopy cover of exotics.
- Partially infested stands: Areas that contain between 50% and 80% relative or canopy cover of exotics.

This RGP is not applicable in areas that have less than 50% relative or canopy cover of exotics. The reissued RGP 41 is essentially unchanged from the previous RGP, except for allowance of removal of additional invasive species, as requested by an applicant on a case-by-case basis, and minor changes to reporting procedures.

IV. Project Location

In any jurisdictional waters of the U.S. throughout the Los Angeles District of the U.S. Army Corps of Engineers within the counties of: San Luis Obispo, Imperial, Inyo, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, Ventura, Mono, and Kern. A map showing the Project location is found in Attachment A of this Order.

V. Project Impact and Receiving Waters Information

Individual projects authorized under this Order may be located within the jurisdiction of Central Coast, Central Valley, Colorado River Basin, Lahontan, Los Angeles, San Diego, and Santa Ana Regional Water Quality Control Boards (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by individual projects authorized under this Order are protected in accordance with the applicable water quality control plans (Basin Plans) for the regions, and other plans and policies which may be accessed online at [the State Water Board's Plans and Policies](#)

[webpage](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/). The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

VI. California Environmental Quality Act (CEQA)

An Addendum (Attachment C) to the Final Negative Declaration (ND) for RGP 41 has been prepared by the State Water Board. This Addendum identifies minor technical changes and additions to the ND, which do not require the preparation of a subsequent negative declaration (California Code of Regulations (CCR) §§15162 and 15164(b)). This document was prepared in accordance with CEQA, Public Resources Code section 21000 et seq., and the state's CEQA Guidelines, CCR section 15000 et seq.

VII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

VIII. Conditions

The State Water Board has independently reviewed the record of the Project to identify impacts to the environment and designated beneficial uses within the watersheds of the Project. In accordance with this Order, Enrollees may proceed with the Project under the following terms and conditions:

A. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in the Corps' General Permit.

1. Project Notification and Fee Requirements

- a. As early as feasible but at least 21 days prior to proposed project commencement, Applicants for projects proposed under RGP 41 shall provide a hardcopy of the Corps' required notification package, including identification of the species targeted for removal, to the State Water Resources Control Board and the appropriate Regional Water Quality Control Board (Regional Water Board).
 - A [staff directory](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf) that includes Regional Water Board contact

information for the State and Regional Water Board Program Managers may be accessed online at the State Water Board's webpage.

- A [map of Regional Water Board boundaries](https://www.waterboards.ca.gov/waterboards_map.html) (https://www.waterboards.ca.gov/waterboards_map.html) may be accessed online at the State Water Board's webpage.
- b. **Fee Payment:** The application fee amount for individual projects authorized under this Order is determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), and is calculated as category D – Ecological Restoration and Enhancement Projects. Note that fees are periodically adjusted. Dischargers should confirm the correct fee amount prior to submitting payment.
- c. **Response from the Regional Water Board:** Work may not commence until verification of compliance with RGP 41 and this Order, including fee payment, is confirmed by the affected Regional Water Board, or thirty days have passed since the Regional Water Board received a complete notification package.
- d. **Project Reporting Requirements:** For all enrolled projects, the Enrollee must provide the applicable Regional Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 41.

B. Conditional Notifications and Reports

The following notifications and reports are required as appropriate.

1. Accidental Discharges of Hazardous Materials¹

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

- a. As soon as (A) Enrollee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be

¹ "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

provided without substantially impeding cleanup or other emergency measures then:

- first call – 911 (to notify local response agency)
 - then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
 - Lastly follow the required OES procedures as set forth in the [OES Notification Guidance Document](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf) (http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf).
- b. Following notification to OES, the Enrollee shall notify State Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- c. Within five (5) working days of notification to the State Water Board, the Enrollee must submit an Accidental Discharge of Hazardous Material Report.

2. Violation of Compliance with Water Quality Standards: The Enrollee shall notify the State Water Board and the Regional Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.

