



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NO. 76
FOR ROUTINE MAINTENANCE**

Permittee: California Department of Transportation, District 5

Permit Number: SPL-2007-01103-TS

Issuing Office: Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee. 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: To conduct routine maintenance activities on currently serviceable structures/facilities/fills in waters of the U.S., including special aquatic sites located within Caltrans' right-of way or easement, provided that the structure/facility/fill is not to be put to uses differing from those uses specified or contemplated in the original permit or most recently authorized modification. Minor deviations in the configuration of the structure/facility/fill, including those due to changes in materials, construction techniques, or current construction codes or safety standards, which are necessary to repair, rehabilitate the structure/facility/fill are permitted provided the effects on the aquatic environment are minimal. Currently serviceable means useable, as is, or with some maintenance but not so degraded as to require reconstruction or new construction. Routine maintenance activities including: the removal of newly deposited sediment, debris, woody and herbaceous vegetation (including exotic/invasive species), and other obstructions which impede flows in the vicinity of existing structures/facilities (i.e., within 50 linear feet upstream or downstream of the structure/facility such as bridges, bridge piers, bridge abutment, culverts, roadway fills, detention basins, etc.); the repair or replacement of existing structures/facilities/fill to maintain the structural integrity and operational capacity of the structures/facilities/fill for adequate drainage, flood hazard

reduction, and overall public safety. Routine maintenance activities also include discharge of fill material for temporary construction access, water diversion and dewatering activities.

Project Location: This RGP would apply only within the limits of the Los Angeles District Corps of Engineers Regulatory Division boundary (i.e., this RGP would **not** apply in Monterey County which is covered by San Francisco District, or portions of San Luis Obispo County covered by Sacramento District).

Permit Conditions:

This authorization expires on **September 1, 2015**. To renew this authorization, the Permittee shall submit a request to this office for consideration at least six (6) months before the above date is reached.

1. Caltrans must undertake the activities authorized by this permit in conformance with the terms and conditions of this permit. Caltrans is not relieved of this requirement if the existing structure/facility/fill in waters of the U.S. is abandoned. Should Caltrans wish to cease to maintain the existing structure/facility/fill or should Caltrans desire to abandon it, Caltrans must notify this office, which may require restoration of the area.
2. 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' Regulatory Division Staff (Theresa Stevens at 805-585-2146) and Corps' Archeology Staff (Steve Dibble at 213-452-3849, or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume work in the area surrounding the potential cultural resources until the Corps re-authorizes project construction, per 36 C.F.R. Section 800.13.
3. Caltrans must allow representatives from this office to inspect the authorized activities at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of this permit.
4. Where states and authorized tribes, or EPA where applicable, have not previously certified compliance with Clean Water Act Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 320.3(a)). The district engineer or state or tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

Administration

5. Caltrans shall provide a copy of this permit to all field staff, contractors, subcontractors, and equipment operators. Copies of this permit shall be readily available at the work site at all times during periods of active work, and shall be presented to any Corps Regulatory Division personnel upon request.

Notification and Reporting

6. All non-exempt routine maintenance activities that would discharge dredged or fill material into waters of the U.S. or special aquatic sites, or divert or dewater waters of the U.S. or special aquatic sites shall be described in pre-construction notification¹. The notification shall be submitted to the Corps Regulatory Division at least 30 days prior to initiation of construction. The notification shall include the following for the Corps Regulatory Division to determine if the proposed activities comply with the terms and conditions of this permit:
 - a. A brief description of the existing design features of the structure/facility/fill, proposed activities in waters of the U.S., an estimate of temporary impacts (in acres), an estimate of permanent impacts (if any, in acres), an estimate of excavation/fill quantities (in cubic yards), and type of materials proposed to maintain or repair the structure/facility/fill.
 - b. A completed Preliminary Jurisdictional Determination Form including: project location (i.e., latitude/longitude coordinates of the approximate center point of the project in degrees/minutes/seconds format), U.S.G.S. 7.5 minute quadrangle name, and datum. For linear projects the upstream and downstream coordinates shall be reported; for all others, the approximate center of the project location shall be reported.
 - c. A brief narrative or drawings of the methods to divert water/dewater.
 - d. A description of post-construction site restoration/revegetation.
 - e. A statement of the proposed activities potential to affect cultural resources and a description of compliance with applicable federal regulations which protect these resources.
 - f. A statement of the proposed activities potential to affect federally listed endangered or threatened species or designated critical habitat, and a description of compliance with applicable federal regulations which protect these resources.
7. Maintenance activities that include only the cutting and removal of vegetation above the ground (e.g., mowing, rotary cutting, chain sawing, etc.), where the activity does not substantially disturb the root system and does not involve mechanized pushing

¹ Exempt maintenance activities are described at 33 CFR 323.4. Temporary water diversion, temporary construction access fills, and/or dewatering activities are not exempt maintenance (Program Guidance Letter 0-98-02 as amended).

dragging or similar activity that would redeposit soil, are not regulated activities under Section 404 of the Clean Water Act; therefore notification to the Corps Regulatory Division for these activities is not required.

