

DEPARTMENT OF THE ARMY PERMIT

Permittee: California Department of Wildlife; Attention: Timothy Chorey

Project Name: Regional General Permit No. 78 Reauthorization for the California Department of the Fish and Wildlife Fisheries Restoration Grant Program

Permit Number: SPL-2019-00120-CLH

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.

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

Project Description: To reauthorize the implementation of salmonid habitat enhancement and restoration projects conducted under the California Department of Fish and Wildlife Fisheries Restoration Grant Program (FRGP) in various coastal streams within Los Angeles District from San Luis Obispo County to San Diego County, California, implemented through the California Department of Fish and Wildlife's (CDFW) Fisheries Restoration Grant Program (FRGP). Projects would be identified on an annual basis and would apply one or more of the habitat restoration treatments described in the *California Salmonid Stream Habitat Restoration Manual* (CDFW Manual). Projects may include

- In-stream habitat improvements, including cover structures (divide logs, digger logs, spider logs, and log/root wad/boulder combinations), boulder structures (boulder weirs, vortex boulder weirs, boulder clusters, and single- and opposing-boulder wing-deflectors), log structures (log weirs, upsurge weirs, single- and opposing-log wing-deflectors, and Hewitt ramps) and placement of imported spawning gravel may be utilized in certain locations. Techniques and practices are identified in part VII of the Manual. Techniques for placement of spawning gravel are identified on page VII-46 of the Manual.
- Unanchored large woody debris may be used to enhance pool formation and improve stream reaches, particularly on first- through third-order streams. Logs selected for placement would generally have a minimum diameter of 12 inches and a minimum length 1.5 times the mean stream channel type bankfull width at the deployment site. A root wad should have a minimum root bole diameter of 5 feet and a minimum length of 15 feet, and should be at least half the channel type bankfull width. More information can be found on page VII-23 of the Manual.
- Fish screens may be used to prevent entrainment of juvenile salmonids in water diverted for agriculture, power generation, or domestic use, and are necessary on both

gravity flow and pump diversion systems. Guidelines for functional designs of downstream migrant fish passage facilities at water withdrawal projects are found in Appendix S of the Manual. The appendix covers structure placement, approach velocity, sweeping velocity, screen openings, and screen construction.

- Fish passage at stream crossings includes activities that provide fish-friendly crossings where the crossing width is at least as wide as the active channel. Culvert passes are designed to withstand a 100-year storm flow and crossing bottoms are buried below the streambed. Examples include replacement of barrier stream crossings with bridges, bottomless arch culverts, embedded culverts, or fords. Guidelines for fish passage practices are covered in Part IX of the Manual. Baffled culverts (Washington baffles and steel ramp baffles), fishways (step-and-pool, Denil fishway, Alaskan steep pass and back-flooding weirs), and fish ladders are described in Part XII of the Manual.

Fish passage improvements may include removal of obstructions such as log jams, beaver dams, waterfalls and chutes, and landslides. Suitable large woody debris removed from fish passage barriers that are not used by the project for habitat enhancement would be left within the riparian zone so as to provide a source for future recruitment of wood into the stream system. Guidelines for fish passage improvements are covered in Part VII of the Manual.

- Upslope restoration activities reduce sediment delivery to anadromous streams, and may include road decommissioning, road upgrading, and stormproofing roads by replacing high risk culverts with bridges, installing culverts to withstand the 100-year flood flow, installing critical dips, installing armored crossings, and removing unstable sidecast and fill materials from steep slopes. Guidelines for upslope restoration practices are covered in Part X of the Manual.
- Watershed and stream bank stability activities serve to reduce sediment input from erosive areas within the watershed. Examples include slide stabilization, stream bank stabilization, boulder stream bank stabilization structures, log stream bank stabilization structures, tree revetment, native material revetment, mulching, revegetation, willow wall revetment, brush mattress installation, checkdams, brush checkdams, waterbars, and exclusionary fencing. Guidelines for watershed and stream bank stability are covered in Part VII of the Manual.

Project Location: The location of these restoration activities would take place in coastal watersheds in the following counties within the Los Angeles District: Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura. Please see map included as Figure 1.

GENERAL CONDITIONS OF THIS RGP:

1. This regional general permit expires **September 16, 2024**. Request for an extension of the permit should be submitted at least 60 days 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 OF THIS RGP:

1. The permittee shall implement all habitat improvement projects in accordance with the latest version of the California Salmonid Stream Habitat Restoration Manual.
2. The permittee shall generally restrict habitat improvement projects to the summer dry season, generally between July 1 and November 1, unless seasonal conditions warrant an extension beyond November 1 (generally when the region experiences a relatively late initiation of rainfall that results in persistent flow within the subject streamcourse).
3. The permittee shall ensure a project's staging area and equipment/material storage area are located outside of the stream's high water channel and associated riparian area. The number of access routes and total area of the work site activity shall be limited to the minimum necessary to complete the restoration action.
4. The permittee shall; ensure all mechanized equipment work within the stream channel shall be performed in isolation from the flowing stream. If any work must be accomplished with flowing water present, the contractor shall utilize minor diversions (i.e., sandbag berms, seed-free rice straw bales, etc.) upstream of the work area and convey flows around the active project area. Intakes at the upstream end of the diversion shall be fitted with fish screens meeting CDFW

and NMFS criteria to prevent entrainment or impingement of small fish. The receiving area downstream of the active project area shall utilize a sediment or desilting basin before ultimate release back to the active stream channel. Materials used for diversion of flows shall be removed in their entirety when they are no longer necessary to complete the project.