- a. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the state, and water contact with uncured concrete.
- b. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

3. Transfer of Property Ownership: This Order is not transferable in its entirety or in part to any person or organization except after notice to the appropriate Regional Water Board in accordance with the following term:

- The Enrollee must notify the Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Enrollee and purchaser must sign and date the notification and provide such notification to the Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the State Water Board to be named as the Enrollee in a revised order.
- Transfer of Long-Term Best Management Practice (BMP) Maintenance: If maintenance responsibility for post-construction BMPs is legally transferred, the Enrollee must submit to the appropriate Regional Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that

complies with manufacturer or designer specifications. The Enrollee must provide such notification to the Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

C. Water Quality Monitoring

1. **General:** If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete).
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

D. Standard

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, chapter 28, Article 6 commencing with section 3867.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Enrollee.
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

E. Water Quality Order No. 2013-0002-DWQ

1. Permitted activities may include application of algaecides and herbicides to invasive plants in waters of the U.S. Discharges of residual algaecides and/or aquatic herbicides and their degradation byproducts to waters of the U.S. from algae and aquatic weed control applications must comply with [Water Quality Order No. 2013-0002-DWQ \(General Permit No. CAG990005\)](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2013/wqo2013_0002dwq.pdf) (http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2013/wqo2013_0002dwq.pdf), Statewide General National Pollutant Discharge Elimination System (NPDES) Permit For Residual Aquatic Pesticide Discharges To Waters Of The United States From Algae And Aquatic Weed Control Applications, which is available on the State Water Board's webpage, or any subsequent reissuance of the permit.

F. Water Quality Order No. 2009-0009-DWQ

1. As applicable, the Enrollee shall maintain compliance with conditions described in, and required by, NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).

G. General Compliance

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Enrollee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. In response to a suspected violation of any condition of this Order, the State Water Board may require the Enrollee to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provide that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.

4. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.
5. The Enrollee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Enrollee submittals.
6. Permitted activities must be designed to first avoid and then minimize adverse impacts on aquatic resources in a manner that is consistent with the conditions of RGP 41. Compensatory mitigation may be required to offset any remaining unavoidable adverse impacts to aquatic resources.
7. No permanent impacts to any waters of the state, including waters of the U.S., are permitted under this Order. All temporary disturbance to waters, associated riparian areas and any areas where the disturbance may indirectly cause impacts to waters, must be stabilized to prevent erosion and encourage regrowth of desirable native plant species.
8. Any native riparian trees that are removed must be replaced in accordance with the conditions of RGP 41.
9. Site restoration should commence immediately upon the end of the completion of invasive species removal activities.

H. Construction

1. Excavated invasive plant materials stockpiled at sites known to experience flash flooding outside the flood season (the flood season is November 15 to April 15) shall be removed within 15 days of the initial creation of the stockpile in order to contain the potential spread of invasive plant material in such flash-flood prone areas. Stockpiling of excavated invasive plant materials is prohibited during the flood season.
2. The discharge by itself or in combination with other discharges shall not have a significant cumulative effect or degrade water quality or beneficial uses.
3. The discharge shall not destabilize the channel or bed of receiving water.
4. The discharge shall not include substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.

5. The discharge shall not include waste classified as “hazardous” or “designated” as defined in Title 22 California Code of Regulations, Section 66261 and California Water Code Section 13173.
6. The Enrollee must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the state.
7. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the state, and shall be located outside of waters of the state in areas where accidental spills are not likely to enter or affect such waters.
8. Materials and debris from all work areas shall be removed following completion of the project.
9. The Enrollee must implement all necessary BMPs to control erosion and runoff from areas associated permitted projects. The Enrollee must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.

I. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment B of this Order.
2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a “take” will result from any act authorized under this Order held by the Corps, the Corps and/or the Enrollee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Corps is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Corps and/or the Enrollee shall grant State Water Board staff, Central Coast, Central Valley, Colorado River Basin, Lahontan, Los Angeles, San Diego, and Santa Ana Regional Water Quality Control Board staff, or an authorized

representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:

- a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Enrollee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

IX. Water Quality Certification

I hereby issue the Order for the U.S. Army Corps of Engineers' Reauthorization of Regional General Permit No. 41 for Removal of Invasive Plants, State Water Board I.D. No. SB19014GN, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards). This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.). The State Water Board will file a Notice of Exemption (NOE) at the SCH within five (5) working days of issuance of this Order.

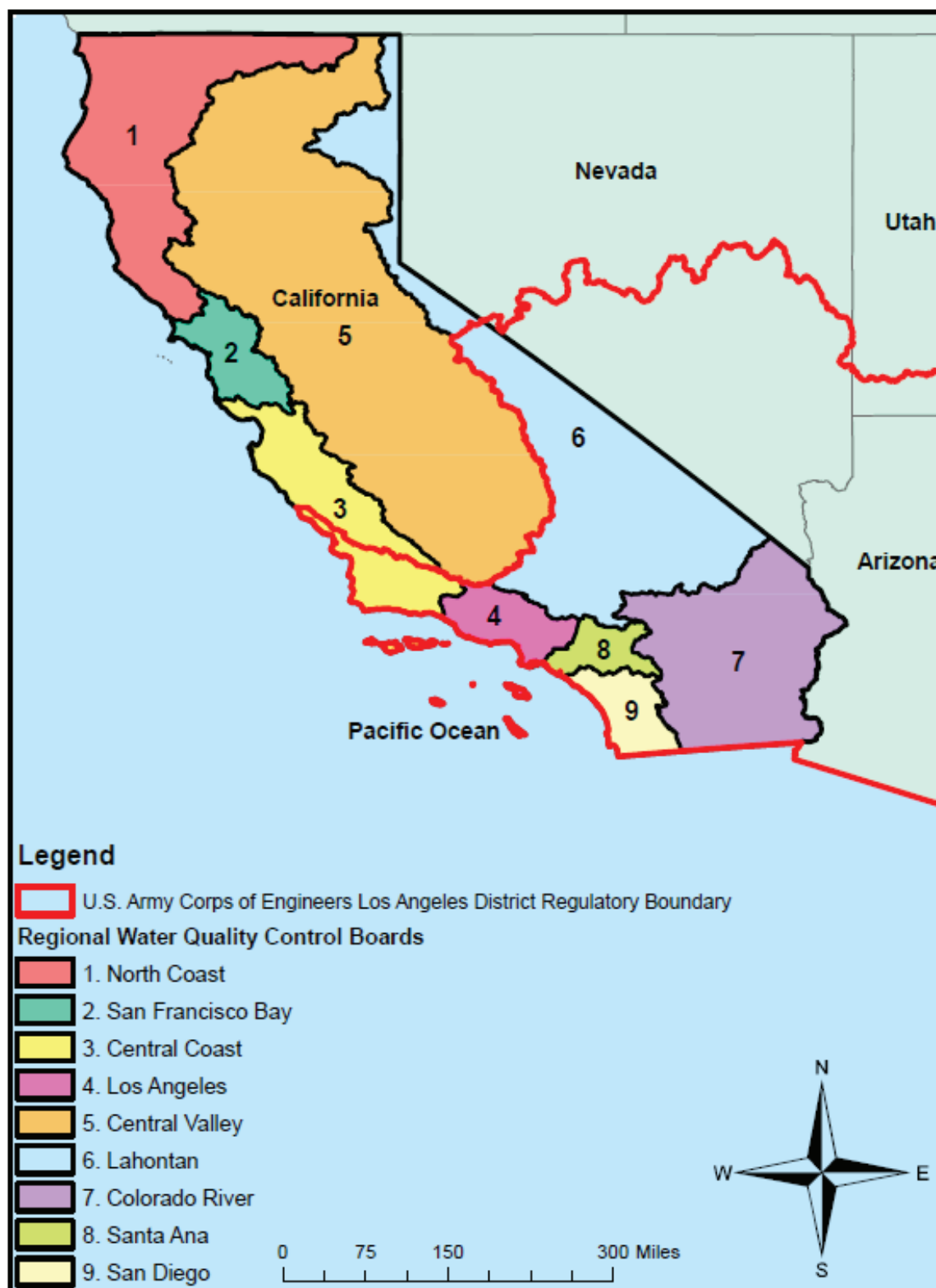
Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited, and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.

