



**DEPARTMENT OF THE ARMY  
REGIONAL GENERAL PERMIT  
NO. 72  
PORT OF SAN DIEGO MAINTENANCE AND REPAIR OF PORT  
PIERS, WHARVES, AND DOCKS**

**Permittee:** Port of San Diego Planning and Greenport (Port); Attn: Eileen Maher

**Project Name:** Regional General Permit Number 72 - Port of San Diego Regional General Permit for Maintenance and Repair of Port piers, wharves, and docks as shown in the attached drawings.

**Permit Number:** SPL-2019-00478-RRS

**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 and/or District Engineer (DE) 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 Description:** Work to be covered under the renewed RGP No. 72 per Table 1 would be at the locations shown under locations and include: routine repair of maintenance of docks, wharves, piers, and piles within navigable waters of the United States (U.S.) both in San Diego Bay and in the Pacific Ocean at the Imperial Beach Pier; like-for-like repair or replacement of damaged and broken wooden, concrete, and/or plastic pier and fender piles, as needed; and like-for-like repair or replacement of pier, decks, deck boards, blocks, camel logs, installation of marine fenders, Best Management Practices/Environmental protection measure work items, and

other ancillary items, as needed. No work approved under this permit would result in additional shading or overwater coverage. The work shall be done in association with the Port of San Diego Master Plan and the Regional General Permit Nos. 72 renewal application to the Corps (see attached drawings).

[X] To construct structures and/or conduct structural work in or affecting "navigable waters of the United States" pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**Project Location:** Routine maintenance work under Regional General Permit Nos. 72 (RGP 72 or RGP) occurs at various locations (shown below for each site) in San Diego Bay and the Pacific Ocean per the attached permit drawings (sheets 1-10) for piers, wharves, docks, as previously permitted under RGP No. 72 within the City of San Diego). The work in navigable waters shall perform routine maintenance work at the following structures per the attached drawings referenced under each sheet as follows:

- a) Chula Vista Bayfront: Fishing Pier and Launching Ramp Floating Docks (Sheet 9);
- b) Coronado Bayfront: Ferry Landing Pier; Seawall, and Peohe's Floating Dock (Sheet 7);
- c) Imperial Beach: Imperial Beach Fishing Pier (Sheet 10);
- d) Harbor Island and Embarcadero Crescent: two seawalls, Dinghy Docks, Pier, Wharves, Grape St. Piers 1, 2, and 3 (formerly known as Chevron Pier) (Sheet 3);
- e) National City Marine Terminals and Bayfront: National City Marine Terminal Berths 24-1 through 24-5, 24-10 and 24-11, the Fishing Pier, Boat Launch Ramp Floating Docks, and Pepper Park Floating Dock (Sheet 8);
- f) Embarcadero Wharf: Embarcadero Wharf seawalls, B St. Pier; the Viewing Platform, Broadway Pier, Navy Pier (Sheet 4);
- g) Tuna Harbor and Embarcadero Marina Parks: Tuna Harbor Fleet Landing, Fish Unloading Pier, Tuna Harbor Pier, Fish Harbor Pier; Tuna Boat Berthing Facility, Overwater Structure, Seaport Village seawall, Embarcadero Marine Park North and South Piers (Sheet 5);
- h) Shelter Island Docks and piers: Driscoll's Wharf, Piers & Floating Docks (La Playa Piers), Shelter Island Viewing Platform, Boat Launch Breakwaters and Floating Docks, Fishing Pier & Floating Dock, Transient Vessel Dock, and Harbor Police Dock (Sheet 2);
- i) Tenth Avenue Marine Terminal: Tenth Avenue Marine Terminal Berths 10-1 through 10-8, Seawall, Mole Pier, High Speed Ferry Dock, Crosby Street Berthing Pier, and Public Recreational Pier (Sheet 6).

