



*LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS*

**Department of the Army
Regional General Permit No. 102**

**City of San Diego Department of
Transportation and Stormwater**

**Municipal Waterways
Maintenance Plan
Activities**

Permittee: Department of Transportation and Storm Water, City of San Diego

Project Name: Regional General Permit 102

Permit Number: SPL-2018-00652

Issuing Office: Los Angeles District

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.

After you receive written approval that your project complies with the terms and conditions of this Regional General Permit (RGP) from this office, you are authorized to perform work in accordance with the General Conditions and any project specific conditions specified below.

Project Location: This Regional General Permit (RGP) applies to Clean Water Act (33 U.S. Code § 1251) Section 404 waters (i.e., wetland waters and non-wetland waters) and Rivers and Harbors Act (33 U.S.C. § 403) Section 10 waters (i.e., waters subject to the ebb and flow of the tide and/or which are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce) of the United States identified within the City of San Diego's Department of Transportation and Storm Water Municipal Waterways Maintenance Plan – Facility Management Plan (Enclosure 1). Additional facilities may be added to the MWMP – FMP from time to time and the City may request the Corps to consider those facilities for coverage under this RGP.

Project Description: This RGP authorizes the discharge of dredged or fill material into Waters of the U.S. while conducting specific activities associated with maintenance of existing City of San Diego operated stormwater facilities.

This RGP would cover activities that result in a discharge of dredged or fill materials associated with routine maintenance activities including direct removal or management of vegetation, grading to support both flood control capacity, the establishment of temporary staging and stockpile areas, ground-disturbing activities to remove accumulated sediment within facilities, concrete repair, bank repair, fill and/or dredge activities, temporary access/loading areas, flow diversions, and post-maintenance erosion control measures. See Table 1 for more details.

Authorized Activities

Table 1. Municipal Waterways Maintenance Plan – Facility Management Plan Activities that May Result in a Discharge of Dredged or Fill Material into Waters of the U.S.

Activities	Activity Description	Authorization Limitations
Vegetation Management	Discharges of dredged or fill material into Waters of the United States in association with mechanized vegetation removal	Authorized “Vegetation Management” activities are limited to those activities that may result in Temporary Impacts to aquatic resource functions. “Vegetation Management” activities that result in permanent losses of aquatic resource function are not authorized by this RGP.
Invasive Plant Species Management	Discharges of dredged or fill material into Waters of the U.S. in association with mechanized vegetation removal	Authorized “Invasive Plant Species Management” activities are limited to those activities that may result in Temporary Impacts to aquatic resource functions.
Sediment/Debris Removal	Discharges of dredged or fill material into Waters of the U.S. in association with mechanized sediment/debris removal	Authorized “Sediment/Debris Removal” activities are limited to those activities that may result in Temporary Impacts to aquatic resource functions. Sediment/Debris Removal activities that result in permanent losses of aquatic resource function are not authorized by this RGP.
Structural and/or Debris/Trash-Fence Clearing and/or Repair”	Discharges of dredged or fill material into Waters of the U.S. in association with mechanized sediment/debris removal	Authorized “Structural and/or Debris/Trash-Fence Clearing and/or Repair” activities are limited to those activities that may result in Temporary Impacts to aquatic resource functions.
Culvert Clearing	Discharges of dredged or fill material into Waters of the U.S. in association with hand and/or vactor truck removal from within culvert structure	Authorized “Culvert Clearing” activities are limited to those activities that may result in Temporary Impacts to aquatic resource functions.

