

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NUMBER 94
CITY OF ESCONDIDO CHANNEL MAINTENANCE WORK ACTIVITIES**

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

PERMIT NUMBER: Regional General Permit (RGP) No. 94 (File No. SPL-2019-00709)

ISSUANCE DATE: November 17, 2022

PERMITTEE: City of Escondido

The District Engineer, Los Angeles District U.S. Army Corps of Engineers hereby issues the Regional General Permit (RGP) No. 94 (SPL-2019-00709), which authorizes the city of Escondido to conduct maintenance activities within flood control facilities within the established plan area 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 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 conduct channel maintenance activities 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 the city of Escondido (City) Channel Maintenance Activities project, which is located within flood control facilities located throughout the city of Escondido, San Diego County, California. The 81 maintenance sites are located within the following watersheds: Escondido Creek, San Dieguito Creek, and San Marcos Creek.

Project Description: All proposed maintenance and operation regulated activities would require authorization under a section 404 Clean Water Act (CWA) permit and would occur within the City of Escondido. No new construction is authorized under the proposed action. The proposed activities include ongoing operation and maintenance (O&M) activities at a total of 81 sites (this includes the 57 previously authorized sites plus the additional 24 new sites) located within existing flood control channels and storm

drains throughout the City of Escondido. This RGP is amended to add in 24 new maintenance locations and extends one previously approved maintenance location to the previously authorized 57 channel maintenance locations (see Figure 1). The work proposed at the new facilities is consistent with maintenance activities previously authorized under SPL-2011-00299. Activities include dredging and excavating concrete and earthen lined channels and basins, clearing culverts and associated inlet and outlet structures of sediment and vegetation, clearing and trimming vegetation that inhibit flow, removal of nonnative trees within specified facility locations, removal of native trees within specified maintenance locations, and repairing existing concrete or riprap. From the 24 new sites and expansion of one previously approved site, five locations would require maintenance activities that are considered regulated activities by the Corps. The new facility ID's regulated by the Corps are: E-53, E-56, E-58, E-60, and H-19. At sites E-53, E-56, and E-58 the discharge would be due to equipment entering the channel and pushing accumulated sediment and vegetation downstream before being removed and disposed of in an upland location. At sites E-60 and H-19 the discharge would be due to equipment entering the channel and removing whole tree root structures. Nineteen facilities would result in temporary impacts only due to temporary diversion structures. The remaining 2 facilities would not require regulated activities because the maintenance work proposed is excavation where the activities can be achieved with mechanized equipment from outside the channel, culvert, or basin.

Notification requirement – The City of Escondido must provide an annual written notification to the Corps by February 1 of each year, identifying the facilities scheduled for maintenance the following work program year, and will not commence the activity until a Notice to Proceed verification of compliance with this RGP is received from the Corps. The Corps maintains discretion to add Special Conditions to the RGP verifications. In order to clarify compliance with the terms and conditions of this RGP and ensure that the proposed project would have only minimal individual and cumulative adverse impacts on the environment, additional special conditions may be required.

Contents of notification: The notification must be in writing (Standard permit application form may be used, ENG 4345) and include the following information, as relevant to the maintenance sites:

- i. Location of the proposed project (maintenance site name), including latitude and longitude or UTM coordinates;
- ii. Brief description of the work to be performed, including methods and equipment, in waters of the U.S., including jurisdictional wetlands;
- iii. Timeframe of when work activities are expected to be performed;
- iv. Type of facility that will be maintained (e.g., channel, inlet, outlet, basin);
- v. Total area and type of habitat that will be impacted (including habitat tier level);
- vi. Total estimate of cubic yards to be removed;
- vii. Description of adjacent habitats likely to be affected (including suitable habitat for federally listed species);

- viii. Vicinity Map and Plan View Map showing the limits of the work area;
- ix. Sketch showing the location of any temporary diversion structures in waters of the U.S. (if required); and
- x. All maps and drawings submitted will be in compliance with the Updated Final Map and Drawing Standards for the South Pacific Division Regulatory Division dated February 10, 2016 (<http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx>).
- xi. Under the terms of the RGP, new sites (i.e., not included in the 81 sites previously evaluated) that are similar in activity and methods may be eligible for authorization under the RGP. For any new site that is determined eligible to be covered under this RGP, the following additional information is required:
 - 1. Jurisdictional delineation of the site and PJD form
 - 2. Cultural resource assessment of the site
 - 3. An assessment of potential impacts on federally listed species

All correspondence and submittals shall reference the Corps project name and File Number (SPL-2019-00709-DSG) conspicuously on any transmittal letter and/or the first page/paragraph of the text, and on any graphics or photographs. All plans and photographs shall be labeled and dated. Failure to provide this information may cause the Corps to determine that the submittals are incomplete, not submitted by the due date, or nonexistent, and therefore not compliant with permit conditions.