8/14/19
Date _____


Eileen Sobeck
Executive Director
State Water Resources Control Board

Attachment A RGP 41 Area Map
Attachment B Signatory Requirements
Attachment C CEQA Addendum

**Regional Water Quality Control Boards within the
U.S. Army Corps of Engineers Los Angeles District Boundary**



SIGNATORY REQUIREMENTS

All Documents Submitted in Compliance with This Order Shall Meet the Following Signatory Requirements:

1. All applications, reports, or information submitted to the Water Boards must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in items 1.a through above may sign documents if:
 - a. The authorization is made in writing by a person described in items 1.a through 1.c above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the State Water Board Staff Contact prior to submitting any documents listed in item 1 above.
3. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

**AUGUST 2019 ADDENDUM 3 to the
INITIAL STUDY/ NEGATIVE DECLARATION for
REGIONAL GENERAL PERMIT 41 FOR
REMOVAL OF INVASIVE PLANTS (RGP 41)**

State Clearinghouse Number 2003081158

**Lead Agency: State of California
State Water Resources Control Board
Division of Water Quality
401 Certification and Wetlands Unit 1001 I Street
Sacramento, California 95814
Staff Contact: Jean Bandura
Environmental Scientist 916-322-7781
Jean.Bandura@waterboards.ca.gov**

INTRODUCTION AND REGULATORY GUIDANCE

In 2003, Regional General Permit 41 (RGP 41) for Removal of Invasive, Exotic Plants was issued by the Los Angeles District of the U.S. Army Corps of Engineers (Corps).

A Clean Water Act section 401 water quality certification for RGP 41 was issued by the State Water Resources Control Board (State Water Board) on October 24, 2003. This certification was supported by a final Negative Declaration and a Notice of Determination. The Negative Declaration was made available for a 30-day public review period on the State Water Board's website from August 29, 2003 to September 28, 2003. In addition, 44 copies of the Draft Negative Declaration were mailed on August 29, 2003, as requested by stakeholders. A Notice of Determination for this project was filed on October 30, 2003 (SCH# 2003081158).

The Corps reissued RGP 41 in 2008. The reissued RGP 41 was certified by the State Water Board on January 21, 2009, and an addendum to the Negative Declaration (Addendum 1) was prepared by the State Water Board at that time.

The Corps reissued RGP 41 in 2014. The reissued RGP 41 was certified by the State Water Board on April 2, 2014, and an addendum to the Negative Declaration (Addendum 2) was prepared by the State Water Board at that time.

The Corps proposes to reissue RGP 41 in August of 2019. A request for Clean Water Act section 401 water quality certification of reissuance of RGP 41 was received by the State Water Board on April 3, 2019. The certification of the reissued RGP 41 is a discretionary action and constitutes the project for purposes of CEQA. This third addendum (Addendum 3) has been prepared to support re-certification of the proposed 2019 RGP 41.

Addendum 3 concerns minor technical changes and additions to RGP 41 that do not require the preparation of a subsequent Negative Declaration as set forth in California Code of Regulations, title 14, section 15164. This document has been prepared in accordance with CEQA (Pub. Resources Code, § 21000 et seq.), and the CEQA Guidelines (Cal. Code Regs. § 15000 et seq.). Addendum 3 to the Negative Declaration does not require recirculation, but will be included as part of the Negative Declaration, which is available upon request.