Table 1 – RGP 72 Maintenance and Repair Activities

This RGP authorizes the following activities with the associated limitations as shown in the Project Location:

Category	Limits of Impact
A Routine repair and maintenance of docks, wharves, bulkheads, seawalls, and piers.	Like for like replacement with no additional shading, overwater coverage, or fill. Like for like replacement with minor deviations for design, seismic, and safety standards.
B Utility Lines.	Like for like replacement with minor deviations for design, seismic, and safety standards.
C Repair or replacement of damaged and broken wooden, concrete, and/or plastic pier and fender piles.	Like for like replacement with minor deviations for design, seismic, and safety standards. Pile driving limited to impact/vibratory and jetting with turbidity/marine mammal /Green Sea Turtle monitoring and work cessation as
D Repair and replacement of pier or dock decks, deck boards, blocks, camel logs, and installation of marine fenders.	Like for like replacement with minor deviations for design, seismic standards, and safety standards.
E Best Management Practices (BMPs)/Environmental protection measure work items such as attendant vessels, boats, rafts, barges, debris nets, security booms, turbidity curtains, and other.	Work limited to control floating debris and other water quality protection measures for turbidity, spills, navigational hazards, and safety standards.

<p>F Replacement and installation of ancillary items including but not limited to other structural, mechanical, and electrical components needed for the existing functions of the Docks, Piers, Wharves, and Seawalls.</p>	<p>Like for like replacement with minor deviations for safety design changes, seismic standards, navigational protection measures, tide gauge repairs, signage and safety standards.</p>
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The following project description information provides greater detail on the activities authorized under each category in Table 1:

**A- Routine repair and maintenance of docks, wharves, bulkheads, seawalls, and piers**

Like for like structural repair and maintenance work of docks, wharves, bulkheads, seawalls, and piers including deck repairs and maintenance with all necessary vessels, barges, and BMPs/Environmental protection measures to perform above work. No dredging, fill or increase in overwater coverage or shading is authorized.

**B- Utility Lines**

Work activities would include extension or repair of utility lines, related appurtenances, and utility facilities. Also included are activities related to testing, inspection, maintenance, repair, and replacement of existing utility lines, utility facilities, and appurtenances. Specific work activities include, but are not limited to: replacement of utility lines, valve repair, utility pole removal/replacement; light poles, monitoring, production, and wells and well facility repairs, installation, and replacement; precast manhole and handhole installation or repair, concrete pad installation, bollard installation, fencing, cathodic protection, anode replacement, repair or replacement of blow-offs, air-vacuums, hydrants, backflow preventers, and other accessories.

**C- Repair/replacement of damaged/ broken wooden, concrete, and/or plastic pier and fender piles.**

Work activities include the repair or replacement of existing damaged/broken wooden, creosote, concrete, and plastic, pier and wharf piles and fender piles and other structures associated with activities. Pile driving activities include impact/vibratory pile driving and hydro-jetting/jetting methods as long as monitoring measures are included for marine mammals and Green Sea Turtles per the special conditions. Other pile removal methods for piles that have been damaged or broken off can be employed as approved by the Corps.

**D- Repair and replacement of pier or dock decks, deck boards, blocks, camel logs, and installation of marine fenders**

Work activities include the repair or replacement of existing damaged/broken wooden, metal, concrete, and plastic, pier/wharf/docks structural members and decks, camels, sheet piles for bulkhead repairs, camels, camel logs, and marine fenders or other navigational improvements

for existing piers, wharves, and docks as approved by the Corps.

**E- Best Management Practices (BMPs)/Environmental protection measure work items including attendant vessels, boats, rafts, barges, debris nets, security booms, turbidity curtains, booms, and other Stormwater BMPs.**

Work limited to control floating debris and other water quality protection measures for turbidity, debris cleanup, and water quality safety standards.

**F Replacement and installation of ancillary items including but not limited to other structural, mechanical, and electrical components needed for the Docks, Piers, Wharves, and Seawalls.**

Work limited to structural repair and replacement work for ancillary items including but not limited to other structural, mechanical, electrical components, protection of navigation measures, tidal gages, signage, and safety measures to meet safety standards.

**Notification**

This RGP requires notification of all activities to be covered under Table 1 and RGP 72. Work may not commence until the Corps has received written notification from the Port (and if needed for an individual action the Corps needs to consult with NMFS, USFWS, and or the California Regional Water Quality Control Board – San Diego Region) and then the Corps has approved the action in writing via email or letter.

