



# Regional General Permit 41

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

## ERADICATION AND REMOVAL OF INVASIVE, NON-NATIVE PLANT AND ALGAL SPECIES FROM WATERS OF THE UNITED STATES

**EFFECTIVE:** September 5, 2024

**EXPIRES:** September 5, 2029

---

The U.S. Army Corps of Engineers, Los Angeles District, hereby issues Regional General Permit 41, authorizing activities involving the discharge of dredged or fill material into waters of the United States (U.S.), including wetlands, and/or work in or affecting navigable waters of the U.S. for the eradication and removal of invasive, non-native plant and algal species (invasives) within the Los Angeles District Regulatory Area of Responsibility.

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

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

**ACTION ID:** SPL-2003-01094

**AUTHORITIES:** Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States.

**LOCATION:** This RGP is applicable within the portions of California in the Los Angeles District (Los Angeles, Orange, Riverside, San Diego, San Bernardino, Imperial, Ventura, Santa Barbara, Mono, Inyo, Kern, and San Luis Obispo Counties) and the State of Arizona.

**PURPOSE:** In Arizona and California, invasives control is critical to combat rapidly spreading invasive, non-native plant and algal species which can outcompete native vegetation. To address this issue, this RGP was established to provide a streamlined permitting process for invasives removal and habitat recovery within the Los Angeles District.

**AUTHORIZED ACTIVITIES:** This RGP may be used to authorize activities in waters of the U.S. involving the discharge of dredged or fill material and structures or work in or affecting navigable waters associated with the eradication and removal of the following invasives from waters of the U.S., including wetlands for the purposes of aquatic habitat enhancement and restoration:

**Table 1. List of Invasive, Non-Native Plant and Algal Species proposed for coverage under RGP 41**

Common Name	Scientific Name
Alligator Weed	<i>Alternanthera philoxeroides</i>
Andean Pampas Grass	<i>Cortaderia jubata</i>
Artichoke Thistle	<i>Cynara cardunculus</i>
Blue Crown Passionflower	<i>Passiflora caerulea</i>
Bottle Brush	<i>Callistemon citrinus</i>
Brazilian Pepper	<i>Schinus terebinthifolius</i>
Bristly Ox-tongue	<i>Picris echioides</i>
California (Peruvian) Pepper	<i>Schinus molle</i>
Canary Island Date Palm	<i>Phoenix canariensis</i>
Cape Ivy	<i>Delairea odorata</i> (formerly called German Ivy, <i>Senecio mikanioides</i> )
Carrotwood	<i>Cupaniopsis anacardiodes</i>
Castor Bean	<i>Ricinus communis</i>
Caulerpa	<i>Caulerpa</i> spp.
Chinese Elm	<i>Ulmus parvifolia</i>
Edible Fig	<i>Ficus carica</i>
Eucalyptus	<i>Eucalyptus</i> spp.
Evergreen Ash	<i>Fraxinus udhei</i>
Fennel	<i>Foeniculum vulgare</i>
Fountain Grass	<i>Pennisetum setaceum</i>
Geraldton Carnation Weed	<i>Euphorbia terracina</i>
Giant Reed	<i>Arundo donax</i>
Himalayan Blackberry	<i>Rubus discolor</i>
Italian Thistle	<i>Carduus pycnocephalus</i>
Kikuyu Grass	<i>Pennisetum clandestinum</i>
Mexican Fan Palm	<i>Washingtonia robusta</i>
Milk Thistle	<i>Silybum marianum</i>
Myoporum	<i>Myoporum laetum</i>
Oleander	<i>Nerium oleander</i>
Olive	<i>Olea europea</i>
Pampas Grass	<i>Cortaderia selloana</i>
Pecan	<i>Carya illinoensis</i>
Perennial Pepperweed	<i>Lepidium latifolium</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Russian Olive	<i>Elaeagnus angustifolia</i>
Russian Thistle	<i>Salsola tragus</i>
Salt Cedar	<i>Tamarix</i> spp.
Spanish Broom	<i>Spartium junceum</i>
Spanish Sunflower	<i>Pulicaria paludosa</i>
Star Thistle	<i>Centaurea solstitialis</i>



Common Name	Scientific Name
Stinkwort	<i>Dittrichea graveolens</i>
Thistle	<i>Cirsium arvense</i> and <i>vulgare</i> only
Tocalote	<i>Centaurea melitensis</i>
Tree Tobacco	<i>Nicotiana glauca</i>
Virginia Creeper	<i>Parthenocissus quinquefolia</i>
Water Hyacinth	<i>Eichlornia crassipes</i>
Whitetop, Hoary Cress	<i>Cardaria draba</i>

In addition to the species listed above, the Corps project manager assigned to each project has the opportunity to approve projects requesting to eradicate/remove invasives on the California Invasive Species Council (Cal IPC) (<https://www.cal-ipc.org/plants/inventory/>) or the Arizona Department of Agriculture (AZDA) Noxious Weeds list (<https://agriculture.az.gov/pestspest-control/agriculture-pests/noxious-weeds>) on a case-by-case basis.

For the purposes of this RGP, areas are classified as “fully infested stands” if they contain 80% or more relative or canopy cover of invasives. Areas that contain 50% to 80% relative or canopy cover of invasives are classified as “partially infested stands.” This RGP is not applicable in areas that have less than 50% relative or canopy cover of invasives. For an area to be considered a “stand” it must be at least 0.5 acre in size or completely isolated from contiguous native riparian habitat. Following flood, fire, disease, or other natural event which scours or destroys an area, the area shall be classified based on the areal coverage of invasives immediately prior to natural disturbance.

The following activities are authorized on a year-round basis in “fully infested stands”:

1. Discharges of dredged or fill material in waters of the U.S. and/or structures or work in or affecting navigable waters associated with broadcasting foliar application of herbicides which are approved by the U.S. Environmental Protection Agency (USEPA) for use in wetlands and by the California Department of Pesticide Regulation (CDPR) for use within California, and the AZDA within Arizona. Application of herbicides in any area supporting threatened and/or endangered species should be consistent with the USEPA’s Office of Pesticide Programs, Endangered Species Protection Program county bulletins. To reduce potential impacts to migratory birds using areas adjacent to “fully infested stands,” no aircraft (e.g., helicopter) based application may occur between March 15 and September 15 of any calendar year.
2. Mechanized land clearing, mechanical mulching (i.e., Hydro-Ax), mechanized removal, chipping, and excavation of living or dead invasives and any associated debris. Native vegetation should be avoided to the maximum extent practicable. Further, any native riparian trees 3-inches DBH (diameter at breast height) or larger which are removed from “fully infested stands” must be replaced on-site at a minimum 2:1 ratio. Final native vegetation replacement ratios will be determined on a case-by-case basis but will not exceed a 5:1 ratio.



