



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

**DEPARTMENT OF THE ARMY PERMIT
REGIONAL GENERAL PERMIT NO. 85**

Permittee: Coronado Cays Homeowners Association (HOA)
Project Name: Coronado Cays HOA Dock Replacement Projects
Permit Number: SPL-2015-00366
Issuing Office: U.S. Army Corps of Engineers, Los Angeles District

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

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

Project Location: This RGP is applicable to navigable waters of South San Diego Bay, within the Coronado Cays, City of Coronado, San Diego County, California as shown on the enclosed figures 1 and 2.

Project Description: This RGP authorizes work and structures within navigable waters of the United States for dock repair, maintenance and replacement projects. Activities covered under this RGP would include in-kind dock repair and/ or replacement of individual docks, pilings, gangways, fenders, floats, boat lifts, and other infrastructure components within the Coronado Cays. This RGP does not authorize the construction of new docks or expansion of the footprint of existing docks. No loss of waters of the U.S. is authorized under this RGP. Minor deviations in the structure's configuration, including those due to avoidance of submerged aquatic vegetation, specifically eelgrass (*Zostera*

marina), changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorize.

Definitions:

1. Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.
2. Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.
3. Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that maybe used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Permit Conditions:

- 1) Time Period Covered: This RGP shall expire on **January 17, 2028**. Notification to Proceed (NTP) made under this RGP shall be valid for two years from the date of issuance.
- 2) Notification: This RGP requires pre-construction notification (PCN) for all activities described above. The PCN shall be submitted to the Corps Regulatory Division and work shall not commence until the applicant has received a written NTP (Verification) from the Corps Regulatory Division.
- 3) Form of Notification: The standard Application for Department of the Army Permit (Form ENG 4345), available from the District's website at https://www.spl.usace.army.mil/Portals/17/docs/regulatory/Permit_Process/engf

orm_4345_2017sept.pdf?ver=2017-10-03-165521-953, may be used as the notification and must include all of the information required in General Condition 4 Items (A)-(L) below.

4) Contents of the RGP Notification (Pre-Construction Notification)

- A. Applicants name and contact information (address, e-mail address, and telephone number).
- B. Authorized agents name, title, and contact information.
- C. Signature of the applicant and agent.
- D. Project location including:
 - i. Project address
 - ii. Project site latitude and longitude (decimal degrees/degrees minutes seconds).
- E. A complete description of the proposed activities including the following:
 - i. Dimensions of the existing and proposed structure(s) to be constructed within navigable waters of the U.S. (in square feet and/or acres);
 - ii. Method, materials, and equipment proposed to be used for the construction/ installation.
 - iii. If the activity involves piles, provide the type of pile(s), number of pile(s), dimensions of pile(s), and the method of removal and installation.
 - iv. The proposed work schedule including time of year and duration of the regulated activity.
- F. Vicinity map depicting the project vicinity.
- G. Detailed plan view and cross section figures of the existing and proposed structure(s) prepared in accordance with the SPD Map and Drawing Standards <https://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/MapStand020816.pdf>. These figures shall also include:
 - i. The MLLW, MHW, and HTL elevations in tidal waters.
 - ii. Water depths around the project vicinity.
 - iii. The location, dimension, and number of existing and proposed structures including all docks, piles, gangways, fenders, floats, boat lifts, and other infrastructure components.
 - iv. Any existing structures and moorings in waters adjacent to the proposed activity, and their dimensions.
 - v. The dimensions of the proposed structure or work and extent of encroachment waterward of MHW and from a fixed point on the shoreline or upland.
 - vi. Shoreline of adjacent properties.