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.

The District Engineer reserves the right to invoke discretionary authority on a case-by-case basis, as defined in 33 CFR Part 330.4(e), in instances where a project could have more than minimal individual or cumulative impacts. In addition, this permit may be modified or revoked in the future if additional information indicates that activities permitted under this RGP cause significant environmental impacts.

General conditions of this RGP:

1. This Regional General Permit shall expire November 17, 2027. 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. The permittee shall provide all on-site contractors, subcontractors, and forepersons a copy of this RGP and the RGP verification that was issued for the specific activity (if applicable). The permittee shall ensure that all of the above personnel read, understand, agree to, and comply with all terms and conditions of the authorization. The permittee shall provide the Corps written confirmation of compliance with this special condition once each year on February 1, prior to initiating construction activities in waters of the U. S. (including wetlands and special aquatic sites).

3. This Corps permit does not authorize you to take any threatened or endangered species or adversely modify designated critical habitat. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) with an "Incidental Biological Opinion" (BO) under ESA Section 7, with "incidental take" provisions with which you must comply. Failure to comply with the terms and conditions associated with incidental take of the BO, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit.

4. Where suitable habitat for federally listed species occurs within the project footprint (regardless of timing of activities), and where suitable habitat for federally listed species occurs within the project footprint and/or its 500-foot buffer and work activities cannot avoid the avian breeding season (February 15 through September 15), the permittee shall staff a qualified biologist on-site during all project activities. The qualified biologist will ensure compliance with all requirements of this permit and ensure that adverse impacts do not occur outside of the permitted work area. The permittee shall submit the biologist's name, address, telephone number, email address (if available), and work schedule on the project to the Corps a minimum of fifteen (15) days prior to the planned date of initiating impacts to waters of the U.S., including wetlands and special aquatic sites authorized by this RGP for each authorized work activity.

5. This Corps permit does not authorize excavation in native undisturbed soil for maintenance and operation work activities. Native undisturbed soil is considered areas that have not been extensively modified by previous work. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during maintenance and operation work activities of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Project Manager within 24 hours (Amanda Wagner at 760-602-4836) and the Corps' Archeological Staff (Danielle Storey at 213-452-3855). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

6. Where determined necessary by a qualified biologist, the permittee shall clearly mark

the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S., including wetlands and special aquatic sites beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation; administrative, civil, or criminal penalties; and/or substantial, additional, compensatory mitigation requirements. The permittee shall discharge only clean construction materials suitable for use in the riverine environment. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area. No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products from construction shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the U.S., including wetlands and special aquatic sites. Therefore, the permittee shall employ all standard BMPs to ensure that toxic materials, silt, debris, or excessive erosion does not enter waters of the U.S. during project construction. Upon completion of work, any excess material or debris shall be removed from the work area and disposed of in an appropriate upland site. Following any de-watering that may be necessary, the permittee shall transfer all excavated materials to an approved upland disposal site. The qualified biologist shall document compliance with this permit. The biologist/permittee shall report any noncompliance with the permit to the Corps Carlsbad field office (760-602-4841) within 1 day of its occurrence. The biologist/permittee shall submit a written memorandum summarizing the noncompliance with the permit and any measures implemented to rectify the incident to the Corps Carlsbad field office within 2 days of notification to the Corps Regulatory Office of the noncompliance.

7. Annually, by March 1st, the permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum, including the following information:

- a. Date(s) work within waters of the U.S., including wetlands and special aquatic sites, was initiated and completed;
- b. Dimensions of the water of the U.S. post-maintenance for earthen channels (i.e., bankfull width and bankfull depth);
- c. Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
- d. Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S., including wetlands and special aquatic sites such that the extent of authorized fills can be verified.

This report shall be reviewed by the resource agencies for compliance with the terms of the RGP. Field site visits may be performed on select sites by the Corps, as a part of the compliance evaluation.

