



DEPARTMENT OF THE ARMY PERMIT

Co-Permittees: State of California Natural Resources Agency, Department of Water Resources, and California Department of Fish and Wildlife

Project Name: Salton Sea Management Program (SSMP): 10-Year Plan Project

Permit Number: SPL-2019-00951-KJD

Issuing Office: Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee, co-permittees or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The State of California Natural Resources Agency (CNRA), Department of Water Resources (DWR), and California Department of Fish and Wildlife (CDFW) (collectively the SSMP Team) propose to discharge dredged and/or fill material into waters of the U.S. associated with constructing and maintaining projects under the State's Salton Sea Management Program (SSMP) Phase I: 10-Year Plan [<https://saltonsea.ca.gov/wp-content/uploads/2020/01/SSMP-Phase-1-10-Year-Plan.pdf>] over the next 50 years. The SSMP team is also working with partners such as Riverside and Imperial Counties, Salton Sea Authority, and non-governmental organizations such as Audubon (SSMP Partners) to design, construct and implement SSMP projects.

Implementation of the SSMP 10-Year Plan involves activities to construct approximately 29,800 acres of aquatic resource habitat restoration and dust suppression projects on lakebed areas that have been, or will be, exposed at the Salton Sea by the year 2028 within a 63,000-acre Planning Area (Enclosure 1). Aquatic habitat restoration projects would primarily convert exposed lakebed, including upland, wetland and non-wetland areas to either pond habitat suitable for fish and wildlife or wetland habitat. Dust suppression projects would be designed to primarily improve air quality by suppressing fugitive dust emissions, and may also provide habitat benefits by establishing vegetation or creating wetland habitat.¹

¹ The SSMP Team released its SSMP 10-Year Plan in 2017 and updated it in 2018 to guide the State's projects at the Sea over the next decade (2018-2028). The SSMP 10-Year Plan identifies a sequence of

This Department of the Army standard individual permit generally describes a subset of SSMP 10-Year Plan projects and activities within the Planning Area as site-specific restoration and dust suppression projects covered by the Letter of Permission (LOP) procedures. Reviews associated with the issuance of future authorizations as LOPs ensure compliance with the Special Conditions of this long-term permit as project details become known. The procedures for reviewing and issuing an LOP are summarized in Enclosure 2. A flow chart to support an initial decision of whether a project could be eligible for authorization under the LOP projects is provided in Enclosure 2.

Overall and as described for the Proposed Project in the Final Environmental Assessment - Combined Decision document and its appendices (EA) for the SSMP Phase I: 10-Year Plan (U.S. Army Corps of Engineers 2024), the SSMP Team proposes to discharge dredged and/or fill resulting in permanent and temporary impacts to approximately 3,200 acres of waters of the U.S. (approximately 2,350 acres of wetland waters and 850 acres of non-wetland waters) pursuant to Section 404 of the Clean Water Act of 1972, in association with achieving a net increase of at least 10,790 acres of waters of the U.S. The SSMP Team may implement the Proposed Project as described in the EA or some combination of the Proposed Project and one or more alternatives while still meeting the habitat restoration goals of the SSMP 10-Year Plan. Therefore, discharges of dredged and fill acreages may vary from what is provided here.

Project Activities: Project activities associated with implementation of SSMP 10-Year Plan aquatic habitat restoration projects will vary depending on an individual project's needs and design, to include the following:

- Habitat restoration and water quality improvement projects
- Construction, enhancement, or removal of berms, including permanent berms for water diversion, temporary diversion during construction, earthen berms,

habitat and dust control projects around the perimeter of the Sea consistent with the preferred alternative from the *Salton Sea Species Conservation Habitat (SCH) Project Final Environmental Impact Statement/ Environmental Impact Report (EIS/EIR)* (Corps and CNRA 2013) and other environmental documents. The SSMP 10-Year Plan identifies projects to be implemented on areas of lakebed that have been, or will be, exposed at the Sea by 2028. The SCH Project is one of the projects identified in the SSMP 10-Year Plan. Discharges of dredged and fill material into waters of the U.S. associated with constructing the Salton Sea SCH Project were separately authorized by the Corps Los Angeles District, Regulatory Division under a standard individual permit (SPL-2010-00142) and subsequent permit modifications [https://www.usace.army.mil/Portals/17/docs/publicnotices/Salton_Sea_PN.pdf].