**Definitions:**

1. Best Management Practices (BMPs): BMPs are defined in the Port of San Diego's Coastal Determinations as the Best Management Practices and Environmental Standards for Overwater Structural Repair and Maintenance Activities Conducted by the San Diego Unified Port District in their Coastal Determination approved on June 19, 2019.
2. CZMA: Coastal Zone Management Act compliance with the Port of San Diego Coastal Determination made for project activities that comply with Port approved Master Plan under their existing Coastal Development Permit with the California Coastal Commission.
3. EFH: Essential Fish Habitat as regulated by the National Marine Fisheries Service (NMFS) under the Magnuson Stevens Act and all NMFS implementing regulations.
4. ESA: Federal Endangered Species Act and all implementing regulations of the U.S. Fish and Wildlife Service (USFWS) and NMFS.
5. NHPA: National Historic Preservation Act and all implementing regulations under Appendix C.
6. SHPO: California State Historic Preservation Office.

**Permit General Conditions:**

1. **Time Period Covered:** This RGP shall expire on **December 4, 2024**. Notification to Proceed (NTP) under this RGP shall be valid for two years from the date of issuance.
2. **Notification Requirements:** Activities described above that require notification shall be submitted to the Corps Regulatory Division at least 14 days for Notification prior to initiation of activity unless otherwise approved by the Corps due to potential imminent threats to life or property.
3. **Contents of the RGP Notification Form (Preconstruction Notification Form (PCN form)):**  
The notification should be in writing and include the following information:
  - a. The name, address and telephone number of the Port's designated point of contact and their address and telephone number;
  - b. The latitude/longitude coordinates (in decimal degree format) of the location of the proposed project;
  - c. A vicinity map at an appropriate scale depicting the project location, the location where the proposed work will take place, the boundary and approximate acreage of the project area at the project location (includes all permanent and temporary work areas), and the boundary and approximate acreage of the impact within the project area;
  - d. Plan and elevation views of the proposed work;
  - e. Category of activity this project falls under (Table 1);
  - f. Compensatory mitigation description, if required under the California Eelgrass Mitigation Policy (CEMP); or the Corps Mitigation Rule (33 CFR 332).
  - g. Project description detailing the following:
    - i. Overall project description;
    - ii. Proposed work in navigable waters of the United States including:
      1. The acreage of navigable waters of United States that would be affected with any impacts to wetlands or eelgrass included;
      2. Project schedule, including the estimated time required to initiate and complete work in waters of the United States;
      3. The equipment, vessels, barges, derrick barges, pile driving equipment, staging areas, BMPs, and anchoring plan.

4. Planned avoidance and minimization measures.

- h. Proposed work in non-jurisdictional areas directly related to work in waters of United States (e.g., establishment of staging areas or construction of access roads/ramps in adjacent uplands);
- i. Documentation of completed EFH, ESA, SHPO, NHPA, CZMA;
- j. Delineation per “Minimum Standards for Acceptance of Aquatic Delineation Report, issued in Public Notice by USACE Los Angeles District March 16, 2007, and/or determination through RGL 16-01 issued by USACE October 2016, and jurisdictional limits of the Mean High Water mark as furnished by the Corps under Section 10 of the Rivers and Harbors Act.

- 4. **Alternative Form of Notification:** The standard Application for Department of the Army Permit (Form ENG 4345), available from the District’s Website at (<http://www.spl.usace.army.mil/regulatory/eng4345a.pdf>).
- 5. **Mitigation:** To ensure all compensatory mitigation is commensurate with the level of impact, the Notification will include a description of the compensatory mitigation if required per CEMP or the Corps Mitigation Rule. 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).
- 6. **Eligibility Evaluation Criteria:** In reviewing whether the proposed activity qualifies for authorization under the RGP, the DE will determine whether the proposed activity:
  - a. is located on piers, wharves, and docks covered under the locations shown under Location in this RGP 72;
  - b. is within one of the categories identified in Table 1 of this RGP ;
  - c. would result in more than minimal individual or cumulative environmental effects. (the DE will consider any mitigation the applicant has included in the project description in determining whether the net adverse environmental effects for the proposed work are minimal); and
  - d. may be contrary to the public interest.
- 7. **District Engineer’s Decision:**
  - a. **Notice to Proceed (NTP):** *NTP authorizes the applicant to initiate work in waters of United States on the date of issuance. The NTP is valid for up to two years from 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 if applicable). If applicable, the NTP would include compliance with the Section 401 water quality certification issued for this RGP. The NTP would incorporate by reference all terms and conditions of the attached documents as project- specific special conditions. An NTP will be issued if the DE determines that the proposed activity:

