

CESPL-RGS (File Number SPL-2019-00951)

**SUBJECT: Department of the Army Final Environmental Assessment and Combined Decision Document for the Above-Referenced Standard Individual Permit Application**

This document, inclusive of its appendices constitutes the National Environmental Policy Act of 1969, as amended (NEPA) Final Environmental Assessment (EA), Clean Water Act (CWA) Section 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings for the subject application.

**1.0 Introduction and Overview**

**CORPS ACTION ID:** CESPL-2019-00951

**CO-APPLICANT(S):** State of California Natural Resources Agency, Department of Water Resources, California Department of Fish and Wildlife

**PROJECT NAME:** State of California's Salton Sea Management Program Phase I: 10-Year Plan, Clean Water Act Section 404 Letter of Permission Procedures, Riverside and Imperial Counties, California

**PERMIT AUTHORITY:** Section 404 of the Clean Water Act (33 USC 1344)

The U.S. Army Corps of Engineers, Los Angeles District (Corps), acting as the lead Federal agency under NEPA, for the action in coordination with five Federal cooperating agencies including the U.S. Department of Interior's Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), Bureau of Reclamation (Reclamation), Bureau of Indian Affairs (BIA), and the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), has prepared a Final EA in accordance with NEPA for the State of California's Salton Sea Management Program (SSMP) Phase I: 10-Year Plan.

This combined decision document evaluates the proposed federal actions (Table 1) related to the State's implementation of approximately 30,000 acres of aquatic restoration and dust suppression projects along the shoreline of the Salton Sea in Imperial and Riverside Counties, California.

**Table 1 – SSMP 10-Year Plan Federal Actions**

<b>Agency</b>	<b>Role</b>	<b>Jurisdiction/ Authority</b>	<b>Actions</b>
Corps	Lead Agency	Federal Waters of the United States Section 404 of the Clean Water Act	Issuance of 404 permits via Standard Individual Permit establishing new Letter of Permission Procedures, by which phases of the SSMP 10-Year Plan could be permitted
BIA	Cooperating Agency	Tribal Trust Lands/ Landowner/Right-of-Way Agreement 25 CFR Part 169 Rights-of-Way over Indian Land	Right(s) of Way Approval
BLM	Cooperating Agency	Landowner/Right-of-Way Agreement Federal Land Policy and Management Act	Authorization of projects on BLM-administered public lands through the issuance of rights-of-way and/or land use permits.
Reclamation	Cooperating Agency	Landowner/Right-of-Way Agreement/ Funding Source Reclamation Act of 1902	Authorization of projects on Reclamation-managed lands through the issuance of licenses, entry permits, and special use permits; funding assistance
NRCS	Cooperating Agency	Funding source/ National Watershed Program Watershed Protection and Flood Prevention Act	With an approved watershed or conservation plan, can approve design and implementation funding for eligible partners, lands, and practices
FWS - Sonny Bono Salton Sea National Wildlife Refuge (SBSSNWR)	Cooperating Agency	Landowner/Special Use Authorization National Wildlife Refuge System Improvement Act	Authorization of projects or activities within the boundaries of the SBSSNWR that are deemed compatible with refuge purposes through the issuance of special use permits
FWS- Ecological Services	Cooperating Agency	Resource agency with special expertise and jurisdiction by law pursuant to the Endangered Species Act (ESA)	Consulted with the lead federal agency under Section 7 of the ESA

**2.0 Scope of review for NEPA (i.e., scope of analysis), Section 7 of the Endangered Species Act (i.e., action area), and Section 106 of the National Historic Preservation Act (i.e., permit area)**

**2.1 Determination of scope of analysis for NEPA**

The scope of analysis always includes the specific activity requiring a Department of the Army (DA) permit that is located within the Corps' geographic jurisdiction. In addition, we have applied the four factors test found in 33 CFR Part 325, Appendix B to determine if there are portions of the larger project beyond the limits of the Corps' geographic jurisdiction where the federal involvement is sufficient to turn these portions of an essentially private action into a federal action.

Based on our application of the guidance in 33 CFR Part 325, Appendix B, we have determined that the scope of analysis for this review includes the Corps' geographic jurisdiction and upland portions beyond the Corps' geographic jurisdiction.

These upland components include areas within the 63,000-acre planning area for the SSMP 10-year Plan (see Appendix 1 for detailed description). These components have been determined to be within our scope of analysis as the extent of federal involvement is sufficient to turn these portions of an essentially private action into a federal action with the resulting environmental consequences of the larger project essentially being products of the Corps' permit action.

Final description of scope of analysis: Areas within the 63,000-acre planning area for the SSMP 10-year Plan (see Appendix 1 for detailed description).