8. Initiation of maintenance activities described in each notification shall not commence until the Permittee receives written Notification to Proceed (NTP) from the Corps Regulatory Division.
9. A post-construction report shall be prepared and submitted to the Corps Regulatory Division within 30 days of project completion. The report shall summarize all completed maintenance activities in waters of the U.S., or special aquatic sites, the start and end dates of construction, site restoration/revegetation activities and date installed, if required. The report shall include at least one before/after photo of the construction and revegetation area, project coordinates, and a brief discussion of any problems and corrective measures taken.

Resource Protection

10. This 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, separate authorization under the Endangered Species Act (e.g. Section 10 permit, or a Biological Opinion (BO) under Section 7, with "incidental take" provisions with which you must comply) is required.
11. This permit does not authorize you to take any migratory birds pursuant to the Migratory Bird Treaty Act. Vegetation shall not be removed from 15 February to 31 August to avoid impacts to nesting birds unless the results of a pre-project bird survey by a qualified biologist indicates no nesting birds are present in the project area. Pre-project surveys shall be conducted within two weeks of the proposed vegetation removal. Survey results shall be submitted to the Corps Regulatory Division prior to construction activities in waters of the U.S. (electronic mail, facsimile, standard mail, is acceptable). If nesting birds are present, no work shall occur until the young have fledged and would no longer be impacted by the project. Survey results shall be submitted to the Corps Regulatory Division prior to construction activities in waters of the U.S.
12. Prior to initiating construction in waters of the U.S., the Permittee shall clearly mark the work area limits with flagging or similar measures to ensure mechanized equipment and personnel do not enter preserved waters of the U.S., special aquatic sites and adjacent riparian areas for the duration of maintenance activities in or adjacent to waters of the U.S. Such impacts could result in permit suspension and revocation,

administrative, civil or criminal penalties, and/or substantial compensatory mitigation requirements.

13. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding during project activities in waters of the U.S. Fill materials must be of a type, and be placed in a manner, that will not result in erosion by high flows.
14. No debris, soil, sand, bark, slash, sawdust, rubbish, cement or washings thereof, asphalt, oil or petroleum products, or any other material that may be harmful to fish or wildlife, that results from maintenance and associated activities shall be allowed to enter or be placed where it may be washed by rainfall or runoff into waters of the U.S. When maintenance activities are completed, all excess materials, and/or debris shall be removed from the work area to an approved off-site disposal area, outside of waters of the U.S.
15. When work in flowing or standing water is unavoidable, measures to minimize downstream turbidity shall be implemented and maintained for the duration of the work in water. Equipment working in wetlands shall be placed on mats (or equivalent) to minimize soil disturbance and compaction.

Site Restoration

16. Exotic and invasive plant species removed during maintenance activities shall be disposed at an approved off-site location, outside waters of the U.S. Target species include but are not limited to: giant reed (*Arundo donax*), castor bean (*Ricinus communis*), salt cedar (*Tamarisk* sp.), tree tobacco (*Nicotiana glauca*), yellow star thistle (*Centaurea solstitialis*), artichoke thistle (*Cynara cardunculus*), pampas grass (*Cortaderia selloana*), fountain grass (*Pennisetum setaceum*), and cocklebur (*Xanthium strumarium*).
17. Maintenance activities authorized under this permit are expected to involve temporary impacts to waters of the U.S., including special aquatic sites, and adjacent riparian areas, and permanent impacts may occur. Temporary and permanent impacts to waters of the U.S. and special aquatic sites shall be mitigated in accordance with the Corps Mitigation Rule (33 CFR 332, April 2008). All permanent impacts to special aquatic sites, and impacts to other waters of the U.S. over 1/10th acre, shall be mitigated. Mitigation may include on site restoration or revegetation of the impacted area, the removal of non-native vegetation (if exotic invasive species are dominant), use of mitigation bank credits, payment of in-lieu fees, or through other restoration methods consistent with the Mitigation Rule. Temporary and permanent mitigation proposals shall be approved by the Corps Regulatory Division prior to maintenance activities in waters of the U.S. Performance criteria for on-site restoration or revegetation shall be a minimum of 70

percent native cover after five (5) years. Alternatively, native vegetation cover after five (5) years shall be based on a reference site located within one mile of the project site, as approved by the Corps.