Activities	Activity Description	Authorization Limitations
Concrete Repair	Discharges of dredged or fill material into Waters of the U.S. in association with repairing concrete infrastructure.	Authorized "Concrete Repair" activities are limited to those activities that will not result in any permanent impacts or losses to aquatic resource functions.
Bank Repair	Discharges of dredged or fill material into Waters of the U.S. in association with the placement of riprap or other stabilization materials or mechanized grading	Authorized "Bank Repair" activities may result in permanent and temporary impacts to Waters of the U.S. and loss of aquatic resource function
Access/Loading	Discharges of dredged or fill material into Waters of the U.S. in association with construction of temporary access ramps or loading pads by grading or placement of fill material	Authorized "Access/Loading" activities are limited to those activities that may result in temporary impacts to aquatic resource functions. "Access/Loading" activities that may result in permanent losses of aquatic resource function are not authorized by this RGP.
Flow Diversion	Discharges of dredged or fill material into Waters of the U.S. in association with the temporary placement of sandbags or other diversion structures	Authorized "Flow Diversion" activities are limited to those activities that may result in Temporary Impacts to aquatic resource functions. "Flow Diversion" activities that may result in permanent losses of aquatic resource function are not authorized by this RGP.
Post-Maintenance Erosion Control	Discharges of dredged or fill material into Waters of the U.S. in association with the construction of check dams or installation of channel lining materials	Authorized "Post-Maintenance Erosion Control" activities may include activities that result in permanent and/or temporary loss of aquatic resource function.
Compensatory Mitigation	Discharges of dredged or fill material into Waters of the U.S. in association with the construction of compensatory mitigation including floodplain expansion and/or removal/control of invasive species	Authorized "Compensatory Mitigation" activities are limited to those activities that result in a net gain of aquatic resource function and/or area.

Definitions:

1. **Loss:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for verification under this RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that are filled or excavated as a result of the regulated

activity. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States. (Federal Register, Vol. 72, No. 47, p. 11196). Compensatory mitigation is required for loss greater than 0.10 acre; mitigation is at the discretion of the Corps for projects with losses of less than 0.10 acre.

2. **Temporary Impact:** Temporary impacts are discharges of fill material that would allow affected jurisdictional areas to return to their pre-project conditions and contours through natural stream processes or through active restoration.

Permit General Conditions:

1. **Time Period Covered:** This RGP shall expire on June 17, 2026. Verifications made under this RGP shall be valid from the date of issuance.
2. **Notification**
 - a. Notice to Proceed (NTP) Verification: NTP authorizes the applicant to initiate work in waters of U.S. on the date of issuance. If applicable, the NTP would also include as attachments, agreements or permits from other Federal or State agencies (e.g., biological opinions from the USFWS, memoranda of agreement between the Corps and the SHPO). The NTP would incorporate by reference all terms and conditions of the attached documents as project-specific special conditions. An NTP verification will be issued if the DE determines that the proposed activity is consistent with this RGP. The request for NTP should include:
 - i. A brief description of the proposed work including discharges of dredged or fill material into waters of the US.
 - ii. A statement about compliance with the federal Endangered Species Act (i.e. no effect to listed species and/or critical habitat or documentation of effects addressed within concluded consultation with applicable agencies).
 - iii. A statement regarding compliance with the National Historic Preservation Act (i.e. little likelihood of effects to potential historic properties or documentation of effects addressed within concluded consultation with applicable agencies).
 - iv. A statement about losses of waters of the U.S. and potential needs for compensatory mitigation (i.e. no losses of waters of the United States, or mitigation will be achieved utilizing a compensatory mitigation plan approved by the Corps)
 - v. In the event the proposed work does not meet these criteria and would result in additional consultation with applicable agencies beyond those previously concluded, or would result in losses of waters of the U.S. not previously

considered under an approved compensatory mitigation plan, a PCN will be required to be submitted for the Corps to review the proposed work.

- b. The DE will generally make a decision within 30-calendar days of receipt of the RGP Notification Form (Attachment A).
 - i. The Corps decision will be provided as a written NTP Verification.
 - ii. No regulated activities or discharge of fill materials within waters of the U.S. are authorized until the permittee receives written NTP verification from the Corps.
3. **Mitigation:** To ensure all compensatory mitigation is commensurate with the level of impact, the Notification will include a description of the proposed compensatory mitigation, if any. The proposed mitigation will follow the Compensatory Mitigation for Losses of Aquatic Resources (33 C.F.R. 332) and the South Pacific Division SOP (12501-SPD Regulatory Program Standard Operating Procedure for Determination of Mitigation Ratios). Decisions regarding the requirement of compensatory mitigation are made on a case-by-case basis dependent on project-specific circumstances.
4. **33 U.S.C. 408:** An RGP preconstruction notification shall be submitted to the Corps Regulatory Division for any activity that would alter or temporarily or permanently modify or use an existing Corps project. Notification shall not be required for any operation and maintenance (O&M) activities specified in a Corps-issued O&M manual or any activities to restore the Corps' project to the physical dimensions and design of the constructed project, without any changes to the real property, existing design features, or physical dimensions or performance of the Corps project. No activity requiring a section 408 permit shall be authorized by this RGP until such activity has been approved by the Corps Engineering Division.
5. **Water Quality Certifications (WQC):** The Permittee shall comply with the terms and conditions of the Clean Water Act Section 401 Water Quality Certification (R9-2021-0115) dated May 13, 2021.
6. **Coastal Zone Management:** The Permittee shall comply with the terms and conditions of the Coastal Zone Management Act consistency certification from the California Coastal Commission (6-20-0356 and A-6-SAN-20-0029) dated June 4, 2021.
7. **Endangered Species:** 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 separate authorization under the ESA (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply).
8. **Historic Properties:** No activity is authorized under this RGP that may affect historic properties listed, proposed for listing, or potentially eligible for listing in the National Register of Historic Places until the requirements of Section 106 of the National Historic

