

**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT NO. 22
AQUATIC AND WETLAND ENHANCEMENT ACTIVITIES
LOWER COLORADO RIVER,
CALIFORNIA AND ARIZONA**

Permittee:

Bureau of Reclamation, U.S. Fish & Wildlife or other Federal, state and local agencies, citizens groups, or private landowners constructing aquatic and wetland enhancement projects.

Permit Number: RGP22 (File No. 1994-4015400)

Issuing Office: Los Angeles District

Effective Date: March 10, 2017

Expiration Date: March 10, 2022

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

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

Project Description: Following is a list of activities covered under this General Permit (see the attached drawings).

1. DREDGING OF CHANNEL OR BACKWATER WATERWAYS -- Rehabilitation shall be accomplished by dredging of channels in backwaters cut off from the mainstem of the Colorado River by using hydraulic dredges, and/or amphibious or "cookie cutter" excavators. The purpose of this activity is to reestablish meandering channel waterways which feed overgrown and sediment laden lakes and wetlands using mechanical means, and/or create new habitat for wildlife species that inhabit the lower Colorado River. To the extent practicable, channel depths will conform to dimensions which existed when created in the 1960's. Channel depths for newly created habitat areas will be dependent on channel geometry based on river operations and covered species requirements. The dredge spoil shall be placed on older spoil piles unless these are being used as mitigation or for revegetation. If new areas are to be used for the placement of dredge spoil, then the vegetation shall be mapped so that spoil is placed on the lowest value habitat. Berms shall be placed around the spoil piles to prevent increases in turbidity of return water. Cattail habitats having actual; or potential Yuma clapper rail habitat shall be avoided during dredging operations.

2. CREATION OF CATTAIL WETLAND FRINGE HABITATS -- Creation of cattail/bulrush wetland fringe habitats and edges, to include the creation of new backwaters, channels and wetlands, shall be accomplished by modifying banklines and building islands. Excavation shall be accomplished using ground based equipment (bulldozers, etc.). The

excavated area shall support saturated soil so that wetland vegetation will become established. It shall not be excavated deeper than 6 ft. below the normal surface water elevation in order to accommodate wetland plants. Dredge spoil shall be placed in an upland location on older spoil piles or on lowest quality vegetation. Berms shall be placed around the spoil piles to prevent increases in turbidity of return water.

3. PERMEABLE WATER INLET STRUCTURES AND WATER CONTROL STRUCTURES

Water inlet/outlet structures shall be constructed by either placing boulders or large rocks (permeable structures) in openings of levees, installing culverts (including water control structures), placing a combination of permeable structure with culverts, and/or establishing open inlets/outlets to permit water from the main stem of the Colorado River to flow and circulate through the backwaters. The type of structure to be placed shall be designed to avoid and minimize becoming plugged with sediment and debris. In addition, water control structures may also be used for the same purpose under this RGP where water must be regulated. The placement of these structures shall not create a navigable hazard, impair any existing wetlands, or cause cottonwood, willow or mesquite trees to be removed. Maintenance of structures previously authorized under this RGP is allowable provided it is done to the originally authorized structure specifications.

4. MAINTENANCE DREDGING -- Maintenance dredge backwaters previously authorized and dredged under this RGP to originally authorized depths and profiles. Enlarging of backwaters is not authorized under this specific activity of this RGP.

5. REVEGETATION ACTIVITIES -- Revegetation activities covered under this RGP are those which occur below the ordinary high water mark or in wetlands. Saltcedar may be removed by mechanical means (i.e. bulldozer), provided it is replaced with native riparian trees. This RGP does not authorize the replacement of cattails by riparian trees. Decadent cattails persisting above the water table where the water surface elevation has dropped since 1983 shall be restored as part of these revegetation activities in cooperation with the U.S. Fish and Wildlife Service Yuma clapper rail recovery plan. New project areas may be developed as conservation areas and site specific restoration development and monitoring plans will be created which includes a revegetation plan.