- vii. A description of the type of vessels that would use the facility.
- H. Provide information on existing conditions within the project vicinity. This should include the following information:
- i. Any site specific factors including identification of the substrate type (cobble, gravel, sand/shell, silt, etc),
 - ii. Location and proximity of other nearby structure(s) (bridges, roadways, dock infrastructure, etc.)
 - iii. Information regarding any previous maintenance of the proposed project.
- I. A statement ensuring compliance with the federal Endangered Species Act (i.e., no effect on listed species and/or critical habitat), or documentation of adherence to the existing Section 7 consultations identified in Condition 7 below.
- J. The applicant shall provide information regarding potential project-related effects on resources protected under the Magnuson-Stevens Fishery Conservation and Management Act. This shall include the following information:
- i. A completed copy of the NOAA National Marine Fisheries Service Southwest Regional Office EFH Assessment Worksheet For the Corps of Engineers South Pacific Division in order to assess whether the proposed project would result in an adverse effect on Essential Fish Habitats (EFH) (Attachment B).
 - ii. Copies of pre-construction Eelgrass and Caulerpa surveys. Pre-constructions surveys shall be conducted in accordance with the California Eelgrass Mitigation Policy (CEMP) (https://media.fisheries.noaa.gov/dam-migration/cemp_oct_2014_final.pdf) and the Caulerpa Control Protocol (<https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf>).
- K. A statement regarding compliance with the National Historic Preservation Act (i.e. little likelihood of effects to potential historic properties or documentation of addressed within concluded consultation with applicable agencies).
- L. Provide a statement on how project-related impacts to waters of the United States are to be avoided and minimized. If the activity would result in an impact to eelgrass, provide a description of compensatory mitigation, if required under the California Eelgrass Mitigation Policy (CEMP)
- 5) Water Quality Certifications: The Permittee shall comply with the terms and conditions of the Clean Water Act Section 401 Water Quality Certification (WQC) No. R9-2019-0021 dated March 14, 2019.
- 6) Coastal Zone Management: Federal agencies shall review their proposed Federal agency activities which affect any coastal use or resource in order to develop consistency determinations which indicate whether such activities will be undertaken

in a manner consistent to the maximum extent practicable with the enforceable policies of approved management programs (15 CFR 930.36).

7) **Endangered Species: Endangered Species Act:** This Corps permit does not authorize you to take any threatened or endangered species, in particular the California least tern (*Sternula antillarum browni*) and Green Sea Turtle (*Chelonia Mydas*) or adversely modify its designated critical habitat. 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). Pursuant to the FWS correspondence dated September 19, 2017 (FWS No. FWS-SDG-09B0011-1711192) and NMFS correspondence dated August 21, 2023 (NMFS No. WCRO-2023-01247), including the required avoidance and minimization measures identified, the Corps Regulatory Division has determined and NMFS and FWS, has concurred that your activity is not likely to adversely affect the above species. Your authorization under this Corps permit is conditional upon your compliance with all the required avoidance and minimization measures, which are incorporated by reference in this permit. Failure to comply with the required avoidance and minimization measures including the following listed below would constitute non-compliance with your Corps permit.

A. The permittee shall comply the following avoidance and minimization measures for California least tern:

- i. Pile removal and installation and in-water work be scheduled, when possible, outside the least tern breeding season. If pile removal and installation must occur during least tern nesting season (April 1 to September 15), the permittee shall notify the Corps, U.S. Fish and Wildlife Service (USFWS), at least 60 days prior to the start of construction for review of project specific information. The permittee shall not begin work until receiving approval from the Corps.
- ii. The method for pile installation shall utilize the best available technology that reduces disturbance to sediment and vegetation, turbidity and noise. Such methods include vibratory hammer installation, pile jetting or the use of helical piles. Impact Pile driving is not authorized. A turbidity curtain shall be installed around each piling and remain in place until the construction has been completed and sediments have settled. In addition, low-pressure jetting techniques that cause less disruption are preferred. Bubble curtains, cofferdams, isolation casings, or other technologies that attenuate noise may be required if the construction method utilized is expected to cause excessive noise.
- iii. The Permittee and contractor shall employ measures during construction to prevent spills of fuels, lubricants or other hazardous substances. In the event of a spill, the Permittee and contractor shall make every effort to stop the leak and contain the spill. The Permittee and contractor are responsible for reporting spills, complying with all directives to contain and clean up the spilled material(s) and for completing any required restoration.