5. The Permittee shall ensure that revegetation is accomplished using only native species that would be expected to occur within the subject subwatershed.

6. The permittee shall ensure that project contractors and workers are made familiar with the project's purpose and intent, including the need to avoid and minimize adverse impacts to aquatic resources.

7. The permittee shall ensure that ground-disturbance activities that may affect cultural resources will be avoided through implementation of mitigation measures, including completing cultural resource surveys, fencing, on-site monitoring, and redesigning proposed work to avoid disturbance of cultural resources. The permittee shall conduct preliminary investigations for cultural resources at each year's proposed project sites, and provide the findings of these investigations to the Corps with its annual list of proposed projects.

8. 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 immediately suspend all work in any area(s) where potential cultural resources are discovered and shall not resume construction in the area surrounding the potential cultural resources until the Corps re-authorizes project construction, per 36 C.F.R. Section 800.13. The permittee shall notify the Corps archeological staff within 24 hours (Danielle Storey 213-452-3855 or Meg McDonald at 213-452-3849).

9. The permittee shall ensure that specific measures that have been developed to avoid impacts to endangered, rare, or threatened species that could occur at specific work sites, as described in the latest CDFW's Mitigated Negative Declaration (CEQA) for the project's fiscal year, are fully implemented as necessary.

10. This Corps permit does not authorize you to take any threatened or endangered species, in particular the tidewater goby (*Eucyclogobius newberryi*), unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*), arroyo toad (*Anaxyrus californicus*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), California red-legged frog (*Rana draytonii*), or southern steelhead (*Oncorhynchus mykiss*), or adversely modify designated critical habitat for any of these species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (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). The USFWS and NMFS biological opinions (1-8-08-F-17 and 151422SWR2007PR00446, respectively) contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with incidental take that is also specified in the BOs. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the

attached BOs, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS or NMFS are the appropriate authorities to determine compliance with the terms and conditions of its BO and with the ESA.

11. The permittee shall notify the Corps on an annual basis of the year's projects and shall not begin the activity until after receiving a written Notice to Proceed (NTP), or until 45 days have passed since receipt by the Corps of complete project information. The NTP may include site-specific special conditions to avoid and minimize adverse impacts to waters of the United States. The notification must include the following information:

- i. The name, address and telephone number of the project point of contact;
- ii. The location of the proposed project in sufficient detail to locate the project in the field, including the identification of the waterbody (this could include a copy of a U.S.G.S. topographic map, Thomas Guide map, or hand-drawn location map with suitable landmarks);
- iii. Color photographs of the site;
- iv. A description of the current site conditions, including factors in the watershed that may be contributing to the degradation problem and existing habitat;
- v. A description of the proposed methods and materials of construction, and a brief discussion regarding how the proposed work would address the situation;
- vi. Detailed drawings (plan view and cross-section, as appropriate) of the proposed structures or work, including, as appropriate;
- vii. If a water diversion is proposed, the notification must include a dewatering plan; and
- viii. If a temporary access path is proposed, the submitted project plans must illustrate the location and dimensions of the path.

If the Corps has not issued its written NTP within 60 days of receipt of a complete project notification package and the Corps has not indicated or identified any issues by any written or verbal means, the permittee may presume authorization under RGP 78 is granted.

12. The permittee shall monitor and maintain the structures or work conducted at a given site for at least three years after construction to ensure the integrity of the structure and successful growth of the planted vegetation. Maintenance of any structure authorized by this RGP must be conducted in accordance with the terms and conditions of the authorization. Maintenance that requires deviations from the original design may require a separate or additional authorization.

13. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, tires, etc.), and material discharged must be free from pollutants in toxic amounts. (See Section 307 of the Clean Water Act)

14. For projects affecting uses or resources of the coastal zone, the permittee shall obtain concurrence from the California Coastal Commission (CCC) that the project is consistent with the State's certified Coastal Management Program. Because a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the federal Coastal Zone

Management Act (CZMA), the permittee shall also contact the Federal Consistency Coordinator for the CCC at (415) 904-5288 to determine the appropriate procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, the permittee should also contact the Federal Consistency Coordinator to determine appropriate procedures.

15. 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 that river has determined in writing that the proposed activity would not adversely effect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area. Currently the only designated Wild and Scenic River systems in the coastal areas of Los Angeles District are Piru Creek from 0.5 miles downstream of Pyramid Dam at the first bridge crossing to the boundary between Los Angeles and Ventura Counties (7.3 miles; USDA Forest Service); the main stem Sespe Creek from its confluence with Rock Creek and Howard Creek downstream to where it leaves Section 26, T5N, R20W (31.5 miles; USDA Forest Service); and Sisquoc River, from its origin downstream to the Los Padres National Forest boundary (33.0 miles; USDA Forest Service).

16. No activity or its operation may impair reserved Tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. For projects proposed on Tribal lands, the permittee shall submit an approval letter from the Tribe with the notification package and shall obtain Section 401 Water Quality Certification, or waiver thereof, from the EPA. authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

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.

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

David J. Castanon
Chief, Regulatory Division

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 _____