3. Stockpiling of invasives and associated debris which has been excavated, except during the flood season (November 15- April 15) when stockpiling is prohibited. When outside the flood season, stockpiles must be placed in previously disturbed or degraded areas, at least 50 feet away from flowing water in such a manner that it is not dispersed by currents or other forces and disposed of within 3 months of initial creation of the stockpile by either removal to an appropriate upland disposal area or by burning on site. Prior to upland disposal or burning of any stockpiles or debris, all appropriate state and local permits must be obtained. To reduce potential impacts to migratory birds using areas adjacent to "fully infested stands," burning cannot occur within 1,000 feet of native riparian or wetland habitat areas between March 15 and September 15 of any calendar year.

4. Construction of access roads, provided that the width and length of the roads are the minimum necessary for access to the invasives removal site. Native woody riparian vegetation in the access road alignment must be flagged and avoided. Placement of fill, such as decomposed granite, gravel, or concrete, on newly constructed or existing access roads within waters of the U.S. is not authorized under this RGP. All appropriate Best Management Practices (BMPs) must be used to preclude increased turbidity and to ensure that road construction does not restrict or impede the passage of normal or expected high flows or cause the relocation of water. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment, or abandoned access roads must be restored with appropriate native vegetation.

The following activities involving the discharge of dredged or fill material in waters of the U.S. and/or structures or work in or affecting navigable waters are authorized on a seasonal basis, between September 16 and March 14, in "partially infested stands":

1. Discharges of dredged or fill material in waters of the U.S. and/or structures or work in or affecting navigable waters associated with plant-specific application of herbicides which are currently approved by the USEPA for use in wetlands and by the CDPR or AZDA.

Application of herbicides in any area supporting threatened and/or endangered species should be consistent with the USEPA's Office of Pesticide Programs, Endangered Species Protection Program county bulletins. Plant specific techniques may consist of application via backpack sprayer and/or the cut/paint technique (cutting of the plant, followed by immediate direct application of herbicide to the freshly cut stump). No herbicide may be applied to native riparian vegetation.

2. Mechanized land clearing, mechanical mulching (i.e., Hydro-Ax), mechanized removal, chipping, and excavation of living or dead invasives and any associated debris. Native riparian vegetation must be flagged prior to commencement of any mechanized activities and must be avoided.

3. Construction of access roads provided that the width and length of the road are the minimum necessary for access to the invasives removal site. Native woody riparian vegetation must be flagged and avoided. Placement of fill, such as decomposed granite,



gravel, or concrete, on newly constructed or existing access roads within waters of the U.S. is not authorized under this RGP. All appropriate BMPs must be used to preclude increased turbidity and to ensure that road construction does not restrict or impede the passage of normal or expected high flows or cause the relocation of water. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment or abandoned access roads must be restored with appropriate native vegetation.

4. Discharges of dredged or fill material in waters of the U.S. and/or structures or work in or affecting navigable waters associated with broadcasting foliar application of herbicide and stockpiling are prohibited in "partially infested stands". Hand clearing (including use of chain saws) is generally not a regulated activity under Section 404, but may require authorization in tidal waters. However, if hand clearing occurs in "partially infested stands" native vegetation should be flagged and avoided.

5. Invasives removal from "partially infested stands" during the migratory bird breeding season (March 15 - September 15) may be authorized by the Corps under this RGP on a case-by-case basis. Prior to requesting such authorization, the proposed project area must be surveyed by a qualified biologist in accordance with U.S. Fish and Wildlife Service (USFWS) protocols. Results of these surveys must be submitted to the Corps as part of the Pre-Construction Notification requirement.

Algal species eradication:

Algal species eradication activities involving the discharge of dredged or fill material in waters of the U.S. and/or structures or work in or affecting navigable waters, including dredging, temporary barrier installation, and diver-assisted removal, are authorized. Detection and eradication methods for the invasive algal genus *Caulerpa* shall conform to the National Marine Fisheries Service (NMFS) and California Department of Fish and Wildlife (CDFW) *Caulerpa* Control Protocol (Version 5, October 20, 2021, or as subsequently revised; available online at <https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf>).

**Notification requirement** – A Pre-Construction Notification (PCN) shall be submitted to the Corps for all activities proposed under this RGP. The PCN should include a signed ENG 4345 (or ENG 6082) form complete with the following information:

- a. Name, address and telephone number of the prospective permittee;
- b. Location of the proposed project, including a vicinity map;
- c. Project purpose;
- d. Brief description of the proposed project, including the areal extent of work being proposed, the method of biomass removal, and the location of disposal;
- e. Acreage of "fully infested stands" and "partially infested stands" which would be affected by the proposed project;
- f. Citation of this RGP;
- g. Copy of a letter to the State Historic Preservation Office (SHPO) inquiring about the



presence or absence of listed and/or eligible sites for listing in the National Historic Register in the proposed project area that may be affected by the proposed activity and the results of an archaeological records search;

- h. Copy of a letter to the USFWS and/or the NMFS inquiring about the presence or absence of federally listed endangered or threatened species or designated critical habitat in the proposed project area that may be affected by the proposed activity;
- i. Copy of a letter to the NMFS inquiring about the presence or absence of essential fish habitat including Habitat Areas of Particular Concern and federally managed fishery species;
- j. For work occurring on tribal land, an approval letter from the tribe;
- k. Results of a migratory bird survey (if work is being proposed in "partially infested stands" between March 15 and September 15).

The Corps will send a copy of this notification package to the appropriate office of the USFWS, NMFS (if appropriate), CDFW (if applicable), California Coastal Commission (for projects that may affect coastal zone resources), and the State Water Resources Control Board and appropriate Regional Water Quality Control Board (for projects on non-tribal lands in California) or the Arizona Department of Environmental Quality (ADEQ) (for projects on non-tribal lands in Arizona).

Work may not commence until the prospective permittee receives verification of compliance with this RGP from the Corps or thirty (30) days have passed since the Corps receives a complete notification package. The Corps retains 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 environmental effects. 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 environmental effects, the applicant will be notified by the Corps within thirty (30) days of receipt of a complete notification. Under these circumstances, an individual permit would likely be required to perform the proposed work.