LEAD AGENCY

The lead agency is the public agency with primary approval authority over the proposed project. (See Cal. Code Regs., tit. 14 § 15051, subd. (b)(1).) The lead agency for the proposed project is the State Water Board.

PROJECT DESCRIPTION

RGP 41 will authorize an unknown number of projects which involve the mechanized or chemical removal of exotic, invasive plants from waters, including wetlands, and riparian

areas within the Los Angeles District of the Corps. Affected counties in California are: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Inyo, San Bernardino, Riverside, Imperial Counties, San Luis Obispo, Kern, and Mono.

RGP 41 is issued for five years. Permitted activities under RGP 41 include: application of U.S. Environmental Protection Agency and California Department of Pesticides Regulation-approved herbicides; mechanized land clearing and removal of living or dead plants; stockpiling of extracted plant materials and debris; and construction of access roads. Activities are limited by season, manner of application, stand condition, and other factors to limit adverse impacts to the environment.

CHANGES RECORDED IN ADDENDUM 3

The original Negative Declaration and Addendum 1 and 2 remain in effect except for the changes described below. Additions included in Addendum 3 will not result in substantial changes to the circumstances under which the project will be undertaken, new significant environmental effects, or a substantial increase in the severity of previously identified significant effects, as identified in California Code of Regulations section 15162.

The following addition will supplement and, where contradictory, supersede the applicable portions of the adopted final Negative Declaration for this project. Text added by Addendum 3 is underlined.

The following wording was added to the Introduction of the Negative Declaration, on page 2, in order to update RGP 41's current timeline. Wording added by Addendum 3 is as follows:

On April 3, 2019, the Los Angeles District of the Corps circulated a special public notice to request comments on a proposal to reissue RGP 41 with the addition of species in the RGP 41's list of invasive, exotic plant species. As currently drafted, RGP 41 (dated April 2019) is the same as the previous general permit, except for the allowance of removal of exotic invasive species not listed in RGP 41 as approved by the permitting authority on a case-by-case basis, and minor changes to reporting requirements. The effective date of the proposed re-issuance of RGP 41 will be determined by the Corps after the State Water Board takes a certification decision action on the general permit. Upon reissuance, RGP 41 will be in effect for five years.

SUMMARY OF FINDINGS

After review and consideration of the original Initial Study and environmental review and analysis contained in the final Negative Declaration for RGP 41, including Addendums 1, 2, and 3, it was determined that proposed changes to RGP 41 would not have any significant impacts on the environment, and that a subsequent Negative Declaration is not necessary pursuant to California Code of Regulations, section 15162. This conclusion is supported by the findings indicated below:

- No potential for adverse impacts on land use and planning, energy and mineral resources, population and housing, public services, utilities and service systems, and cultural resources associated with the proposed project was identified.
- Potential adverse impacts resulting from the proposed project were found to be less than significant in the following areas: geologic problems, air quality, water, biological resources, noise, hazards, transportation and circulation, aesthetics, and recreation.
- No substantially new or different environmental conditions that might be affected by activities permitted by RGP 41 in the project area have been identified since the 2009 reissuance.
- Since 2009, no public comment or concern was made known to the State Water Board, and no adverse effects associated with use of RGP 41 have been reported.

AVAILABILITY OF DOCUMENTS:

Addendum 3 will be appended to the final Negative Declaration for RGP 41 and will be available at the State Water Board's 401 Program web page under the listing of [General Orders](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html).

The Initial Study and all documentation, including Addenda 1 and 2, are available upon request to the Division of Water Quality. A Notice of Determination will be filed at the State Clearinghouse within five days of issuance of the 2019 water quality certification. This Addendum 3, along with the previously adopted Final Negative Declaration (SCH#2003081158) and Addenda 1 and 2, now constitute the Final Negative Declaration for the RGP 41 Project.

Pursuant to Section 21082.1 of the California Public Resources Code, the State Water Board has independently reviewed and analyzed the information contained in the Final Negative Declaration for the proposed Project and finds that this document reflects the independent judgment of the State Water Board.