Dust suppression techniques to mitigate air quality impacts and related human health impacts generated from the exposed lakebed are described in several documents, including the Dust Suppression Action Plan (DSAP) (CNRA et al. 2020). Discharges of dredged and fill material into waters of the U.S. associated with constructing the SSMP Team's DSAP at the Salton Sea were authorized separately by the Corps Los Angeles District Regulatory District under separate nationwide permits.

installation of hard substrate or other material on berms, such as riprap, geotextile, and/or fill materials

- Creation of pond habitat at different water depths and timing of inundation, including mudflats and shallow water, mid-depth habitat, deep-water habitat, swales or channels, bottom hard substrate
- Installation of features to support bird nesting, resting, and foraging habitat, including floating islands, islands, snags or other vertical structures, areas of seasonal flooding
- Creation of permanent vegetated wetlands, seasonally flooded habitats, terraced wetlands, and brine pools
- Removal or installation of water conveyance and supply systems to provide water supply to the Projects, including:
 - Sedimentation/mixing basins, weirs and other structures in waterways to divert water
 - Placement of check dams
 - Water storage tanks
 - Installation, sampling and gaging monitoring and supply wells
 - Drilling new groundwater wells
 - Solar pump stations and well pumps installation
 - Inflow and outflow structures
 - Dredge channels to pump stations or project infrastructure
- Removal or installation of water dispersal and retention structures, including:
 - Shallow earthen swales
 - Bunds and micro-catchments
 - Check dams, weirs, and concrete pipe culverts
 - Retention basins
 - Storage basins
 - Irrigation network and furrows
 - Pumps and other water control infrastructure
 - Prefabricated concrete box/arch culvert (or bridge footing/abutment, etc.)
- Installation of public amenities, passive recreation trails, ancillary public facilities within Project nexus, including hiking trails, picnic areas, parking, launch features for non-motorized boats, kayaks, paddle boards, passive recreation access compatible with an authorized aquatic resource habitat restoration or dust suppression project
- Temporary construction, access, parking, temporary office space, and dewatering involving temporary structures, work, and discharges, including cofferdams, necessary for construction activities, staging, or access fills or dewatering of construction sites, provided that the associated primary activity is an authorized project
 - Upon completion of construction, temporary fill must be entirely removed to an area that has no waters of the United States, dredged material must be

returned to its original location, and the affected areas must be restored to pre-construction elevations

- Linear crossings to construct, repair, or maintain roads for permanent access to aquatic restoration or dust suppression project sites
- Crossings of those waters associated with the construction, maintenance, or repair of electrical and communication utility lines and poles. Oil and gas utilities and pipelines are excluded
- Maintenance and repair of existing or constructed SSMP-related features, including:
 - Construction features repairs
 - Sediment removal (excavation or dredging, retrenching, periodic drainage)
 - Facilities maintenance, including road, well, and irrigation repair
 - Address potential for biological fouling at pipes and pumps in maintenance plans
 - Invasive vegetation monitoring and control
 - Repair of stormwater and erosion damage
- Pre-construction survey and investigations activities:
 - Monitoring and investigation/data collection activities:
 - Geotechnical soil sampling
 - Surface water sampling
 - Sediment sampling
 - Biological sampling
 - Biological surveys
 - Drilling and operating monitoring wells
 - Stream gage or weir installation
 - Road improvements, if necessary to perform monitoring or data collection activities
- Compensatory mitigation

Project activities associated with implementation of dust suppression and vegetation enhancement projects include the following:

- Water-reliant and waterless dust suppression techniques
- Establishment of (noninvasive) vegetation
- Removal of invasive vegetation
- Construction of shallow-water habitat
- Construction of freshwater wetlands
- Shallow flooding
- Stormwater spreading
- Temporary surface roughening
- Dust suppressant application
- Sand fencing

- Engineered roughening
- Gravel or other cover
- Enhancing soil crusts
- The same features and activities listed in the Aquatic Habitat Projects can also apply to Dust Suppression and Vegetation Enhancement Projects

Materials to be Discharged into Waters of the U.S.: Detailed information regarding fill materials to be discharged into waters of the U.S., including estimated volumes, would be provided in each project's LOP application. Only non-toxic and nonhazardous materials would be placed into the aquatic environment. No toxic or hazardous materials would be discharged into the aquatic ecosystem. In general, materials proposed for discharge into water of the U.S. would be expected to include one or more of the following:

- Clean earthen fill material (backfill), including dredged or excavated source material
- Portland cement concrete or asphalt concrete
- Aggregate base material
- Ungrouted rock riprap slope protection (inert)
- Galvanized corrugated metal pipe(s)
- Rock-filled basket gabion(s)
- Filter fabric
- Geotextile
- Prefabricated concrete box/arch culvert (or bridge footing/abutment, etc.)