#### **GENERAL CONDITIONS:**

1. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area.
2. The permittee shall make every effort to ensure that vegetation nodes, root stalks, rhizoids, or other debris resulting from the activity does not enter or remain in the affected waterbody.
3. The permittee shall not stockpile invasives and associated debris during the flood season (November 15 to April 15 of any calendar year). Stockpiling is allowed between April 16 and November 14; however, it must not occur in previously disturbed or degraded areas. Stockpiles cannot be placed within 50 feet of flowing water or the high tide line elevation, must be placed in such a manner that is not dispersed by currents or other forces, and must be disposed of within 3 months of initial creation of the stockpile by either removal to an appropriate upland disposal area



or by burning. Prior to upland disposal or burning of any stockpiles or debris, all appropriate state and local permits must be obtained.

4. Burning of stockpiles shall not occur within 1,000 feet of aquatic habitat areas between March 15 and September 15 of any calendar year.

5. Access roads which are no longer necessary for site monitoring, restoration, maintenance, or treatment or are abandoned must be restored with appropriate native vegetation.

6. No activity or its operation that is authorized may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. For projects proposed on most tribal lands, the permittee shall submit an approval letter from the tribe with their notification package and shall obtain Section 401 water quality certification, or waiver, from the U.S. Environmental Protection Agency. For projects on lands controlled by the Big Pine Paiute Tribe of Owens Valley, Bishop Paiute Tribe, Cabazon Band of Mission Indians, Chemehuevi Indian Tribe, La Jolla Band of Luiseno Indians, La Posta Band of Diegueño Mission Indians, Morongo Band of Mission Indians, Pala Band of Mission Indians, Rincon Band of Luiseno Mission Indians, the Twenty-nine Palms Band of Mission Indians, the Gila River Indian Community, the Hopi Tribe of Arizona, the Hualapai Indian Tribe, the Navajo Nation, the Salt River Pima-Maricopa Indian Community, the San Carlos Apache Tribe, and the White Mountain Apache Tribe, the prospective permittee must obtain Section 401 water quality certification, or waiver, directly from those tribes.

7. No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the designated critical habitat of such species. Federal agencies should follow their own procedures for complying with the Endangered Species Act. Non-federal permittees shall notify the District Engineer if any listed species or critical habitat may be affected or is in the vicinity of the project area and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of the threatened and endangered species and their critical habitat can be obtained from the USFWS or the NMFS. The Corps may require focused endangered species surveys be performed prior to verification of compliance with this RGP. In addition, the USFWS may require the submittal of an Integrated Pest Management Plan.

8. No activity is authorized which may adversely affect historic properties listed, or eligible for listing, on the National Register of Historic Places until the District Engineer has complied with the provisions of 33 CFR 325, Appendix C and any applicable guidance or regulation. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing in the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic properties can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). Federal permittees should



follow their own procedures for compliance with the requirements of the National Historic Preservation Act and tribal coordination policies. If you discover any previously undiscovered historic or archaeological remains while completing an authorized activity, you must immediately suspend all work in any area where potential cultural resources are discovered and notify this office of the discovery within 24 hours. The Corps will initiate the Federal, state, and tribal coordination required to determine if the remains warrant a recovery effort or if the site may be eligible for listing on the National Register of Historic Places.

9. Discharges must not permanently restrict or impede the passage of normal or expected high flows, tidal ebb and flood, or cause the relocation of water.

10. In “partially infested stands”, native riparian vegetation must be flagged prior to commencement of any mechanized clearing activities and must be avoided. In “fully infested stands”, native riparian vegetation should be avoided to the maximum extent practicable. Any native riparian trees of 3 inches DBH (diameter at breast height) or larger that are removed from “fully infested stands” must be replaced on site at a minimum 2:1 ratio. Final native vegetation replacement ratios will be determined on a case-by-case basis but will not exceed a 5:1 ratio. The permittee shall ensure at least 85% survival of replacement native riparian trees, cuttings, or saplings for a two year period following project completion.

11. Following the use of this RGP, the permittee shall ensure that the project site contains less than 5% relative coverage of invasives (i.e., the invasives covered by this RGP) for a period of two years from completion of the initial vegetation removal. At the end of this two-year period, the permittee shall submit to the Corps a brief description of the status of the site including photo documentation and an estimate of the degree of infestation and amount of native flora before and after the project.

12. The permittee shall ensure all project sites are marked in such a way as to notify the public about the local use of herbicides during project implementation.

13. All pesticide mixing shall occur outside waters of the U.S. at locations devoid of vegetation.

14. No mechanized equipment, rubber-tired vehicles, track vehicles, or other equipment shall be stored, staged, or fueled in waters of the U.S., including wetlands.

15. The permittee shall not commence work until verification of compliance with this RGP is received from the Corps or 30 days have passed since the Corps received 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 on aquatic habitats.

16. The permittee shall ensure that all contractors receive a copy of this RGP and are made aware of the conditions and restrictions within. The permittee shall 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 in compliance with the terms and conditions of the RGP.

17. You must maintain the activity authorized by this RGP in good condition. You are not relieved of conformance with the terms and conditions of this RGP 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.

### **Arizona-Specific General Condition**

18. State of Arizona Water Quality: The ADEQ issued its conditional certification on July 1, 2024. The permittee shall comply with the terms and conditions of the Clean Water Act Section 401 Water Quality Certification (WQC), which is hereby incorporated by reference.

### **California-Specific General Conditions**

19. State of California Water Quality: The SWRCB issued its conditional certification (Water Quality Order No. 2024-0067-DWQ) on July 22, 2024. The permittee shall comply with the terms and conditions of the Clean Water Act Section 401 Water Quality Certification (WQC), which is hereby incorporated by reference.

20. No activity may cause more than minimal adverse effects on navigation and activities shall not interfere with the public's right to free navigation on all navigable waters of the U.S. For projects occurring in navigable waters of the U.S., the permittee shall provide appropriate notifications to the U.S. Coast Guard as described below at least two (2) weeks prior to the start of activities and 30 days prior if buoys are to be placed:

Commander, 11<sup>th</sup> Coast Guard District

Tel: (510) 437-2980

E-mail: D11LNM@uscg.mil

<https://www.pacificarea.uscg.mil/Our-Organization/District-11/Prevention-Division/LnmRequest/>

U.S. Coast Guard, District 11, LA-LB Sector

Captain of the Port (COTP)

E-mail: d11-SMB-SectorLALB-WWM@uscg.mil

For projects in San Diego County:

U.S. Coast Guard Sector San Diego

2710 N. Harbor Dr.

San Diego, California 92101

Attn: Ports and Waterways Division

Tel: (619) 278-7261

Fax: (619) 278-7279



Notification should include the following information:

- a. Project description;
- b. Location of the work site;
- c. VHF-FM radio frequencies monitored by vessels on scene, if applicable;
- d. Point of contact and 24-hour phone number;
- e. Potential hazards to navigation; and
- f. Project schedule.