Restrictions on the Discharge

18. All routine maintenance work shall be limited to maintenance or repair of the original scope and design specifications of the existing structure/facility/fill. Permanent erosion control measures (e.g., bank stabilization, energy dissipation, etc.) in excess of the existing structure/facility/fill footprint shall not be authorized by this RGP unless the Corps Regulatory Division determines impacts would be minimal.
19. Staging and storage areas for equipment and construction materials shall be located in uplands and where possible, a minimum of 100 feet from waters of the U.S. Storage areas located less than 100 feet from waters shall be approved by the Corps Regulatory Division, and these areas shall be shown on construction plans.
20. Temporary fills in special aquatic sites are not allowed unless specifically authorized by the Corps Regulatory Division. Following completion of the maintenance activity, temporary fills must be entirely removed to an upland location, outside waters of the U.S., and the affected area must be restored to the pre-project condition in accordance with the provision of the Corps Mitigation Rule (33 CFR 332).
21. This RGP does not authorize the modification, upgrade or expansion of an existing structure/facility/fill that would increase capacity of the roadway, result in a substantial change in scope, or result in more than minor changes to the structure's original design (i.e., modifications that constitute a more than minimal change in the existing structure/facility/fill). Examples include but are not limited to: replacing rock riprap with concreted rock riprap or concrete or other similar material; increasing the footprint of the structure/facility/fill; armoring an earthen slope with rock riprap or gabions below the plane of ordinary high water or in special aquatic sites; replacing riprap with geotextile fabric; replacing bridge pile with solid bents, etc.
22. For the purpose of restoring the original design capacity to the existing structure/facility/fill, the Permittee is authorized to remove newly deposited sediment, debris, vegetation and other obstructions from waters of the U.S., which substantially reduce or obstruct flow and would likely result in flooding or erosion of adjacent property. The removal of sediment is limited to 50 linear feet upstream or downstream of the existing structure/facility/fill, and may extend up to 200 linear feet upstream or downstream of the existing structure/facility/fill, if specifically authorized by the Corps Regulatory Division.

23. The Permittee is authorized to make minor repairs and replacements to existing structures/facilities/fills provided that upstream and downstream waters of the U.S. are not degraded by such activities. Maintenance activities may include, but are not limited to, the repair of bridge piers, bridge abutments, and repair or replacement of inlet and outlet structures. Where temporary water diversion, grading, filling or excavation occurs as part of the repair or replacement, the Permittee shall ensure standard Best Management Practices are in place to minimize turbidity within the affected waterbody. Standard BMPs are provided in the *Construction Site Best Management Practices Manual* (March 2003; http://www.dot.ca.gov/hq/construc/stormwater/CSBMPM_303_Final.pdf) and at http://onramp.dot.ca.gov/hq/maint/roadside/storm_water/WATER.PDF.
24. Work in streams or rivers with ephemeral or intermittent flows shall be performed during periods when the channel is dry or flows are absent or minimal. Work within waterways with perennial flow shall be performed during the driest period of the year and during low flow conditions, generally May through October. Standard Best Management Practices shall be implemented to minimize turbidity within the affected waterbody, and appropriate measures must be taken to minimize flooding and erosion on adjacent properties.
25. New stream bank stabilization, stream channelization, stream relocation or permanent diversions, and impoundments are not authorized under this RGP.
26. Any work undertaken by this project shall not cause more than minimal degradation of water quality, more than minimal changes to the flow characteristics of the stream, or increase flooding on adjacent properties or downstream of the proposed maintenance activity.
27. The Corps Regulatory Division project manager shall be notified of any accidental spill of hazardous materials within 12 hours of detection. Notification may be in the form of an electronic mail message, telephone, or facsimile. Notification shall include the reason for the spill, the exact location of the spill, the type and approximate quantity of the materials spilled, and the measures taken to control and clean up the spilled materials.

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 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.

Gary Ruggione
PERMITTEE

9/13/10
DATE

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

Ann O. Allen

August 23, 2010
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

TRANSFEREE

DATE