



LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NO. 53  
FOR  
COUNTY OF SAN DIEGO ROUTINE FLOOD CONTROL MAINTENANCE ACTIVITIES

**Permittee:** County of San Diego, Department of Public Works

**Project Name:** Regional General Permit 53

**Permit Number:** SPL-2020-00085

**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.

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:** In various waters of the United States (U.S.) throughout San Diego County (County), California (Figure 1). This Regional General Permit (RGP) applies to Clean Water Act (33 U.S. Code § 1251) Section 404 waters (i.e., wetland waters and non-wetland waters) of the United States identified on the Master Inventory (Table 1). This RGP does not apply to Rivers and Harbors Act (33 U.S.C. § 403) Section 10 waters (i.e., waters subject to the ebb and flow of the tide and/or which are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce) of the United States.

**Project Description:** This RGP authorizes the discharge of fill material into waters of the United States while conducting regulated sediment, vegetation, and debris removal activities within 1,057 facilities (Covered Facilities), as identified in the RGP 53 Master Inventory Table (Table 1). The Covered Facilities are within the immediate vicinity of public infrastructure such as bridges, culverts, and selected channels. The maintenance of the Covered Facilities would be undertaken

to prevent flooding of existing adjacent roadways residential and commercial properties, and other public infrastructure.

## **Authorized Activities**

1. This RGP 53 authorizes discharges of fill materials into waters of the U.S. in association maintenance activities within Covered Facility including culverts, bridges, and channels, as identified in Table 1.
2. This RGP 53 limits discharges of fill material into waters of the U.S. in association with maintenance activities to the minimum necessary to alleviate flooding potential within a Covered Facility to maintain and/or restore flow to selected culverts, bridges, and channels.

## **Avoidance and Minimization Measures:**

### **Definitions:**

1. **Loss:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage 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 for determining whether a project may qualify for authorization under this RGP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that are filled or excavated as a result of the regulated activity. 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. (Federal Register, Vol. 72, No. 47, p. 11196). Compensatory mitigation is required for loss greater than 0.10 acre; mitigation is at the discretion of the Base and the Corps for projects with losses of less than 0.10 acre.
2. **Temporary Impact:** Temporary impacts are discharges of fill material that would be returned to their pre-project conditions subsequent to and within 3 months of the completion of project construction.

## Permit General Conditions:

1. **Time Period Covered:** This RGP shall expire on **January 18, 2026**. Verifications made under this RGP shall be valid for two years from the date of issuance (See General Condition 5 below).
2. **Notification**
  - a. Notice to Proceed (NTP) Verification: 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 between the Corps and the SHPO). The NTP would incorporate by reference all terms and conditions of the attached documents as project- specific special conditions. An NTP verification will be issued if the DE determines that the proposed activity is consistent with this RGP. The request for NTP should include:
    - i. A brief description of the proposed work including discharges of dredged or fill material into waters of the US.
    - ii. A statement about compliance with the federal Endangered Species Act (i.e. no effect to listed species and/or critical habitat or documentation of effects addressed within concluded consultation with applicable agencies).
    - iii. 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).
    - iv. A statement about losses of waters of the United States and potential needs for compensatory mitigation (i.e. no losses of waters of the United States or mitigation will be achieved utilizing a compensatory mitigation plan approved by the Corps)
    - v. In the event the proposed work does not meet these criteria and would result in additional consultation with applicable agencies beyond those previously concluded or would result in losses of waters of the US not previously considered under an approved compensatory mitigation plan a PCN will be required to be submitted for the Corps to review the proposed work.
  - b. The DE shall make a decision within 30 calendar days of receipt of the RGP Notification Form.
    - i. The decision will be a written NTP Verification.

- ii. No regulated activities or discharge of fill materials within waters of the U.S. are authorized until the permittee receives written NTP verification form from the Corps.
- 3. **Water Quality Certifications:** The Permittee shall obtain a project-specific 401 WQC or waiver from the California Regional Water Quality Control Board (CRWQCB).
- 4. **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).
- 5. **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.
  - b. If not covered under an existing Biological Opinion, take authorization from the appropriate federal agency must be obtained prior to commencing work and/or discharges covered under this RGP.
- 6. **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.
- 7. **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.

8. **Disposal of Excavated Debris and Sediment:** Excavated sediment 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. 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.
9. **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.
10. **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.
11. **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 verification by this office.
12. **Erosion and Siltation Controls:** Every effort must be made to ensure any material dredged or excavated from waters of the United States is not likely to be washed back into any waters of the United States. 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.
13. **Equipment:** When feasible, and if personnel would not be put into any additional potential hazard, heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance, such as use of wide-treaded equipment or floatation devices.
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. Culverts placed in streams must be installed to maintain low flow conditions.

- 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. Vegetation shall not be removed from 1 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 five days of the proposed vegetation removal. If nesting birds are present, no work shall occur until the young have fledged and would no longer be impacted by the project.
- 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 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.
- 20. Vernal Pools:** This RGP does not authorize discharges of fill material into vernal pools or activities that may impact vernal pools.
- 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:

( ) 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 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.

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Kyle J. Dahl  
Section Chief  
San Diego and Imperial Counties

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DATE



## Attachment A

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Attachment B  
Regional Conditions

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