21. Permittees shall take steps to secure, as appropriate, a Streambed Alteration Agreement with the California Department of Fish and Wildlife (CDFW) for activities involving the mechanized removal of invasives. In order to ensure that beneficial uses associated with State fish and wildlife and especially those state-listed species' habitats are adequately protected, a copy of the complete Pre-Construction Notification package prepared for the Corps shall be sent concurrently to the CDFW. For projects in Los Angeles, Orange, Santa Barbara, San Diego, and Ventura Counties, the package should be sent to [R5LakeandStreambed@wildlife.ca.gov](mailto:R5LakeandStreambed@wildlife.ca.gov). For projects in Imperial, Inyo, Mono, Riverside, and San Bernardino Counties, packages should be sent to [AskRegion6@wildlife.ca.gov](mailto:AskRegion6@wildlife.ca.gov). For projects in Kern and San Luis Obispo Counties, the package should be sent to [reg4assistant@wildlife.ca.gov](mailto:reg4assistant@wildlife.ca.gov). Addresses can be verified at [www.wildlife.ca.gov](http://www.wildlife.ca.gov).

#### **FURTHER INFORMATION:**

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

(X) Section 10 of the Rivers and Harbors 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 projects.

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. Re-evaluation of RGP 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 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 measures 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.

Discretionary Authority: This office has the discretion to suspend, modify, or revoke authorizations under this permit. This discretionary authority may be used by us to further condition or restrict the applicability of this permit for cases in which we have concerns associated with the Clean Water Act Section 404(b)(1) Guidelines, or regarding any factor of the public interest. Should we determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to waters of the United States or otherwise be contrary to the public interest, we will modify the authorization to reduce or eliminate those adverse effects or notify you that the proposed activity is not authorized by this permit and provide instructions on how to apply for authorization under another type of DA permit. Activities not meeting the terms and conditions of this permit may be authorized through another type of permit from us, such as a Nationwide Permit, Regional General Permit, Letter of Permission, or Standard Permit. We will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or



cumulatively, on the aquatic environment or may be contrary to the public interest. We may include additional special conditions to a verification under this permit to ensure the activity has minimal impact. We may also restore authorization under this RGP at any time we determine the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. We may also use our discretionary authority to modify, suspend, or revoke this permit at any time.

**PERMIT DURATION:** This permit is valid for five years from issuance and will expire on September 5, 2029. This office may re-evaluate the terms and conditions of this permit at any time it deems necessary to protect the public interest. If we have not reissued the RGP by the expiration date, the RGP will no longer be valid. This RGP may also be modified, suspended, or revoked by this office at any time deemed necessary. In such instance, a public notice would be issued concerning the proposed action. This RGP may be reissued, after public notice and documentation of the decision. Activities requiring PCN must be verified in writing by this office. Verification letters are valid until the expiration date of this RGP.

**EXTENSIONS:** 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.

#### **CONTACTS:**

For questions, please contact this office for the appropriate location:

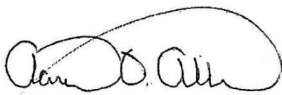
Branch or Section	Phone Number	Email Address
Arizona Branch	(602) 230-6949	<a href="mailto:splregulatoryaz@usace.army.mil">splregulatoryaz@usace.army.mil</a>
North Coast Branch/Ventura Field Office (Ventura, Santa Barbara, San Luis Obispo, Inyo, & Mono Counties)	(805) 585-2140	<a href="mailto:splregventura@usace.army.mil">splregventura@usace.army.mil</a>
Los Angeles & San Bernardino Counties Section (Los Angeles, San Bernardino & Kern Counties)	(213) 452-3425	<a href="mailto:splreglasb@usace.army.mil">splreglasb@usace.army.mil</a>
South Coast Branch/San Diego & Imperial Counties Section (San Diego & Imperial Counties, and Salton Sea)	(760) 602-4829	<a href="mailto:splregcbad@usace.army.mil">splregcbad@usace.army.mil</a>
South Coast Branch/Orange & Riverside Counties Team (Orange & Riverside Counties, and Special Area Management Plans)	(213) 452-3425	<a href="mailto:splregorcs@usace.army.mil">splregorcs@usace.army.mil</a>
Transportation & Special Projects Branch (High-Speed Train, Mid-County Parkway/South Orange County/Caltrans)	(213) 452-3425	<a href="mailto:splregtsp@usace.army.mil">splregtsp@usace.army.mil</a>



ATTACHMENTS:

1. Clean Water Act Section 401 Water Quality Certification: Arizona Department of Environmental Quality
2. Clean Water Act Section 401 Water Quality Certification: California State Water Resources Control Board

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.  
Acting Chief, Regulatory Division

05 SEP 2024

---

DATE





Katie Hobbs  
Governor

# Arizona Department of Environmental Quality



Karen Peters  
Cabinet Executive Officer  
Executive Deputy Director

Alexandra Ryan  
U. S. Army Corps of Engineers  
Arizona Regulatory Branch

*Via Electronic Mail*

Re: Clean Water Act § 401 Water Quality Certification for the Reauthorization of Regional General Permit No. 41 – Eradication and Removal of Invasive, Non-native Plant and Algal Species from Waters of the U.S.

Dear Ms. Ryan:

The Arizona Department of Environmental Quality (ADEQ) has reviewed the U.S. Army Corps of Engineers (USACE) public notice and certification request letter dated February 28, 2024, for the reauthorization of Regional General Permit (RGP) No. 41 (SPL-2003-01094), for the eradication and removal of invasive plants in waters.

Based on the public notice activities and conditions, ADEQ certifies the RGP41 with the following conditions [pursuant to Arizona Administrative Code, R18-11 Water Quality Standards]

Impaired waters, not-attaining waters and lakes:

If the proposed activity will occur within the ordinary high water mark (OHWM) of an impaired, or not-attaining surface water, or a lake, the project proponent shall submit an application to ADEQ. ADEQ will review the application's activities and the location of discharge(s) and will grant a "conditional water quality certification" indicating that requirements for § 401 Water Quality Certification are met, if the project proponent adheres to all conditions in the USACE RGP No. 41.