**2.2 Determination of the Corps' action area for Section 7 of the Endangered Species Act (ESA)**

The action area incorporates jurisdictional aquatic resources and upland habitats within the 63,000-acre planning area for the SSMP 10-year Plan.

**2.3 Determination of Corps' permit area for Section 106 of the National Historic Preservation Act (NHPA)**

The permit area includes those areas comprising waters of the United States that will be directly affected by the proposed work or structures, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR 325, Appendix C(g)(1) have been met.

### **3.0 Purpose and Need**

The project purpose and need and water dependency, as determined by the Corps are described in Appendix 1.

### **4.0 Coordination**

The Corps circulated a notice of intent to prepare an EA in March 2021 in coordination with the State of California and the federal cooperating agencies. The Corps circulated a Draft EA in June 2022 and held public meetings in July 2022. Public review (for 45 days) of the Draft EA was completed on August 20, 2022.

Comments were received and forwarded to the applicant for response. The results of coordinating the proposal on public notice are identified in Appendix 1, including a summary of issues raised, any applicant response and the Corps' evaluation of concerns in preparation of this final EA/combined decision document.

### **5.0 Summary of National Environmental Policy Act Compliance and Alternatives Analysis**

An evaluation of alternatives is required under NEPA for all jurisdictional activities (33 CFR Part 325 Appendix B, 40 CFR 230.5(c), 40 CFR Part 1501, and Regulatory Guidance Letter (RGL) 88-13). NEPA requires discussion of a reasonable range of alternatives, including the no action alternative, and the effects of those alternatives. An evaluation of alternatives is required under the Section 404(b)(1) Guidelines for projects that include the discharge of dredged or fill material to waters of the United States. Under the Section 404(b)(1) Guidelines, practicability of alternatives is taken into consideration and no alternative may be permitted if there is a less environmentally damaging practicable alternative.

As explained in detail in Appendix 1, eight alternatives are described and evaluated: the Proposed Project-SSMP 10-year Plan; Alternative 1-Maximum Lake Edge; Alternative 2-Aquatic Habitats and Enhance and Expand Existing Wetlands; Alternative 3-North End/South End Aquatic Habitat; Alternative 4-Water Conservation; Alternative 5-Maximum Build Out; Alternative 6-No Federal Action; and Alternative 7-No Action. The Proposed Project, modified SSMP 10-Year Plan presented in Appendix 1, is the selected alternative.

Refer to Appendix 2 of this document for an evaluation of alternatives under section 404(b)(1) Guidelines.

For all alternatives analyzed in detail, the potential effects were evaluated, as appropriate. A summary assessment of the potential effects of the Proposed Action are listed in Table 2:

**Table 2 – Summary of Potential Effects of the Selected Plan**

Potential Effects	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Aesthetics and Visual Resources (Scenic Beauty)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Air Resources (Air Quality)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Aquatic Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Biological Resources (Fish, Wildlife, Threatened and Endangered Species)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Built Environment (Navigation, Public Services, Parks and Recreation, Utilities)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate Change and Greenhouse Gas Emissions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Community Resources (Environmental Justice, Socioeconomics, Population and Housing)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cultural Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Geology, Soils, Seismic and Minerals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hazardous Waste and Materials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indian Trust Assets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Invasive species	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Land Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Noise	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Paleontological Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transportation and Traffic	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Potential Effects	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Water (Hydrology, Water Quality, Floodplain Management, Flood Risk Management)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the Proposed Action. Environmental commitments as detailed in Appendix 1 will be implemented, as appropriate, to minimize impacts.

## 6.0 Summary of the Public Interest Review

### 6.1 Public interest factors review

With the preparation of this combined decision document (see Appendix 1 for detailed analysis), the Corps has completed its General Public Interest Review (33 CFR 320.4 and RGL 84-09). The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments. All public interest factors have been reviewed in this decision document and those that are relevant to the proposal are listed here (Table 3).

**Table 3 – Public Interest Factors**

Factor	Effect [None, Detrimental, Neutral (mitigated), Negligible, Beneficial]
1. Conservation: Natural Resources, Soil	Beneficial
2. Economics: Local and Regional	Beneficial
3. Aesthetics	Negligible
4. General Environmental Concerns	Beneficial
5. Wetlands	Beneficial

<b>Factor</b>	<b>Effect [None, Detrimental, Neutral (mitigated), Negligible, Beneficial]</b>
6. Historic Properties	Neutral (mitigated)
7. Fish and Wildlife Values	Beneficial
8. Flood Hazards	Negligible
9. Floodplain Values	Negligible
10. Land Use	Neutral (mitigated)
11. Navigation	Negligible
12. Shoreline Erosion and Accretion	Beneficial
13. Recreation	Beneficial
14. Water Supply and Conservation	Neutral (mitigated)
15. Water Quality	Beneficial
16. Energy Needs	Neutral (mitigated)
17. Safety	Neutral (mitigated)
18. Food and Fiber Production	None
19. Mineral Needs	Neutral (mitigated)
20. Consideration of Property Ownership	Neutral (mitigated)
21. Needs and Welfare of the People	Beneficial

## 6.2 Public and private need

The relative extent of the public and private need for the proposed work is described in detail in Appendix 1.

