



# PUBLIC NOTICE

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

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**APPLICATION FOR PERMIT  
Regional General Permit 53 Renewal**

**Public Notice/Application No.:** SPL-2015-00131-MG

**Project:** Regional General Permit 53 Renewal

**Comment Period:** March 25, 2015 through April 23, 2015

**Project Manager:** Meris Guerrero; 760-602-4836; [Meris.Guerrero@usace.army.mil](mailto:Meris.Guerrero@usace.army.mil)

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**Applicant**

Thomas Duffy  
San Diego County, Department of Public Works  
5510 Overland Avenue, Suite 410  
San Diego, California 92123

**Location:** In various waters of the U.S. located throughout the County of San Diego, California, as shown on the attached figure (Figure 1).

**Activity:** The proposed activity is the renewal and modification of the County of San Diego (County), Department of Public Works (DPW) Regional General Permit (RGP) 53. Renewal of RGP 53 would extend the expedited procedures to authorize repeated, similar maintenance activities in waters of the U.S. by County, DPW, including removal of vegetation, accumulated sediment, and/or debris, at 1,052 stormwater facilities and stream channels throughout the County. For more information see page 3 of this notice.

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Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the U.S. Army Corps of Engineers (Corps) Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied pursuant to Section 404 of the Clean Water Act. Comments should be mailed to:

Los Angeles District, Corps of Engineers  
Regulatory Division, Carlsbad Field Office  
ATTN: Meris Guerrero, SPL-2015-00131-MG  
5900 La Place Court, Suite 100  
Carlsbad, California 92008

Alternatively, comments can be sent electronically to: [Meris.Guerrero@usace.army.mil](mailto:Meris.Guerrero@usace.army.mil).

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters,

including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the U.S. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

**Evaluation Factors:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity 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, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps 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 proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. 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 proposed activity.

### **Preliminary Review of Selected Factors**

**EIS Determination-** A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California State Water Resources Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps prior to permit issuance.

Coastal Zone Management- This project is located outside the coastal zone and preliminary review indicates it would not affect coastal zone resources. After a review of the comments received on this Public Notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources.

Essential Fish Habitat- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and there are no listed resources within the project area. This review constitutes the extent of cultural resources investigations by the District Engineer, and she is otherwise unaware of the presence of such resources.

Endangered Species- A Biological and Conference Opinion for the renewal of RGP 53 (BO No. 1-6-98-f-37) was issued to the Corps on July 6, 2006 and September 1, 2009. The proposed project and associated impacts have not changed since issuance of the Biological and Conference Opinion for the renewal of RGP 53. Should project plans change or if additional information on the distribution of listed or proposed species and their designated critical habitat becomes available, the Corps will contact the U.S. Fish and Wildlife Service and reinitiate consultation pursuant to Section 7 of the Endangered Species Act, as appropriate.

Public Hearing- 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.

### **Proposed Activity for Which a Permit is Required**

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed RGP is flood risk management to protect existing roadways and public infrastructure. The project is water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for RGP 53 would be to perform periodic, routine maintenance activities, including sediment, vegetation, and/or debris removal that is currently impeding flows in culverts, bridges, and channels to prevent flooding of existing adjacent roadways and/or dwellings throughout the County of San Diego, California.

### **Additional Project Information**

**Baseline information-** RGP 53 was originally established in 1998 and subsequently renewed in 2005 and 2010. Since the 2010 renewal of RGP 53 the County has received authorization to maintain a total of 1,083 facilities (some facilities were maintained twice), resulting in permanent impacts, but not a permanent loss, to 5.87 acres of waters of the U.S. and requiring approximately 3.40 acres of compensatory mitigation.