Outstanding Arizona waters:

If the proposed activity will occur within the OHWM of an outstanding Arizona water (OAW), the project proponent shall submit an application for an individual § 401 WQC, pursuant to the Antidegradation Rule [A.A.C. R18-11-107.01(C)(4)] which states that "a discharge regulated under a § 404 permit that may affect existing water quality of an OAW requires an individual § 401 water quality certification to ensure that existing water quality is maintained and protected and any water quality impacts are temporary. Temporary water quality impacts are those impacts that occur for a period of six months or less and are not recurring." ADEQ will review the activities and location of discharge to determine effects on water quality, prepare an antidegradation review of the activities, publish the draft for public comment period of 30 days, and will either grant or deny the certification request within the reasonable period of time established by the U.S. Army Corps of Engineers (typically 60 days).

Information on ADEQ's CWA § 401 WQC and impaired, not-attaining, or outstanding Arizona waters can be found on our website at <https://www.azdeq.gov/cwa401>.

Sincerely,

DocuSigned by:

*Josephine Maressa*

A5AF6048FAC8426...  
Josephine Maressa, Deputy Director  
Water Quality Division  
Arizona Department of Environmental Quality

7/1/2024

Date

electronic copies: USEPA – Wetlands Regional Office

**Phoenix Office**

1110 W. Washington St. | Phoenix, AZ 85007  
602-771-2300

**Southern Regional Office**

400 W. Congress St. | Suite 433 | Tucson, AZ 85701  
520-628-6733

[azdeq.gov](https://azdeq.gov)



---

## State Water Resources Control Board

### WATER QUALITY ORDER WQ 2024-0067-DWQ CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

**Project:** U.S. Army Corps of Engineers Regional General Permit No. 41  
for the Eradication and Removal of Invasive, Non-Native Plant  
and Algal Species from Waters of the U.S. (Project)

**Project Type:** Ecological Aquatic/Stream/Habitat Restoration

**Program Type:** Fill/Excavation

**Identifiers:**

**WDID No:** SB24038GN  
**USACE No:** SPL-2003-01094  
**Place ID:** 894319  
**Reg. Meas. ID:** 456482

**Applicant:** U.S. Army Corps of Engineers Los Angeles District

**Applicant Contact:** Alexandra Ryan  
Project Manager  
Regulatory Division, Arizona Branch  
60 South California Street, Suite 201  
Ventura, CA 93001  
Phone: (602) 230-6954  
Email: Alexandra.Ryan@usace.army.mil

**Water Board Staff:** Liz Reece  
Environmental Scientist  
1001 I Street  
Sacramento, CA 95814  
Phone: (916) 323-0892  
Email: Elizabeth.Reece@waterboards.ca.gov

**Water Board Contact Person:** If you have any questions, please contact State Water Resources Control Board (State Water Board) Staff listed above, call (916) 341-5900, or email [SB-401Application@waterboards.ca.gov](mailto:SB-401Application@waterboards.ca.gov).



## Table of Contents

I. Summary .....	3
II. Findings .....	3
III. Project Purpose and Description .....	4
IV. Project Location .....	4
V. Project Impact and Receiving Waters Information .....	4
VI. Conditions .....	4
VII. Public Notice .....	10
VIII. California Environmental Quality Act (CEQA) .....	10
IX. Petitions for Reconsideration .....	11
X. Water Quality Certification .....	11

**Attachment A:** Project Map

**Attachment B:** Signatory Requirements

**Attachment C:** CEQA Addendum



## **I. Summary**

This grant of Clean Water Act (CWA) section 401 certification (Certification) with conditions (Order) is issued at the request of the U.S. Army Corps of Engineers Los Angeles District (Corps) for Certification of Regional General Permit (RGP) 41 for the Eradication and Removal of Invasive, Non-Native Plant and Algal Species from Waters of the U.S. The request for certification was received on March 11, 2024.

## **II. Findings**

- A. This Order is adopted pursuant to Clean Water Act section 401 and the California Porter-Cologne Water Quality Control Act (Wat. Code § 13000, et seq.). Notwithstanding any determinations made by the Corps or other federal agency, dischargers must comply with the entirety of this Order because the Order also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ. Discharges to waters of the state are prohibited except when in accordance with Water Code section 13264.
- B. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law, including the Clean Water Act and the Porter-Cologne Water Quality Control Act.
- C. In response to a suspected violation of any condition of this Order, the Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- D. This Order and all conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project.
- E. This Order does not provide National Pollutant Discharge Elimination System (NPDES) coverage, including under any NPDES pesticide permits adopted by the Water Boards, such as the Aquatic Weed and Algae Control Permit.
- F. This Order does not authorize any act which results in the take of a threatened, endangered or candidate species, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Enrollee, the Enrollee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Enrollee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.



### **III. Project Purpose and Description**

RGP 41 authorizes eradication and removal of invasive, non-native plant and algal species (invasives) from waters of the U.S., including wetlands, within the Los Angeles Corps District for the purposes of aquatic habitat enhancement and recovery. RGP 41 authorizes treatment of two classes of areas:

- Fully infested stands: Areas containing 80% or more relative or canopy cover of invasives.
- Partially infested stands: Areas containing 50% to 80% relative or canopy cover of invasives.

RGP 41 is not applicable in areas that have less than 50% relative or canopy cover of invasives. For an area to be considered a “stand” it must be at least 0.5 acre in size or completely isolated from contiguous native riparian habitat. Following flood, fire, disease, or other natural event which scours or destroys an area; the area shall be classified based on the areal coverage of invasives immediately prior to natural disturbance. In addition to the invasive and non-native plant and algal species listed in Table 1 of the Corps RGP 41, the Corps project manager assigned to each project has the opportunity to approve projects requesting to eradicate/remove invasives on the [California Invasive Species Council](https://www.cal-ipc.org/plants/inventory) (<https://www.cal-ipc.org/plants/inventory>) on a case-by-case basis.

### **IV. Project Location**

In any jurisdictional waters of the U.S. throughout the Los Angeles Corps District, within the counties of: San Luis Obispo, Imperial, Inyo, Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, Ventura, Mono, and Kern. A map showing the Project location is found in Attachment A of this Order.