Project Location: The activities listed above are to be performed in backwaters along the Lower Colorado River from Davis Dam (River Mile 276) bordering Arizona and California to San Luis Rio Colorado (River Mile 0) bordering Sonora, Mexico and Arizona.

Permit Conditions

General Conditions:

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

Special Conditions:

- a. Any permittee who desires to perform activities under this RGP shall notify the Corps at the address below. Public review is not required, however, the permittee shall request written approval from the Corps prior to commencement of any activity authorized under this RGP by submitting written plans, drawings, ground level photographs of the project area, and any other documents required within these special conditions to the following address:

Ms. Therese Carpenter or Mr. William Miller
Senior Project Manager
U.S. Army Corps of Engineers
Arizona Nevada Area Office
3636 N. Central Avenue, Suite 900

Phoenix, AZ 85012
Ms. Therese Carpenter, (602) 230-6952
Anne.T.Carpenter@usace.army.mil
Mr. William Miller, (602) 230-6954
William.H.Miller@usace.army.mil

The permittee shall also provide written plans, drawings, and photographs to the FWS and the appropriate state/tribal wildlife agency. The contact phone numbers are provided below:

Ms. Jessica Gwinn, U.S. Fish and Wildlife Service, (602) 242-0210
Mr. Trevor Buhr, Arizona Game and Fish Department, Region III (928) 692-7700
Mr. William Knowles, Arizona Game and Fish Department, Region IV (928) 342-0091
Mr. Chris Hayes, California Department of Fish and Game (760) 922-6508
Mr. Ray Aspa, Colorado River Indian Tribes Fish/Game Department (928) 669-9285

If any work authorized under this RGP will affect lands owned by the Chemehuevi Indian Tribe, Cocopah Indian Tribe, Fort Mojave Indian Tribe, or Quechan Indian Tribe, please contact the Corps for further information.

Once the permittee has received a letter of concurrence from the FWS and the appropriate state/tribal agency, he/she shall submit this letter to the Corps *with the application* and other required documentation. Work may not commence until the Corps has issued written approval of the specific project.

Additionally, the permittee shall provide written plans and drawings to the U.S. Bureau of Reclamation (Reclamation) for review. This will ensure proposed projects will not impact the integrity of Reclamation River Control Structures (i.e. levees and banklines). The contact phone numbers are provided below:

Mr. Christopher Wallis, (928) 343-8215
U.S. Bureau of Reclamation,
7301 Calle Agua Salada
Yuma AZ 85364

b. Any Federal permittee proposing work under this RGP shall complete, on their own, all Section 106 (NHPA) compliance. With the application package submitted to the Corps, the prospective permittee shall provide written concurrence from the SHPO regarding completion of Section 106. For Federal agencies, the SHPO addresses are:

Arizona State Parks
State Historic Preservation Office
ATTN: Ms. Mary-Ellen Walsh
1300 W. Washington
Phoenix, AZ 85007

California Department of Parks/Recreation
State Historic Preservation Office
ATTN: Mr. Milford Wayne Donaldson
PO Box 942896
Sacramento, CA 94296-0001

For Section 106 compliance, any non-Federal permittee shall coordinate all proposed actions with the Corps. The permittee shall notify the Corps regarding all proposed actions early in the planning process to allow completion of the Section 106 process well in advance of the

commencement of the proposed undertaking.

c. Any Federal permittee proposing work under this RGP shall complete, on their own, all Section 7 (ESA) compliance. As part of the application package submitted to the Corps, the prospective permittee shall provide documentation of a “no effect” finding or written concurrence from the FWS that Section 7 consultation is complete. For Federal agencies, the FWS address is:

U. S. Fish and Wildlife Service
Arizona Ecological Services Office
9828 North 31st Avenue, #C3
Phoenix, AZ 85051-2517

For Section 7 compliance, any non-Federal prospective permittee shall coordinate all proposed actions with the Corps. The permittee shall notify the Corps regarding all proposed actions early in the planning process to allow completion of the Section 7 process well in advance of the commencement of the proposed undertaking.

d. The permittee shall develop and submit with the application package to the Corps a water-use budget to demonstrate there will be no increase to the net evaporative surface area of the Colorado River and show the existing water rights are valid. This requirement is waived if the project involves maintenance dredging of a backwater previously authorized under this RGP to previously authorized depths and profiles.

e. The permittee, with the application package, shall identify on a map locations where dredge spoil is to be placed. The permittee shall demonstrate the least damaging location for dredge spoil placement is chosen. Preferred dredge spoil locations are on existing dredge spoil piles and vegetation having the lowest value habitat. The permittee shall construct berms to surround the dredge spoil sites. These are to be placed above the ordinary high water mark (OHWM) to reduce runoff and eliminate impacts caused by turbidity or mixing zones.

f. The permittee, in their application package to the Corps, shall demonstrate avoidance of existing special aquatic sites.

g. The permittee shall submit with the application package a detailed revegetation and/or a restoration development and monitoring plan to include location of revegetation, species to be planted, densities of each species, irrigation methods, etc. The permittee shall, annually for five years, provide to the Corps a monitoring report which shall indicate by use of % canopy cover, diameter at breast height (dbh), or other methodology the vegetation is in a living and growing condition. Survivability requirements are 80%. If the Corps determines revegetation efforts are not successful, the Corps may require modifications to the revegetation plan. Revegetation shall commence within 30 days of completion of the activities authorized by this RGP.

h. EPA has granted Section 401 water quality certification for this general permit on Tribal lands (April 14, 2010), Enclosure 1, provided the projects approved under this RGP comply with State adopted water quality standards as they apply to waters downstream of Tribal lands.

ADEQ issued Section 401 certification dated March 25, 2010, Enclosure 2, for this RGP for activities occurring within the State of Arizona on non-tribal lands.

The California RWQCB has not issued a Section 401 water quality certification for this RGP. Any activity occurring within the State of California will require the permittee to apply and receive a separate Section 401 water quality certification before the Corps can issue a Letter of Verification.

Applications for a Section 401 water quality certification in California shall be sent to the Board at:

California Regional Water Quality Control Board
Colorado River Basin Region
ATTN: Mr. Jay Mirpour
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

i. The permittee shall contact the Arizona State Land Department at the following address to determine whether the activity occurs on State sovereign land. If so, the prospective permittee shall be required to obtain a lease or a written statement from that agency that no lease is required:

Arizona State Land Department
ATTN: Ms. Marlene Shields
1616 West Adams
Phoenix, AZ 85007

For work on any Tribal lands, the permittee shall obtain approval from the relevant Tribe(s) prior to the commencement of the activity.

j. The permittee shall not dredge between the period of January 1 and June 30 to avoid impacts to endangered fish species during spawning. Dredging between January 1 and June 30 can be accomplished provided the permittee obtains clearances from the U.S. Fish and Wildlife Service and consults with the appropriate state wildlife agency.

k. The permittee shall maintain the permeable water inlet structures and water control structures after they have been put in place for the life of the project. These structures shall be constructed during or immediately after completion of dredging.

l. This permit shall be valid for 5 years after which time a new RGP shall be issued if Federal, State, and local agencies and the public support its reissuance.

m. This RGP may be modified in the future if: (1) new species become Federally listed or new critical habitat designated which could be adversely affected by the permitted activities or (2) additional information indicates activities permitted under this RGP cause significant environmental impacts.

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).
- () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

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 behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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

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

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application

proves to have been false, incomplete, or inaccurate (See 4 above).

- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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

- 6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

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



Sallie Diebolt
Chief, Arizona Regulatory Branch

March 9, 2017
DATE