Preservation Act (NHPA) have been satisfied. If an activity is proposed to be authorized under this RGP that may have the potential to effect historic properties, separate consultation must be undertaken and completed prior to the permittee commencing work and/or discharges of fill material covered by this RGP.

9. **Wild and Scenic Rivers:** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while that river is in an official study status unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
10. **Disposal of Excavated Debris and Sediment:** Excavated sediment and debris shall be disposed at upland disposal sites. This RGP does not authorize disposal of excavated debris and sediment in any waters of the U.S. In the case where storm flows, debris flows, or other discrete events expand the geographical limits of waters of the U.S. such that it encompasses an existing sediment placement site in the adjacent uplands, the permittee shall not discharge excavated sediment at the sediment placement site without first restoring the adjacent uplands to pre-damage contours and boundaries pursuant to the terms and conditions of Nationwide Permit 45. In certain circumstances, the permittee may be able to reclaim lost uplands without a Section 404 permit.
11. **Stream Channelization:** This RGP does not authorize stream channelization. Stream channelization is the manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes (Federal Register Vol. 72, No. 47, p. 11197). Examples include but are not limited to conversion of a natural stream into a concrete-lined channel.
12. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
13. **Case-by-Case Conditions:** The activity must comply with any case-specific conditions added to the verification by this office.
14. **Erosion and Siltation Controls:** Every effort must be made to ensure any material dredged or excavated from waters of the U.S. is not likely to be washed back into any waters of the U.S. When feasible, erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw (or hay) bales or other means designed to minimize turbidity in the watercourse shall be used and maintained in effective operating condition during construction unless conditions preclude their use, or if conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work.
15. **Equipment:** When feasible, and if personnel would not be put into any additional potential hazard, heavy equipment working in wetlands must be placed on mats, or other measures

must be taken to minimize soil disturbance, such as use of wide-treaded equipment or floatation devices.

16. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
17. **Spawning Areas:** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
18. **Suitable Material:** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
19. **Adverse Effects from Impoundments:** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
20. **Proper Maintenance:** Any structure or fill authorized by this RGP shall be maintained, including maintenance to ensure public safety, unless it is later determined that the structure is further contributing to other adverse conditions to private or public property. In such situations, corrective measures will be taken to rectify these adverse conditions, including removal and/or redesign of the original corrective action, or appropriate mitigation as determined through coordination with the permittee and the appropriate Federal and State agencies.
21. **Vernal Pools:** This RGP does not authorize discharges of fill material into vernal pools or activities that may impact vernal pools.
22. **Avoidance and Minimization:** The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter waters of the U.S. outside of authorized work area. Adverse impacts to waters of the U.S. 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.
23. **Reporting:** The Permittee shall submit an annual report by October 1st each year that activities are conducted under this permit. The annual report shall list each project that utilized this RGP and shall include for each project: start and end dates; permanent and temporary impact acreage; and mitigation acreage, if applicable. The report shall also include projects which were inspected for compliance purposes. The compliance section

shall include a document that verifies the project is or is not in compliance with the conditions of this permit.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
 - (X) 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 an activity authorized by this RGP. 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. Note: This condition does not apply to requests to renew or re-issue the RGP.

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



Corice J. Farrar
Chief, South Coast Branch
Regulatory Division

24 June 2021

DATE