### **V. Project Impact and Receiving Waters Information**

Individual projects authorized under this Order may be located within the jurisdiction of Central Coast, Central Valley, Colorado River Basin, Lahontan, Los Angeles, San Diego, and Santa Ana Regional Water Quality Control Boards (collectively, Regional Water Boards). Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the applicable water quality control plans (Basin Plans). For the regions, and other plans and policies which may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) ([http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/)). The Basin Plans includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

### **VI. Conditions**

The Water Board has independently reviewed the record of the Project to analyze impacts to the environment and designated beneficial uses within the watersheds of the Project. This Order provides reasonable assurance that the Project authorized under this Order will comply with state and federally approved water quality requirements, provided that the following conditions are adhered to:



**A. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment B of this Order.
2. **Site Access:** The Enrollee shall grant State Water Board, Central Coast, Central Valley, Colorado River Basin, Lahontan, Los Angeles, San Diego, and Santa Ana Regional Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
  - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
  - d. Sample or monitor for the purpose of assuring Order compliance.
3. The Enrollee shall be responsible for work conducted by its consultants, contractors, and any subcontractors. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on this Project. Copies of this Order shall remain at the Project site for the duration of this Order. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

**B. Reporting and Notification Requirements**

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in the Corps' RGP 41.

**1. Project Enrollment and Fee Requirements**

- a. As early as feasible but at least 21 days prior to proposed project commencement, prospective permittees shall provide a hardcopy of the Corps' required Pre-Construction Notification (PCN) package, including identification of the species targeted for removal, to the State Water Board and the appropriate Regional Water Quality Control Board (Regional Water Board).
  - Regional Water Board and State Water Board contact information is in the [Water Boards' CWA 401 Program Staff Directory](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/wqc\\_staffdir.pdf](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf)) on the State Water Board's webpage.

- A map of Regional Water Board boundaries is also on the [State Water Board's webpage](https://www.waterboards.ca.gov/waterboards_map.html) ([https://www.waterboards.ca.gov/waterboards\\_map.html](https://www.waterboards.ca.gov/waterboards_map.html)).
- b. **Response from the Regional Water Board:** Work may not commence until verification of compliance with RGP 41 and this Order, including fee payment, is confirmed by the affected Regional Water Board, or thirty days have passed since the Regional Water Board received a complete notification package.
- 2. **Project Reporting Requirements:** For all enrolled projects, the Enrollee must provide the applicable Regional Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 41.

**C. Conditional Notifications and Reports:**

The following notifications and reports are required as appropriate.

**1. Accidental Discharges of Hazardous Materials<sup>1</sup>:**

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

- a. As soon as (A) Enrollee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures:
  - i. First call – 911 (to notify local response agency)
  - ii. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
  - iii. Lastly, follow the required OES procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web Page](https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/) (<https://www.caloes.ca.gov/office-of-the-director/operations/response-operations/fire-rescue/hazardous-materials/spill-release-reporting/>)

---

<sup>1</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)



- b. Following notification to OES, the Enrollee shall notify the Regional Water Board within 24 hours. Notification may be delivered via written notice, email, or other verifiable means.
- c. Within 5 business days of notification to the Regional Water Board, the Enrollee must submit an Accidental Discharge of Hazardous Material Report.

## **2. Violation of Water Quality Standards**

- a. The Enrollee shall notify the Regional Water Board of any event causing a violation of water quality standards. Notification may be delivered via written notice, email, or other verifiable means.
- b. This notification must be followed within 3 business days by submission of a Violation of Water Quality Standards Report.

## **3. Transfer of Property Ownership**

This Order is not transferable in its entirety or in part to any person or organization except after notice to the Regional Water Board in accordance with the following terms:

- a. The Enrollee must notify the Regional Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Enrollee and purchaser must sign and date the notification and provide such notification to the Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the Regional Water Board to be named as the enrollee in a revised order.
- b. Until such time as this Order has been modified to name the purchaser as the enrollee, the Enrollee shall continue to be responsible for all requirements set forth in this Order.

## **D. Water Quality Monitoring**

### **1. General**

If surface water is present, continuous visual monitoring shall be conducted during active construction to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, uncured concrete).

### **2. Accidental Discharges/Noncompliance**

Upon occurrence of an accidental discharge, the Enrollee shall determine whether the discharge includes hazardous materials or will cause or contribute to an exceedance of water quality objectives, and if so, notify the Regional Water Board in accordance with Conditional Notifications and Reports section VI.C.1. Regional Water Board staff may require additional



water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

**E. Aquatic Weed Control Permit (Water Quality Order No. 2013-0002-DWQ)**

Permitted activities may include application of algaecides and herbicides to invasive plants in waters of the U.S. Discharges of residual algaecides and/or aquatic herbicides and their degradation byproducts to waters of the U.S. from algae and aquatic weed control applications must comply with [Water Quality Order No. 2013-0002-DWQ \(General Permit No. CAG990005\)](https://waterboards.ca.gov/water_issues/programs/npdes/pesticides/docs/weedcontrol/weed-control.pdf) ([https://waterboards.ca.gov/water\\_issues/programs/npdes/pesticides/docs/weedcontrol/weed-control.pdf](https://waterboards.ca.gov/water_issues/programs/npdes/pesticides/docs/weedcontrol/weed-control.pdf)), Statewide General NPDES Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications, which is available on the State Water Board's webpage, or any subsequent reissuance of the permit.

**F. General Conditions**

1. This action is subject to remand, amendment, or vacatur by judicial or administrative adjudication, including review pursuant to Water Code section 13330, and California Code of Regulations, Title 23, chapter 28, Article 6 commencing with section 3867.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, Title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. **Fees:** Enrollment under this Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations. The application fee amount for individual projects authorized under this Order is determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3). A dredge or fill fee calculator is available online at [https://waterboards.ca.gov/water\\_issues/programs/cwa401/#fees](https://waterboards.ca.gov/water_issues/programs/cwa401/#fees). Note that fees are periodically adjusted. Dischargers should confirm the correct fee amount prior to submitting payment.

**G. General Compliance**

1. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
2. The Enrollee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted with application materials.



Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

3. Permitted activities must be designed to first avoid and then minimize adverse impacts on aquatic resources in a manner than is consistent with the conditions of RGP 41. Compensatory mitigation may be required to offset any remaining unavoidable adverse impacts to aquatic resources. If the Enrollee is required to provide compensatory mitigation, the compensatory mitigation requirements shall be set forth in the NOA.
4. No permanent impacts to any waters of the state, including waters of the U.S., are permitted under this Order. All temporary disturbance to waters, associated riparian areas and any areas where the disturbance may indirectly cause impacts to waters, must be established to prevent erosion and encourage regrowth of desirable native plant species.
5. Any native riparian trees that are removed must be replaced in accordance with conditions of RGP 41.
6. Site restoration should commence immediately upon the end of the completion of invasive species removal activities.

#### **H. Construction Conditions**

1. Excavated invasive plant materials stockpiled at sites known to experience flash flooding outside the flood season (the flood season is November 15 to April 15) shall be removed within 15 days of the initial creation of the stockpile in order to contain the potential spread of invasive plant material in such flash-flood prone areas. Stockpiling of excavated invasive plant materials is prohibited during the flood season.
2. Any discharge by itself or in combination with other discharges shall not have a significant cumulative effect or degrade water quality or beneficial uses.
3. Activity associated with eradication and removal of invasive, non-native plant and algal species shall not destabilize the channel or bed of receiving water.
4. Discharges shall not include substances in concentrations toxic to human, plant, animal, or aquatic life that produce detrimental physiological responses.
5. Discharges shall not include waste classified as "hazardous" or "designated" as defined in Title 22 California Code of Regulations, Section 66261 and California Water Code Section 13173.
6. The Enrollee must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the state.
7. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the state, and shall be located outside of waters of the state in areas where accidental spills are not likely to enter or affect such waters.



8. Materials and debris from all work areas shall be removed following completion of the project.
9. The Enrollee must implement all necessary BMPs to control erosion and runoff from areas associated with permitted projects. The Enrollee must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.

## **VII. Public Notice**

The Water Board complied with its applicable public notice requirements. The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from April 10, 2024, to May 28, 2024. On May 28, the State Water Board received one comment letter from Heal the Bay regarding the Project during the 45-day comment period.

Heal the Bay's comments focused on eligibility confirmation before enrollment, requiring the Corps to conduct an updated environmental impact statement, potential channel and bed destabilization, water quality monitoring, and violation reporting. Staff accepted Heal the Bay's proposed minor revisions to conditions related to violation reporting, which updates the requirement to be within 24 hours in all cases, and channel/bed destabilization, which makes clear that the prohibition applies to the activity, not only the discharge. Staff confirmed the RGP 41 eligibility requirements with the Corps, but otherwise did not make Heal the Bay's requested change related to eligibility confirmation that the certification remove the ability for the applicant to move forward with the project if 30 days have passed after the submission of a complete application for enrollment. This provision only applies if an application is complete and, in such cases, there would be no need for additional review time. There were no revisions made to require the Corps to conduct an updated Environmental Impact Statement. The Water Board confirmed that the Corps conducted tribal outreach pursuant to section 106 of the National Historic Preservation Act. Only minor technical changes have been made to RGP 41. As explained in Section VIII and Attachment C, the preparation of a subsequent negative declaration is not required. No revisions were made to water quality monitoring requirements. The Order includes standard conditions for monitoring water quality parameters including visual turbidity monitoring and requires herbicide applications to comply with the state's Aquatic Weed and Algae Control Permit if applicable.

## **VIII. California Environmental Quality Act (CEQA)**

An addendum (Attachment C) to the Final Negative Declaration for RGP 41 has been prepared by the State Water Board. This Addendum 4 identifies minor technical changes and additions to the Final Negative Declaration, which do not require the preparation of a subsequent negative declaration (CCR §§ 15162 and 15164(b)). This document was prepared in accordance with



CEQA, Public Resources Code section 21000 et seq., and the state's CEQA Guidelines, CCR section 15000 et seq.

#### **IX. Petitions for Reconsideration**

Any person aggrieved by the issuance of this Order may petition the Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

#### **X. Water Quality Certification**

I hereby issue this water quality certification for the U.S. Army Corps of Engineers' Regional General Permit No. 41 for Eradication and Removal of Invasive, Non-Native Plant and Algal Species from Waters of the U.S., State Water Board I.D. No. SB24038GN, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

This discharge is also regulated pursuant to Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Authorization is contingent on: (a) compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Water Boards' Water Quality Control Plans.

\_\_\_\_\_  
Date

**Phillip Crader**  Digitally signed by Phillip Crader  
Date: 2024.07.22 09:55:11 -07'00'  
\_\_\_\_\_  
Phillip Crader, Deputy Director  
Division of Water Quality

## REGIONAL WATER QUALITY CONTROL BOARDS WITHIN THE US ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT





## **Attachment B Signatory Requirements**

### **I. SIGNATORY REQUIREMENTS**

All documents submitted in compliance with this Order shall meet the following signatory requirements:

**A. All applications, reports, or information submitted to the Water Board must be signed and certified as follows:**

1. For a corporation, by a responsible corporate officer of at least the level of vice-president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

**B. A duly authorized representative of a person designated in items I.A.1 through I.A.3 above may sign documents if:**

1. The authorization is made in writing by a person described in items I.A.1 through I.A.3 above.
2. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
3. The written authorization is submitted to the Water Board Staff Contact prior to submitting any documents listed in item A above.

**C. Any person signing a document under this section shall make the following certification:**

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."



## **ADDENDUM 4 TO THE INITIAL STUDY / NEGATIVE DECLARATION**

### **I. Introduction and Regulatory Guidance**

In 2003, Regional General Permit No. 41 (RGP 41) was issued by the Los Angeles District of the U.S. Army Corps of Engineers (Corps).

A Clean Water Act section 401 water quality certification for RGP 41 was issued by the State Water Resources Control Board (State Water Board) on October 24, 2003. This certification was supported by a final Negative Declaration and a Notice of Determination. The Negative Declaration was made available for a 30-day public review period on the State Water Board's website from August 29, 2003 to September 28, 2003. In addition, 44 copies of the Draft Negative Declaration were mailed on August 29, 2003, as requested by stakeholders. A Notice of Determination for this project was filed on October 30, 2003 (SCH# 2003081158).

The Corps reissued RGP 41 in 2008. The reissued RGP 41 was conditionally certified by the State Water Board on January 21, 2009, and an addendum to the Negative Declaration (Addendum 1) was prepared by the State Water Board.

The Corps reissued RGP 41 in 2014. The reissued RGP 41 was conditionally certified by the State Water Board on April 2, 2014, and an addendum to the Negative Declaration (Addendum 2) was prepared by the State Water Board.