- i. is eligible for the RGP (i.e., meets evaluation criteria 6(a) through 6(d) above);
  - ii. complies with other applicable federal laws such as the Endangered Species Act or the National Historic Preservation Act;
  - iii. implements the Section 401 water quality certification authorized by the California Regional Board WQC (R9 2019-0140:858331 dated November 22, 2019);
  - iv. has been issued a federal consistency determination by the Port or the California Coastal Commission pursuant to the Coastal Zone Management Act (applicable only to those projects located within the coastal zone or projects *immediately* outside the coastal zone where the proposed work could affect uses or resources of the coastal zone in the state of California).
- b. The DE shall make a decision within 14 calendar days of receipt of the Corps Notification.
- i. The decision will be a written NTP; or
  - ii. No response from the DE within 14 calendar days will be an approval of the project.

8. **Water Quality Certifications:** Permittee shall implement and abide by the project-specific Section 401 Water Quality Certification (WQC) from the California Regional Water Quality Control Board – San Diego Region (CRWQCB) dated November 22, 2019 (R9 2019-0140:858331).
9. **Coastal Zone Management:** Pursuant to the Federal Coastal Zone Management Act (CZMA), the Port for projects affecting uses or resources of the coastal zone shall comply with the Port's CZMA approval dated June 19, 2019 under the Port's Master Plan Coastal Development Permit.
10. **Endangered Species:** No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat as identified under the Federal Endangered Species Act (ESA) unless Section 7 consultation addressing the effects of the proposed activity has been completed.
  - a. Authorization of an activity by the RGP does NOT authorize the "take" of a listed



- threatened or endangered species, as defined under the Federal ESA. The Corps initiated Section 7 ESA consultation for the federally-listed as endangered green sea turtle (*Chelonia mydas*; GST) with NMFS on July 9, 2019 with the Corps determination that the project may affect but is not likely to adversely affect GST within the RGP 72 project areas. NMFS concurred with the Corps' NLAA determination in their letter dated September 17, 2019 and therefore the permittee must implement and abide by the NMFS' GST NLAA determination.
- b. Permittee shall avoid impacts to the California least tern (*Sterna antillarum browni*; CLT) and avoid work during the CLT nesting season (April 1st to September 15th) with monitoring and work cessation if work occurs in the CLT nesting season and CLT are present in the project area with Corps and USFWS coordination as needed to ensure ESA compliance for CLT impacts.
11. **Historic Properties:** The project area has been previously disturbed by previous pier and wharf construction and previous dredging and it is presumed that any historic properties that may have been present no longer exist per Appendix C(3)(b)(1). The Corps has made a determination that there is no potential for any impacts to cultural resources due to prior disturbances.
  12. **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.
    - a. Currently there are no designated Wild and Scenic River systems in San Diego Bay or the Pacific Ocean.
  13. **Disposal of Project materials and debris:** All demolition materials 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 United States.
  14. **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.
  15. **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.

16. **Regional and Case-by-Case Conditions:** The activity must comply with Regional Conditions for the Los Angeles District (see Attachment B) and with any case-specific conditions added to the NTP by this office.
17. **Erosion and Siltation Controls:** When feasible, erosion and siltation controls, such as siltation or turbidity curtains, and/or straw (or hay) bales or other means designed to minimize turbidity in the bay or ocean 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 adversely above the background level existing at the time of the work.
18. **Equipment and Barges/Vessels/BMPs:** When feasible, and if personnel would not be put into any additional potential hazard, any heavy equipment, barges, rafts, and vessels, working near wetlands or eelgrass areas must employ measures to avoid and minimize eelgrass or wetlands disturbance such as providing eelgrass surveys and/or wetlands delineations to the Corps with measures for any appropriate avoidance or minimization of wetlands or eelgrass.
19. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the bay or the ocean, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.
20. **Spawning Areas:** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction of an important spawning area are not authorized.
21. **Migratory Bird Breeding Areas:** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
22. **Suitable Material:** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). No dredging or discharge of fill is authorized under RGP 72.
23. **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.
24. **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.