## 6.3 Beneficial and/or detrimental effects on the public and private use

The extent and permanence of the beneficial and/or detrimental effects that the Proposed Action is likely to have on the public and private use to which the area is suited are described in Appendix 1. Reasonably foreseeable detrimental effects are expected to range from minor and short-term to major and long-term, but all adverse effects would be mitigated through the implementation of mitigation measures, and compensatory mitigation, as needed. Beneficial effects are expected to be more than minimal and permanent.

The Proposed Project would consist of aquatic habitat restoration projects which include creation or enhancement of aquatic habitat ponds and wetlands, and dust suppression

projects which include vegetation establishment, swales, shallow-water habitat, and freshwater wetlands. While project construction would result in temporary disturbance of waters of the U.S. (including wetlands), project operation would result in a net increase in the extent of waters of the U.S. This would be a beneficial effect. Refer to Appendix 1 for the detailed analysis, including a review for unresolved conflicts in resource use.

#### 6.4 Climate Change

Climate change is evaluated in greater detail in Appendix 1. The proposed activities within the Corps' federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered *de minimis*. Greenhouse gas emissions associated with the Corps' federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps' action have been weighed against national goals of energy independence, national security, and economic development and determined not to be contrary to the public interest.

#### 7.0 Mitigation

Mitigation, including avoidance, minimization, and compensation (33 CFR 320.4(r), 33 CFR Part 332, 40 CFR 230.70-77, and 40 CFR 1508) is addressed in Appendix 1.

#### 8.0 Consideration of Cumulative Effects

A cumulative impact (40 CFR 1508 and RGL 84-9) is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor direct and indirect but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider how the direct

and indirect environmental effects caused by the proposed activity requiring DA authorization (i.e., the incremental impact of the action) contribute to the aggregate effects of past, present, and reasonably foreseeable future actions, and whether that incremental contribution is significant or not. Refer to Appendix 1 for a detailed analysis.

## **9.0 Summary of Compliance with Other Laws, Policies and Requirements**

### **9.1 Section 7(a)(2) of the Endangered Species Act (ESA)**

Refer to Section 2.2 of this document for description of the Corps' action area for Section 7 of the ESA and Appendix 1 for greater detail on the listed species and their designated critical habitats. Pursuant to Section 7 of the ESA of 1973, as amended, as lead federal agency, the Corps determined the action area includes approximately 63,000 acres around the Salton Sea within exposed lakebed areas located below an elevation of -228 feet msl (NAVD 1988). The Corps determined that the Proposed Project may affect the following federally listed species: desert pupfish (*Cyprinodon macularius*; pupfish), Yuma Ridgway's rail (*Rallus obsoletus* [=longirostris] *yumanensis*; rail), southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher), least Bell's vireo (*Vireo bellii pusillus*; vireo), and western, yellow-billed cuckoo (*Coccyzus americanus* [western distinct population segment]; cuckoo). The U.S. Fish and Wildlife Service (FWS) concurred with the Corps determination of not likely to adversely affect flycatcher, vireo, and cuckoo and provided a programmatic biological opinion for the rail and pupfish on February 23, 2023. Correspondence with the FWS [FWS-IMP-12B0018-13F0058-R001] is included in Appendix 3 of this document.

### **9.2 Section 106 of the National Historic Preservation Act (NHPA)**

Refer to Section 2.3 of this document for permit area determination and Appendix 1 for greater detail on cultural resources and historic properties. Pursuant to Section 106 of the NHPA of 1966, as amended, the Corps, as lead federal agency determined that the permit area includes those areas comprising waters of the United States that will be directly affected by the proposed work, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR Part 325, Appendix C(g)(1) have been met. Accordingly, the permit area is equivalent to the area of potential effect and includes approximately 63,000 acres around the Salton Sea within exposed lakebed areas located below an elevation of -228 feet. The Corps initiated and consulted with interested parties. The Corps determined the Proposed Project would have no adverse effect on historic properties through implementation of a Programmatic Agreement (PA) with the State Historic Preservation Officer (SHPO; COE\_2021\_1007\_001), the Advisory Council of Historic Preservation (ACHP; ACHP Project Number: 018362), and

the Torres Martinez Desert Cahuilla Indians (Torres Martinez) which includes procedures for identifying and evaluating historic properties, findings of effect, and resolution of adverse effects, including mitigation and treatment options. The Corps concluded consultation with the SHPO, ACHP, and all consulting parties by executing the Programmatic Agreement on October 22, 2024 (Appendix 4). Correspondence with the SHPO and ACHP is part of the administrative record.