- iv. Prior to the onset of the authorized activity, the Permittees shall implement a contractor education program to ensure that all onsite personnel are informed of the biologically sensitive resources associated with the project site, including the least tern, and compliance with all the General and Special Conditions. The Permittees shall provide all onsite personnel a copy of the RGP, and require all onsite personnel to read, understand, and agree to the authorization in its entirety, prior to initiation of the authorized activity. In addition, a copy of the RGP will remain with the biological monitor and on the project site, posted for easy access by the work crew.
 - v. If pile removal or installation must occur during the least tern breeding season (April 1 to September 15), a qualified least tern biologist¹ shall be retained by the permittee and will be present at least 30 minutes before and during all pile removal and installation activities. The least tern biologist shall begin surveys of the in-water work area prior to the commencement of pile removal or installation at the beginning of each work day. If the least tern biologist observes least terns within 100 feet of the in-water work area, the least tern biologist shall notify the project manager, and pile removal or installation shall commence only after least terns have departed from the in-water work area, and no least terns are observed within 100 feet of the in-water work area for at least 10 minutes. If pile removal or installation results in a turbidity plume that spreads outside the turbidity curtain, the permittee/contractor will stop activity and adjust the turbidity curtain to prevent additional spread of turbidity outside the turbidity curtain. The biologist will inform the Corps and the HOA if turbidity occurs beyond the curtain. The least tern biologist shall record observations of least terns within 300 feet around the in-water work area, and turbidity associated with pile installation or removal.
 - vi. The least tern biologist shall provide reports to the Corps and USFWS within 24 hours of each monitoring day during the least tern breeding season (April 1 to September 15). Daily reports shall include information regarding the presence of least terns in San Diego Bay, observations of least terns in the vicinity of the work area, photographs showing the silt curtain surrounding the work, inform regarding incidences of turbidity outside of the silt curtain. The least tern biologist shall also submit a summary report of the project monitoring to the Corps and USFWS after construction is concluded.
- B. The permittee shall comply the following avoidance and minimization measures for green sea turtles:
- i. Biological monitors shall be on site during construction. In the event of a sighting of a green sea turtle within 500 feet of the construction area, work would immediately cease and would not commence until the individual moves greater than 500 feet from the construction area or if the animal was not sighted for at least 15 minutes within 500 feet of construction.
 - ii. A “soft start” pile installation method shall be implemented to allow sensitive

species the opportunity to leave the project vicinity before sound pressure levels increase. The soft start procedure would consist of three low intensity pile strikes separated by 30 seconds prior to the start of pile driving.

- iii. 'Silt curtains, or other method to control turbidity shall be installed prior to pile removal or replacement.
 - iv. A contractor education program would be implemented, during which a biologist would show contractors the sensitive species to watch out for and instruct them on procedures in place that would be implemented should sensitive species be observed (via the biological monitor)
 - v. Construction vessels shall not exceed speeds greater than 5 knots.
8. Historic Properties: No activity is authorized under this RGP which may affect historic properties listed, proposed for listing, or potentially eligible for listing in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. If an activity is proposed to be authorized under this RGP that may have the potential to effect historic properties, separate consultation must be undertaken and completed prior to the permittee commencing work and/or discharges of fill material covered by this RGP.
 9. Disposal of Excavated Debris and Sediment: This RGP does not authorize disposal of excavated debris and sediment in any waters of the United States. In the case where storm flows, debris flows, or other discrete events expand the geographical limits of waters of the United States such that it encompasses an existing sediment placement site in the adjacent uplands, the permittee shall not discharge excavated sediment at the sediment placement site without first restoring the adjacent uplands to pre-damage contours and boundaries pursuant to the terms and conditions of Nationwide Permit 45. In certain circumstances, the permittee may be able to reclaim lost uplands without a Section 404 permit.
 10. 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.
 11. 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.
 12. Regional and Case-by-Case Conditions: The activity must comply with Regional Conditions for the Los Angeles District and with any case-specific conditions added to the verification by this office.

13. Erosion and Siltation Controls: When feasible, erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw (or hay) bales or other means designed to minimize turbidity in the watercourse shall be used and maintained in effective operating condition during construction unless conditions preclude their use, or if conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work.
14. Aquatic Life Movements: No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.
15. Spawning Areas: Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
16. 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.
17. Suitable Material: No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
18. 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.
19. Proper Maintenance: Any structure 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.
20. Vernal Pools: No activity may impact vernal pools under this permit.
21. Reporting: The Permittee shall submit an annual report by March 15 each year that activities are conducted under this permit. The annual report shall list each project that utilized this RGP and shall include for each project: start and end dates;

permanent and temporary impact acreage; and mitigation acreage, if applicable. The report shall also include projects which were inspected for compliance purposes. The compliance section shall include a document that verifies the project is or is not in compliance with the conditions of this permit.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

() 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 Applicants 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.



Kyle Dahl
 Chief
 San Diego & Imperial Counties Section
 Regulatory Division

January 18, 2024

 DATE

Attachment A

Figures

Attachment B

EFH Assessment Worksheet