The Corps reissued RGP 41 in 2019. The reissued RGP 41 was conditionally certified by the State Water Board on August 14, 2019, and an addendum to the Negative Declaration (Addendum 3) was prepared by the State Water Board.

The Corps proposes to reissue RGP 41 in September of 2024. On March 11, 2024, the State Water Boards received a request for Clean Water Act section 401 water quality certification of reissuance of RGP 41. The certification of the reissued RGP 41 is a discretionary action and constitutes a Project for purposes of CEQA. This fourth addendum (Addendum 4) has been prepared to support certification of the Corps' proposed 2024 RGP 41.

Addendum 4 concerns minor technical changes and additions to RGP 41 that do not require the preparation of a subsequent Negative Declaration as set forth in California Code of Regulations, title 14, section 15164. This document has been prepared in accordance with CEQA (Pub. Resources Code, § 21000 et seq.), and the CEQA Guidelines (Cal. Code Regs. § 15000 et seq.). Addendum 4 to the Negative Declaration



does not require recirculation, but will be included as part of the Negative Declaration, which is available upon request.

## **II. LEAD AGENCY**

The lead agency is the public agency with primary approval authority over the proposed project. (See Cal. Code Regs., tit. 14 § 15051, subd. (b)(1).) The lead agency for the proposed project is the State Water Board.

## **III. PROJECT DESCRIPTION**

RGP 41 will authorize an unknown number of projects which involve the mechanized or chemical removal of invasive, non-native plants and algae from waters, including wetlands, and riparian areas within the Los Angeles District of the Corps. Affected counties in California are: Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Inyo, San Bernardino, Riverside, Imperial Counties, San Luis Obispo, Kern, and Mono.

RGP 41 is issued for five years. Permitted activities under RGP 41 include: application of U.S. Environmental Protection Agency and California Department of Pesticides Regulation-approved herbicides; mechanized land clearing and removal of living or dead plants; stockpiling of extracted plant materials and debris; and construction of access roads. Activities are limited by season, manner of application, stand condition, and other factors to limit adverse impacts to the environment.

## **IV. CHANGES RECORDED IN ADDENDUM 4**

The original Negative Declaration and Addenda 1, 2 and 3 remain in effect except for the changes described below. Additions included in Addendum 4 will not result in substantial changes to the circumstances under which the project will be undertaken, new significant environmental effects, or a substantial increase in the severity of previously identified significant effects, as identified in CEQA Guidelines section 15162.

The State Water Board has also considered potential impacts to areas that were added to the CEQA Appendix H checklist: wildfire and tribal cultural resources. Consistent with the summary of findings set forth below, the presence of invasive plant and algal species in watersheds and some offshore areas within the Los Angeles District of the Corps can increase fire risk in rivers, tributaries, intertidal and subtidal areas. Issuance of RGP 41 is expected to result in beneficial impacts on wildfire risk. Adverse impacts are not expected for tribal cultural resources as RGP 41 authorizes the removal of invasive, non-native plants and algal species. Removal of these invasive species may facilitate growth of native plants, which may be related to tribal cultural resources. The



potential impacts do not alter the State Water Board conclusion that an addendum is appropriate under CEQA Guidelines section 15162.

The following addition will supplement and, where contradictory, supersede the applicable portions of the adopted final Negative Declaration for this project. Text added by Addendum 4 is underlined.

The following wording is added to the Introduction of the Negative Declaration, on page 2, in order to update RGP 41's current timeline. Wording added by Addendum 4 is as follows:

On February 21, 2024, the Los Angeles District of the Corps circulated a public notice to request comments on a proposal to reissue RGP 41 with the addition of algal species in the RGP 41's list of invasive and non-native plant species. RGP 41 is substantively the same as the previous general permit issued in 2019, except for the new allowance for removal of algal species and minor changes to reporting requirements. The effective date of the proposed re-issuance of RGP 41 will be determined by the Corps after the State Water Board takes a certification decision action on the general permit. Upon reissuance, RGP 41 will be in effect for five years.

## **V. SUMMARY OF FINDINGS**

After review and consideration of the original Initial Study and environmental review and analysis contained in the final Negative Declaration for RGP 41 including Addenda, it was determined that proposed changes to RGP 41 would not result in significant impacts on the environment, and that a subsequent Negative Declaration is not necessary pursuant to the CEQA Guidelines, section 15162. This conclusion is supported by the findings indicated below:

- A. The presence of invasive plant and algal species in watersheds and some offshore areas within the Los Angeles District of the Corps can substantially affect water quality, water conservation, native biological resources, flood control and fire risk in rivers, tributaries, intertidal and subtidal areas, and special aquatic sites (e.g., wetlands, vegetated shallows). The removal of invasives provides benefits to aquatic habitats and benefits the general public through reduced risk of fire and flooding as well as increased physical and biological functions in aquatic habitats.
- B. No potential for adverse impacts on land use and planning, energy and mineral resources, population and housing, public services, utilities and service systems,



wildfire, cultural resources, and tribal cultural resources associated with the proposed project was identified.

- C. Potential adverse impacts resulting from the proposed project were found to be less than significant in the following areas: geology, air quality, water, biological resources, noise, hazards, transportation and circulation, aesthetics, and recreation.
- D. No substantially new or different environmental conditions that might be affected by activities permitted by RGP 41 in the project area have been identified since the 2019 reissuance.
- E. Since 2003, the frequency of enrollments under the state's Order has remained low, at less than 2 per year on average; therefore, the Project will not result in significant adverse cumulative impacts.
- F. The addition of algal species in the 2024 Order does not significantly change the Project scope or result in additional adverse effects compared to the 2019 Order that certified the Project.

## **VI. AVAILABILITY OF DOCUMENTS:**

Addendum 4 will be appended to the final Negative Declaration for RPG 41 and will be available at the State Water Board's 401 General Order web page ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html)).

The Initial Study and all documentation, including Addenda, are available upon request. A Notice of Determination will be filed at the State Clearinghouse within five days of issuance. This Addendum 4, along with the previously adopted Final Negative Declaration (SCH#2003081158) and Addenda 1, 2, and 3 now constitute the Final Negative Declaration for the RGP 41 Project.

Pursuant to Section 21082.1 of the California Public Resources Code, the State Water Board has independently reviewed and analyzed the information contained in the Final Negative Declaration for the proposed Project and finds that this document reflects the independent judgment of the State Water Board.