



# PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT

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## APPLICATION FOR PERMIT Municipal Waterways Maintenance Plan

**Public Notice/Application No.:** SPL-2018-00652-KJD

**Project:** Regional General Permit for City of San Diego Transportation & Storm Water Department's Municipal Waterways Maintenance Plan (MWMP)

**Comment Period:** February 24, 2020 through March 24, 2020

**Project Manager:** Chris Allen; (760) 602-4836; [christopher.allen@usace.army.mil](mailto:christopher.allen@usace.army.mil)

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### Applicant

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Water Department  
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San Diego, California 92105

### Contact

Anne Jarque  
City of San Diego Transportation & Storm  
Water Department  
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### Location

The proposed Municipal Waterways Maintenance Plan (MWMP) would occur throughout 8 watersheds (6 Watershed Management Areas; 7 Hydrologic Units) within storm water management facilities and channels maintained by the City of San Diego Transportation & Storm Water Department (TSW) within the city of San Diego, San Diego County, California. (Enclosure 1)

### Activity

City of San Diego TSW has applied for a Regional General Permit (RGP) to conduct routine maintenance activities to include direct removal or management of vegetation, grading to support both flood control capacity, the establishment of temporary staging and stockpile areas, ground-disturbing activities to remove accumulated sediment within facilities, concrete repair, bank repair, fill and/or dredge activities, temporary access/loading areas, flow diversions, and post-maintenance erosion control measures. For more information see Additional Project Information section below.

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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 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 under Section 404 of the Clean Water Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
ATTN: Christopher Allen  
5900 LA PLACE COURT, SUITE 100  
CARLSBAD, CA 92008

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

The mission of the U.S. Army Corps of Engineers 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 United States. 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 of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts

of this proposed activity. Any comments received will be considered by the Corps of Engineers 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 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 Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

**Coastal Zone Management**- The applicant has certified the proposed activity would comply with and would be conducted in a manner consistent with the approved State Coastal Zone Management Program. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission the project is consistent with the State's Coastal Zone Management Plan. The District Engineer hereby requests the California Coastal Commission's concurrence or non-concurrence.

**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 Corps will initiate consultation with the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA), as needed, to address any potential adverse effects to Historic Properties as a result of the authorization of discharges of fill material into waters of the United States associated with the implementation of the proposed covered activities.

**Endangered Species**- According to the Biological Assessment, four federally listed special-status wildlife species were observed within the proposed MWMP study area: coastal California gnatcatcher (*Polioptila californica californica*) Ridgway's rail (*Rallus obsoletus levipes*), California least tern (*Sternula antillarum browni*) and least Bell's vireo (*Vireo bellii pusillus*). The Corps will initiate consultation with the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the Endangered Species Act (ESA), as needed, to address any potential adverse effects to federally listed species and their designated critical habitat as a result of the authorization of discharges of fill material into waters of the United States associated with the implementation of the proposed covered activities.

**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 project is flood control. The project is not 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 the proposed RGP is to authorize discharges of dredged and fill material associated with conducting channel maintenance activities in order to maintain the effectiveness of San Diego's storm water facilities.

## **Additional Project Information**

**Baseline information-** The Municipal Waterways Maintenance Plan (MWMP) includes work throughout the City of San Diego within storm water facilities as shown in Enclosure 1. Storm water facilities include a network of underground storm drain pipes, culverts, outlet/inlet structures (e.g., headwalls), detention basins, ditches, and channels. In most cases, these facilities were existing naturally and/or designed and installed concurrently with land development of the area. In several locations, no previous design or as-built plans for the facility exist. At these locations, storm water is generally conveyed between a storm drain outlet and another storm drain inlet or receiving water via undeveloped land that often forms a natural channel or drainage pattern.

**Project description-** The purpose of this RGP is to authorize discharges of fill material associated with Routine Maintenance Activities. Routine Maintenance Activities include direct removal or management of vegetation, grading to support both flood control capacity, the establishment of temporary staging and stockpile areas, ground-disturbing activities to remove accumulated sediment within facilities, concrete repair, bank repair, fill and/or dredge activities, temporary access/loading areas, flow diversions, and post-maintenance erosion control measures. See Table 1 below for a list of proposed covered activities that may result in a discharge of fill material into waters of the U.S.

Table 1. Proposed Covered Activities that May Result in a Discharge of Fill Material into Waters of the U.S.

Activities	Activity Description	Loss of Function	Loss of Area
Vegetation Management	Mechanized vegetation removal with equipment operated in the jurisdictional waters	Potential temporary loss of function only	This RGP does not authorize discharges of fill materials associated with activities that would result in the loss of waters of the U.S.
Invasive Plant Species Management	Mechanized vegetation removal with equipment operated in the jurisdictional waters	Potential temporary loss of function only	
Sediment/Debris Removal	Mechanized sediment/debris removal with equipment operated in the jurisdictional waters	Potential temporary loss of function only	
Structural and/or Debris/Trash-Fence Clearing and/or Repair	Mechanized sediment/debris removal with equipment operated in the jurisdictional waters	No permanent or temporary loss of jurisdictional function	
Culvert Clearing	Hand and/or Vactor truck removal from within culvert structure	No permanent or temporary loss of jurisdictional function	
Concrete Repair	Not generally regulated, although supporting activities may be regulated (see flow diversion)	No permanent or temporary loss of jurisdictional function	
Bank Repair	Placement of riprap or other stabilization materials or mechanized grading	Potential permanent and/or temporary loss of function	This RGP does not authorize discharges of fill materials associated with activities that would result in the loss of waters of the U.S.
Access/Loading	Construction of temporary access ramps or loading pads by grading or placement of fill	Potential temporary loss of function only	
Flow Diversion	Placement of sandbags or other diversion structures	Potential temporary loss of function only	
Post-Maintenance Erosion Control	Construction of check dams or installation of channel lining materials	Potential permanent and/or temporary loss of function	
Compensatory Mitigation	Construction of compensatory mitigation including floodplain expansion and/or removal/control of invasive species	None	

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:

Avoidance: TSW would avoid impacts to waters of the United States to the maximum extent practicable. Site specific avoidance measures will be determine on a case by case basis.

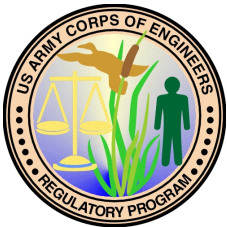
Minimization: TSW would minimize impacts to waters of the United States to the maximum extent practicable when avoidance is not possible. Site specific minimization measures will be determine on a case by case basis.

Compensation: In cases where impacts to waters are more than minimal, compensatory mitigation will be required. Any compensatory mitigation that is required to off-set impacts to waters of the U.S. will comply the 2008 mitigation rule.

### **Proposed Special Conditions**

Special conditions may be added to a Department of the Army permit when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirement. The need for permit special conditions will be considered during permit evaluation period. Any resulting permit special conditions will be directly related to the impacts of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable.

For additional information please call Christopher Allen of my staff at (760) 602-4836 or via e-mail at [Christopher.Allen@usace.army.mil](mailto:Christopher.Allen@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.

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**LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
5900 LA PLACE COURT, SUITE 100  
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