8. The permittee must comply with the conditions specified in the San Diego Regional

Water Quality Control Board's conditioned water quality Section 401 certification issued on December 27, 2021 (R9-2013-0072).

9. 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.

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).
- (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.

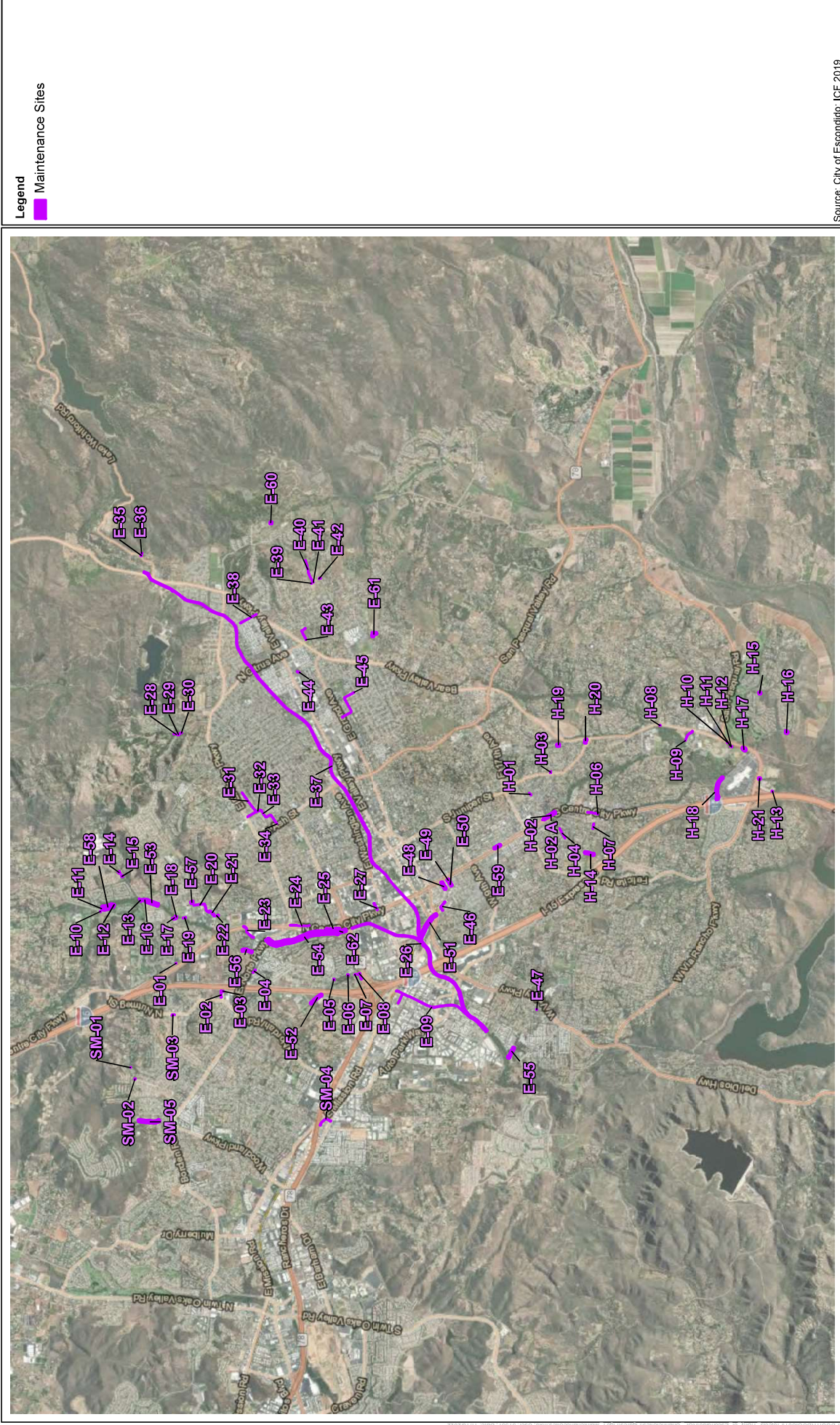
This permit becomes effective when the Federal official, designated to act for the Secretary of the Army has signed below.



2022.11.16
16:00:00 -08'00'

Kyle J. Dahl
Chief
San Diego & Imperial Counties Section

Date



Source: City of Escondido, ICF 2019

Figure 1
Maintenance Sites
City of Escondido Channel Maintenance Project