Specific LOPs would be issued only for those covered activities where the proposed project meets all of the criteria identified in this long-term permit. Cumulatively, SSMP projects authorized under this long-term permit and LOP procedures would result in no net loss of aquatic ecosystem functions and services but rather would provide a net benefit.

Project Location: The approximately 63,000-acre Planning Area for the Proposed Project would include various locations within, along, and adjacent to the Salton Sea, within or near the cities or towns of Mecca, Desert Shores, Salton City, Westmorland, Calipatria, and Bombay Beach in Imperial and Riverside counties, California (Enclosure 1). Specifically, the Proposed Project would generally occur within exposed lakebed areas located below an elevation of -228 feet based on the North American Vertical Datum of 1988 (NAVD 1988), which is below the 2003 shoreline of the Salton Sea. The Planning Area is between the 2003 shoreline and the projected 2028 shoreline of the Salton Sea.

The project areas addressed by this project would be located on the following United States Geological Survey (USGS) 7.5-minute topographic quadrangle maps: Fink (USGS 2018), Wister (USGS 2018), Niland (USGS 2018), Calipatria (USGS 1976), Westmorland

West (USGS 2018), Kane Spring (USGS 2018), Kane Spring NE (USGS 2018), Truckhaven (USGS 2018), Oasis (USGS 2018), Mecca (2018), Mortmar (USGS 2018), and Durmid (USGS 2018). Known jurisdictional waters of the United States (U.S.) that occur within the Proposed Project area include the Salton Sea and the Whitewater, New, and Alamo Rivers.

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on August 23, 2078. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

7. You must notify this office as to the dates of commencement (within 10 days prior to the start of construction) and completion of the activity (within 10 days following the end of construction) using the enclosed forms.

Special Conditions:

1. To obtain future LOP, the applicant must adhere to the requirements, including the terms and conditions of the LOP procedures (Enclosure 2), summarized as follows in subparts A-F:

A. Pre-Application Coordination

The applicant (SSMP Team) would be required to request a pre-application meeting with the Corps and with the EPA Region 9 Wetland Section for all projects requiring authorization under the SSMP LOP procedures. The applicant would submit pre-application meeting requests to the Corps (via email at splregssmp@usace.army.mil or through the Corps Regulatory Request System at <https://rrs.usace.army.mil/rrs>), the U.S. EPA Region 9 Wetland Section (via email at mahdavi.sarvy@epa.gov), and the Colorado River Basin Regional Water Quality Control Board (via email at Kai.Dunn@waterboards.ca.gov) with as much lead time as possible, preferably with at least 30 days' notice. The 30-day pre-filing requirement for a Section 401 Water Quality Certification would be initiated by the applicant's request for a pre-application meeting. Upon receipt of the request, the Corps will assign a project Action Identification Number (AID#). The Corps AID# will be required in the subject line of all subsequent submittals. A flowchart showing an overview of the various steps included in implementing the LOP procedures is provided in Enclosure 2.

The applicant shall make pre-application materials available in electronic form as designated by the Corps once a Corps AID# has been assigned, and as described in the LOP procedures (Enclosure 2).

B. Initial Determination of LOP Eligibility

Following the pre-application coordination, the Corps will make an initial determination as to whether the project may qualify for an SSMP LOP based on a preliminary determination that the proposed project meets the following requirements:

- 1) Complies with the CWA Section 404(b)(1) Guidelines;
- 2) Meets the SSMP LOP criteria; and
- 3) Determined that Standard Individual Permit processing with Public Notice review would not result in a substantive change in the proposed project or compensatory mitigation.

If an initial determination is made that the proposed project be ineligible for an SSMP LOP, the Corps would provide recommendations that would allow the project to qualify.

C. LOP Application Submittal

Where a site-specific approved jurisdictional determination is required by regulation or recommended by the Corps, the applicant would hold its submittal of a permit application until the Corps has issued the final jurisdictional determination or instructed the applicant to proceed with submitting the application.