25. **Vernal Pools:** No activity may impact vernal pools under this permit.
26. **Reporting:** The Port shall submit an annual report by March 15 each year of the entire duration of the 5 year permit documenting each activity authorized by this RGP. 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.

#### **Special Conditions:**

#### **Section 10 (Work and Structures in Navigable Waters of the United States):**

1. **INTERFERENCE WITH NAVIGATION:** The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.
2. **LIMITATIONS:** No other modifications or work shall occur to the structure permitted herein.
3. **CLEAN CONSTRUCTION PRACTICES:** The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, hazardous/toxic/radioactive/munitions from construction or dredging or disposal shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.
4. **COMMENCEMENT NOTIFICATION:** The Permittee shall notify the Corps Regulatory Division of the date of commencement of work in navigable waters of the United States no less than 14 calendar days prior to commencing work (unless otherwise approved by the Corps), and shall notify the Corps of the date of completion of operations at least five (5) calendar days prior to such completion.
5. **POST-CONSTRUCTION AS-BUILT SURVEY(S):** Within 30 calendar days of completion of the

project authorized by this permit, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey, as well as a copy of this permit, to the Corps Regulatory Division (via e-mail at: Regulatory.SPL@usace.army.mil) and to the National Oceanic and Atmospheric Administration (NOAA) for updating nautical charts (via e-mail at: Chris.Libeau@noaa.gov). Post-project surveys/as-built plans should be provided electronically in two formats: .pts (xyz) and one of, .pdf, Computer-aided Design (CAD), or Geographic Information System (GIS). Include the following header metadata: project name, surveyor's name and company, area surveyed (acres), type of survey method, date of survey, geographic control points (for example: latitude/longitude, plane coordinates), geographic coordinate system (use NAD83), geographic projection, units (use U.S. Survey Feet), and tide gage location. For all subsurface structures and dredge projects include elevation (z coordinate) datum indicated as a negative below MLLW, and also indicate the survey system and bin sizes as appropriate.

6. OBSTRUCTIONS: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers Regulatory Division, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

#### Cultural Resources:

7. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff within 24 hours (Danielle Storey at 213-452-3855 OR Daniel Grijalva at 760 602-4834 and Robert Smith at (760) 602-4831). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

8. Incidents where any individuals of fish, whale, abalone, sea turtle, coral, or marine plant species listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this permit shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Los Angeles District of the U.S. Army Corps of Engineers at 760 602-4831. The finder should leave the plant or animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals

should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved. Permittee shall also implement and abide by the NMFS letter dated September 17, 2019 to the Corps for impacts to the federally-listed as endangered green sea turtle (*Chelonia mydas*; GST).

9. Permittee shall implement and abide by the Port of San Diego's Coastal Development Permit and CZMA determination letter and Master Plan approval including the Board of Commissioners approval of the Environmental Standards and BMPs dated June 18, 2019.

10. Permittee shall submit the Corps annual report for each year of this five year RGP 72 permit to the NMFS (EFH POC) by March 15<sup>th</sup> of each year for the duration of the five year permit.

#### NOTIFICATIONS TO U.S. COAST GUARD

11. To ensure navigational safety, the permittee shall provide appropriate notifications (Local Notice to Mariners) to the U.S. Coast Guard as described below:

A) At least 15 calendar days prior to commencing work and as project information changes, the Permittee shall notify the Commander, 11th Coast Guard District ('dpw') and the U.S. Coast Guard, Sector LA-LB, Captain of the Port (COTP). The notification shall be provided by e-mail with the following information:

- 1) Project description including the type of operation (i.e. dredging, beach nourishment, upland disposal, ocean disposal, construction, etc).
- 2) Location of operation, including Latitude / Longitude (NAD 83).
- 3) Work start and completion dates and the expected duration of operations. The U.S. Coast Guard needs to be notified if these dates change.
- 4) Vessels involved in the operation (name, size and type).
- 5) VHF-FM radio frequencies monitored by vessels on scene.
- 6) Point of contact and 24 -hour phone number.
- 7) Potential hazards to navigation.
- 8) Chart number for the area of operation.
- 9) Recommend the following language be used in the Local Notice to Mariners: "Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."