A total of 1,052 storm water facilities are proposed to be included in RGP 53. The facilities are fully concrete lined, natural lined sides and bottom, riprap sides and earth bottom, or concrete sides and earth bottom. The estimated existing waters of the U.S. by habitat type are as follows:

<b>Waters of the U.S. by Habitat Type</b>	<b>Area (acres)</b>
Invasive species	1.01
Freshwater Marsh	3.20
Southern Willow Scrub	3.26
Mulefat Scrub	0.76
Riparian Woodland	1.18
Disturbed Wetland	2.86
Unvegetated Stream Channel	55.43
<b>Total (acres)</b>	<b>67.72</b>

**Project description-** The proposed project would conduct routine flood control maintenance activities, to include sediment, vegetation, and/or debris removal, in 1,052 stormwater facilities including bridges, culverts, and stream channels throughout the unincorporated County (Figure 1). The purpose of the maintenance activities is to prevent blockage and ensure existing culverts, bridges, and channels convey normal stormwater flows. The limits of work specified for each stormwater facility are identified in the Table of Master RGP 53 Facilities. These limits were identified by the County as the minimum necessary to alleviate flooding potential and to maintain adequate flood control capacity in the immediate vicinity of the culvert, bridge, and/or channel. Furthermore, the limits of work specified for each stormwater facility would occur in either a low flow pilot channel or half the channel width. All maintenance activities would be conducted between September 15 and February 15 to avoid avian breeding season, and where possible the project implementation would utilize adjacent existing roadways and culverts to further avoid impacts to waters of the U.S. and adjacent uplands by minimizing access impacts.

**Proposed Mitigation-** The proposed mitigation may change as a result of comments received in response to this Public Notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

The County has avoided impacts to jurisdictional areas by limiting maintenance activities to dimensions specified in the Master Table of RGP 53 Facilities. The limits of work typically coincide with only half of the channel or a narrow low flow pilot channel as opposed to the whole channel width. The County has minimized impacts to jurisdictional areas such that many of the maintenance

activities would be immediately adjacent to roadways and culverts therefore avoiding impacts associated with site access.

The County is required to provide compensatory mitigation for permanent and temporary impacts to waters of the U.S. Permanent impacts are those that occur the first time any specific reach of a culvert, bridge, or channel is impacted by authorized maintenance activities under RGP 53. To ensure that all compensatory mitigation is commensurate with impacts, the proposed mitigation will follow the order of preferred mitigation options presented in 33 CFR 332.3(b)(2)-(6) and will be determined on a case-by-case basis. At a minimum, compensatory mitigation for permanent impacts would include the following:

Habitat Type	Minimum Acceptable Mitigation Ratio	Out of Watershed Mitigation Ratio
Freshwater Marsh	2:1	6:1
Southern Willow Scrub	3:1	9:1
Mulefat Scrub	2:1	6:1
Riparian Woodland	3:1	9:1
Disturbed Wetland	1:1	3:1

Temporary impacts to waters of the U.S. under RGP 53 are defined as repeat impacts to any specific reach of a culvert, bridge, or channel that has been previously maintained and permanent impacts mitigated for under RGP 53 (including previous RGP 53 authorizations). Required mitigation for temporary impacts would be based on the quality and type of the jurisdictional areas proposed to be temporarily impacted.

- Temporary impact areas with moderate- to high-quality wetland/riparian habitat would be required to mitigate at a 1:1 ratio.
- Temporary impact areas with no- to low-quality wetland/riparian habitat would not require mitigation.

To determine whether an area falls within a) or b) above, the Corps would consider and evaluate the time lag between maintenance activities (i.e., frequency), existing habitat type, percent cover and diversity of native vegetation species.

### **Proposed Special Conditions**

No Special Conditions are proposed at this time.

For additional information please call Meris Guerrero of my staff at 760-602-4836 or via e-mail at Meris.Guerrero@usace.army.mil. This 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.

**DEPARTMENT OF THE ARMY**  
**LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
5900 LA PLACE COURT, SUITE 100  
CARLSBAD, CALIFORNIA 92008

**[WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY](http://WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY)**