The applicant shall notify the Corps of a permit request via email (at splregssmp@usace.army.mil) ensuring the assigned Corps AID# is provided in the subject line. The application package shall be provided in electronic form on the designated file transfer protocol (FTP) site at the time of the permit request notification.

To be considered complete, applications submitted for review under the SSMP LOP procedures must include all the information required for a standard permit application pursuant to 33 CFR §325.1(d), as well as the additional information listed in item B.3 of the LOP procedures (Enclosure 2).

D. LOP Application Processing Procedures

- 1) Upon receipt of an application notification, the Corps would provide an email confirmation to the applicant and include the assigned Corps project manager.
- 2) Within approximately fifteen (15) calendar days of receipt of an application, the Corps would determine if the application is complete. If an application is incomplete, the Corps will notify the applicant of the needed information items and the applicant will be required to resubmit.
- 3) Within approximately fifteen (15) calendar days of receiving a complete application, the Corps would notify the applicable agencies that the complete application submittal is available on the designated FTP site and request the agencies provide comments on the following subjects:
 - a) Minimization of impacts to aquatic resources to the maximum extent practicable;
 - b) Consistency of the proposed project and any required compensatory mitigation with the SSMP; and
 - c) Whether federally listed species issues have been resolved in a manner consistent with the programmatic biological opinion for the SSMP 10-Year Plan.
 - d) Whether the agency requests to be involved in the individual project phase NHPA section 106 process per the Programmatic Agreement.

- 4) The agencies would provide comments to the Corps within 21 calendar days. Agency comments would be provided via email to the appropriate Corps project manager.
- 5) Resolution or status of compliance with Section 106 of the NHPA, if applicable.
- 6) Resolution or status of the Section 401 Water Quality Certification.
- 7) Resolution or status of ESA Section 7, if applicable.
- 8) After all comments are received from the resource agencies, the Corps would perform a final evaluation of the project. Any concerns identified by the resource agencies during the LOP notification process would be resolved before an LOP is issued.
- 9) The Corps would review the comments received and make a final determination within 120 calendar days of receiving a complete application unless additional time is required to demonstrate compliance with Section 7 of ESA or Section 106 of NHPA.
- 10) If the project meets the criteria for LOP authorization, an LOP would be issued.
- 11) If the project fails to meet the criteria for LOP authorization, the Corps will notify the applicant of the need for review through an alternative permit processing (Nationwide, Regional General, or Standard Individual Permit).

E. Special Conditions of the LOP Authorization

Any activity authorized by an SSMP LOP must meet the 28 general conditions referenced in part B.5 of the LOP procedures (Enclosure 2). Additionally, the Corps may include project-specific special permit conditions for any future SSMP LOP.

F. Salton Sea Management Program 10-Year Plan Mitigation Framework.

The mitigation policies referenced in part B.6 of the LOP procedures (Enclosure 2) apply to any future SSMP LOP (and Nationwide, Standard Individual, and Regional General Permits, as appropriate) issued within the Salton Sea and the New, Alamo, and Whitewater Rivers, adjacent wetlands, and tributary creeks, washes, and agricultural drains.

2. The use and implementation of the LOP procedures for Corps permit applications is contingent on compliance with all the terms and conditions of the LOP procedures. Should a permittee/co-permittee become non-compliant with permit conditions, the Corps may suspend, revoke, or modify the permit and assess administrative penalties. Pursuant to section 309(g) of the CWA, the Corps is able to levy Class I Administrative

Penalties of up to \$26,686 per violation of a permit Special Condition, to a maximum of \$66,713.

Further Information:

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

☐ Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

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.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Samantha Arthur

11/19/2024

CO-PERMITTEE (Signature)

DATE

Samantha Arthur Deputy Secretary for Water

State of California Natural Resources Agency

James L Newcomb

11/18/2024

CO-PERMITTEE (Signature)

DATE

James L Newcomb Deputy Director

Department of Water Resources

Heidi Calvert

11/20/2024

CO-PERMITTEE (Signature)

DATE

Heidi Calvert Regional Manager, Inland
Deserts Region

California Department of Fish and Wildlife

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

AARON O. ALLEN, PH.D.
Chief, Regulatory Division

DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

TRANSFeree

DATE