B) The Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. Not less than 30 calendar days in advance of operating any equipment adjacent to any aids to

navigation that require relocation or removal, the Permittee shall notify, in writing, the Eleventh U.S. Coast Guard District and the Corps Regulatory Division. The Permittee and its contractor(s) are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.

C) The Permittee is prohibited from establishing private aids to navigation in navigable waters of the United States until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard. Should the Permittee determine the work requires the temporary placement and use of private aids to navigation in navigable waters of the United States, the Permittee shall submit a request in writing to the Corps Regulatory Division and the U.S. Coast Guard (contact information provided below).

D) The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.

Commander, 11th Coast Guard District (dpw)  
TEL: (510) 437-2980  
E-mail: d11LNM@uscg.mil  
Website: <http://www.uscg.mil/dp/lnmrequest.asp>

U.S. Coast Guard, Sector LA-LB (COTP)  
TEL: (310) 521-3860  
E-mail: john.p.hennigan@uscg.mil

U.S. Coast Guard  
Sector San Diego, Attn: Briana Biagas  
2710 N. Harbor Dr.  
San Diego, CA 92101  
Attn: Ports and Waterways Division  
Tel : (619) 278-7262  
FAX: (619) 278-7279  
Email: Robert.D.Cole@uscg.mil

12. Permittee shall implement and abide by the Essential Fish Habitat (EFH) consultation done by the Corps with NMFS and approved by NMFS in an email dated June 24, 2019 with the Port's EFH assessment and all proposed measures.

13. Prior to initiating construction in waters of the U.S. on each event or project to be covered by RGP 72 annually, the Permittee shall submit to the Corps Regulatory Division a complete set of plans showing all work and structures in waters of the U.S. All plans shall be in compliance with

the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated February 10, 2016 (<http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx>). The work must comply with the attached permit plans. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or email), Corps Regulatory Division approval of the final plans. The Permittee shall ensure that the project is built in accordance with the Corps-approved plans.

Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:

- A) Date(s) work within waters of the U.S. was initiated and completed;
- B) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
- C) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
- E) Signed Certification of Compliance (attached as part of this permit package).

14. This Corps permit does not authorize you to take any threatened or endangered species, in particular the California least tern (*Sterna antillarum browni*; CLT). In order to take a legally take a listed species, you must have separate authorization under the ESA. Permittee shall not perform work during the CLT nesting season from April 1 to September 15th. If the permittee determines that it is necessary to perform in-water construction during the CLT nesting season permittee shall notify the Corps, USFWS, CDFW, and NMFS at least 15 days prior to work for review and comments; if no comments are received within 15 days of the notification to the above agencies then the permittee can proceed with construction. Permittee shall limit construction during the CLT season to four consecutive days/15 days for total in-water construction. Permittee shall submit a report to the Corps every year by January 31<sup>st</sup> when work is done in the CLT breeding season.

15. Permittee shall ensure that if in-water construction is performed during CLT season that turbidity is monitored during in-water construction and the turbidity exceeds more than 20% more turbid than ambient conditions then the permittee shall cease work until the turbidity dissipates and notify the Corps and the Corps may require a turbidity curtain be installed. Permittee shall also implement spill control measures if needed.

**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).

2. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:



- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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


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

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

 \_\_\_\_\_  
 PERMITTEE

12/1/19 \_\_\_\_\_  
 DATE

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

 \_\_\_\_\_  
 Sallie Diebolt  
 Chief, Arizona Branch  
 Army Corps of Engineers

10 DEC 2019 \_\_\_\_\_  
 DATE



## Attachment A

RGP Notification Form  
(to be completed at a future date)