### 9.3 Tribal Trust Responsibilities

The Corps conducted government-to-government consultation with six federally recognized tribes pursuant to its Tribal Trust Responsibilities. The Corps conducted outreach via letter, email, and phone calls to a total of 25 federally recognized tribes and two non-federally recognized tribes, all of which were invited to participate in the PA process and to become a concurring party to the PA, including at any time after execution. Of these tribes, six federally recognized tribes requested consultation under Section 106 and are concurring party signatories to the PA. One of the six tribes, the Torres Martinez, is a signatory of the PA for projects on their Tribal lands and is provided the opportunity to consult on projects that could affect historic properties within their traditional land use area. Tribal government-to-government consultations were conducted concurrent with the Section 106 process. The Corps held meetings with consulting tribes that included invited cooperating agencies in attendance. Documentation of those tribal engagements is part of the administrative record. Refer to Appendix 1 for additional information.

### 9.4 Section 401 of the Clean Water Act – Water Quality Certification

The State will obtain water quality certification pursuant to Section 401 of the Clean Water Act from the Colorado Basin Regional Water Quality Control Board (Water Board) for each phase of the Proposed Project. All conditions of the water quality certification will be implemented to minimize adverse impacts to water quality associated with the Proposed Action (see Appendix 1 for detailed analysis). Required coordination with the Water Board will be conducted for each individual project implemented under the SSMP 10-Year Plan.

### 9.5 Summary of Compliance with Other Laws

9.5.1 California Coastal Zone Management Act of 1972 consistency concurrence is not required. The Proposed Action occurs outside of and would have no effect on the designated Coastal Zone.

9.5.2 The Proposed Action did not require review under the Magnuson-Stevens Fishery Conservation and Management Act. The Proposed Project would have no impact on Essential Fish Habitat.

9.5.3 The Proposed Action is located outside of any component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system.

9.5.4 The applicant requires no permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

9.5.5 The project proposes to impact wetlands. In conformance with Corps Wetland Policy (33 CFR 320.4(b)), based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

## **10.0 Findings and Determinations**

### **10.1 Section 176(c) of the Clean Air Act General Conformity Rule Review**

The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed *de minimis* levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps’ continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

### **10.2 Summary of Compliance with Presidential Executive Orders (EO)**

10.2.1 EO 11988, Floodplain Management. Alternatives to location within the floodplain, minimization and compensatory mitigation of the effects were considered above. Refer to Appendix 1 for a more detailed analysis.

10.2.2 EO 12898 and EO 14008, Environmental Justice. The Corps has determined that portions of the proposed project within our federal control and responsibility would not have a disproportionately high and adverse human health or environmental effect on disadvantaged communities. Refer to Appendix 1 for a detailed analysis.

10.2.3 EO 13112, Invasive Species, as amended by EO 13751. The evaluation included invasive species concerns in the analysis of impacts at the project site and associated mitigation measures. Refer to Appendix 1 for a more detailed analysis.

10.2.4 EO 13212 and EO 13302, Energy Supply and Availability. The proposal is not one that would increase the production, transmission, or conservation of energy, or strengthen pipeline safety. Refer to Appendix 1 for a more detailed analysis.

### 10.3 Findings of No Significant Impact

All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives and coordination with appropriate agencies and officials has been completed. Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement will not be required.

### 10.4 Compliance with Clean Water Act Section 404(b)(1)

Pursuant to the Clean Water Act of 1972, as amended, the discharge of dredged or fill material associated with the selected plan has been found to be compliant with Section 404(b)(1) Guidelines (40 CFR Part 230). The Clean Water Act Section 404(b)(1) Guidelines evaluation is found in Appendix 2 of this document.

### 10.5 Public Interest Determination

Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest. The permit will be issued with appropriate conditions included to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the authorities identified herein.

**PREPARED BY:**

12 Nov 2024

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Corice J. Farrar  
Chief, South Coast Branch  
Regulatory Division  
Los Angeles District  
U.S. Army Corps of Engineers

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Date

**APPROVED BY:**

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Aaron O. Allen, PhD  
Chief, Regulatory Division  
Los Angeles District  
U.S. Army Corps of Engineers

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Date

Enclosures:

- Appendix 1 – Environmental Analysis for the Salton Sea Management Program 10-Year Plan
- Appendix 2 – Evaluation for Compliance with the Section 404(b)(1) Guidelines
- Appendix 3 – Endangered Species Act Section 7 Biological Opinion
- Appendix 4 – National Historic Preservation Act Section 106 Programmatic Agreement