



SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

PROPOSED RE-ISSUANCE Regional General Permit (RGP) No.70 Bioengineered Bank Stabilization Activities

Public Notice/Application No.: SPL-2007-00169-CLH

Project: Bioengineered Bank Stabilization Activities

Comment Period: September 25, 2013 through October 25, 2013

Project Manager: Crystal L.M. Huerta (805) 585-2143 crystal.huerta@usace.army.mil

Location

In any jurisdictional waters of the United States located within Arizona and the California portion of the Los Angeles District of the U.S. Army Corps of Engineers, including the coastal drainages of San Luis Obispo County, all of Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and Imperial counties, the eastern slopes of Inyo County, the eastern slopes of Mono County to the Conway Summit above Mono Lake, and the southern slopes of the Tehachapi Mountains in Kern County. In the event of future modifications to District boundaries, this permit would also apply in any areas so revised.

Activity: On June 20, 2008, the District Engineer, Los Angeles District Corps of Engineers (Corps) issued Regional General Permit (RGP) No. 70, which authorized discharges of dredged or fill material into waters of the United States, including wetlands, and work or structures in navigable waters of the United States for the construction and maintenance of bioengineered bank stabilization. Unlike traditional or conventional bank stabilization, bioengineered bank stabilization does not rely on a hard revetment or armoring to prevent erosion at a particular site. Instead, bioengineered bank stabilization structures utilize vegetation in combination with bank reshaping, biodegradable geotextile materials, and in some cases a minimal amount of rock or wood to strengthen the soil and dissipate erosive energy. The Corps is proposing to reissue RGP 70 for a period of five years. This general permit has been previously issued under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) and Section 10 of the River and Harbors Act of 1899 (33 U.S. C.) and applies to anyone proposing bioengineered bank stabilization that meet the terms and conditions of RGP 70

Interested parties are hereby notified that the Los Angeles District is proposing to reissue a Department of the Army permit for the activity described herein. Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C. 403) and Section 10 of the River and Harbors Act of 1899 (33 U.S. C.). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division-Ventura Field Office
ATTN: CESPL-RG-2007-00169-CLH
2151 Alessandro Dr., Suite 110
Ventura, California 93001

Alternatively, comments can be sent electronically to: crystal.huerta@usace.army.mil .

The mission of the Corps' Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps Regulatory Division evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water

supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed re-issuance of this RGP.

Water Quality- On June 24, 2008 the California State Water Resources Control Board and Arizona Department of Environmental Quality determined that a comprehensive section 401 water quality certification was not warranted; therefore each RGP action required a separate section 401 certification. The Corps will continue to require a section 401 water quality certification for each action considered under this RGP. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain a section 401 water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- Pursuant to regulations implementing the Coastal Zone Management Act (CZMA), the applicant shall receive concurrence from the California Coastal Commission (CCC) that the activity complies with and would be conducted in a manner that is consistent with the California Coastal Act. If the CCC fails to concur or object to a certification statement made by the applicant within six months of the CCC's receipt of the certification statement, CCC concurrence with the certification statement shall be conclusively presumed. If the CCC objects to the certification or issues a decision indicating the proposed activity requires further review, the Corps would not make a permit decision until the CCC concurs with the certification statement or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the CZMA or is necessary in the interest of national security. The District Engineer hereby requests the California Coastal Commission's concurrence or nonoccurrence with the proposal to reissue this RGP.

Essential Fish Habitat- Prospective permittees must investigate the potential impact of their proposed project on essential fish habitat and provide this information to the Corps prior to use of this RGP. If the Corps determines that a proposed project may affect essential fish habitat, general concurrence consultation with the National Marine Fisheries Service would be initiated. The District Engineer hereby requests the NMFS's concurrence or nonoccurrence with the proposal to reissue this RGP.

Cultural Resources- Activities authorized under this RGP may affect properties listed or eligible for listing on the National Register of Historic Places on a case-by-case basis, and those

projects would be required to engage in a consultation with the State Historic Preservation Office. Prospective permittees must investigate the potential impact of their proposed project on cultural resources and provide this information to the Corps to determine compliance with 33 CFR 325, Appendix C, prior to the use of this RGP.

Endangered Species- The proposed RGP may affect federally listed threatened and endangered species, species proposed for listing, designated critical habitat, or proposed critical habitat depending upon the proposed project and site conditions. On a case-by-case basis, the Corps would make a determination of effects for the proposed project and may engage in a consultation, or conference, with the U.S. Fish and Wildlife Service or National Marine Fisheries Service in accordance with Section 7 of the Endangered Species Act, as necessary.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposal. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required- Bioengineered bank stabilization is defined as integrating living woody and herbaceous materials with organic and inorganic materials to increase the strength and structure of the soil (Bentrup and Hoag 1998). Bank stabilization structures that utilize bioengineering techniques avoid and minimize many of the direct and indirect impacts to aquatic resources commonly associated with traditional or conventional engineered structures. Bioengineered bank stabilization structures are suitable for many low order streams where the channel is not rapidly aggrading or degrading, and there is sufficient space to reshape the eroding bank to an appropriate angle. Bioengineered bank stabilization activities are not suitable in some types of waterways and not appropriate under certain circumstances. The U.S. Army Corps of Engineers does not advocate any particular stabilization method and prospective permittees should consult a professional engineer when considering using this RGP. Furthermore, while a bioengineered bank stabilization structure can effectively reduce erosion at a particular site, it cannot overcome poor land management practices in the watershed that contribute to channel instability. Because there are numerous bioengineering techniques available that may require more time to become established than traditional bank stabilization, it is important that each structure is carefully designed with a comprehensive understanding of the site and the watershed conditions.

This RGP authorizes the discharge of dredged or fill material into waters of the United States, including wetlands, and work or structures in navigable waters of the United States for construction and maintenance of bioengineered bank stabilization. Bioengineered bank stabilization structures are designed with an understanding of the geomorphology and fluvial characteristics of the site. All bioengineered structures incorporate living plants to increase the strength of the soil as well as dissipate erosive stream energy. Therefore, sufficient soil moisture is critical to a successful structure. Bioengineered bank stabilization techniques may utilize a minimal amount of hard materials such as rock, but are not intended to replace traditional hard engineering techniques when warranted by site conditions (traditional engineering techniques may be authorized under other permitting procedures, such as Nationwide Permit No. 13). For a bank stabilization structure to be considered as bioengineered under this RGP, it must include certain techniques and may include others. The following bioengineering techniques are **required** in order to qualify for this RGP:

1. The permittee shall grade the streambank within the work area to produce a more stable

slope. At a minimum, the bank shall be contoured to a 2:1 (H:V) slope from approximately the current location of the toe to the new top of bank. This RGP does not authorize reclamation of the historic bank location (i.e., the permittee shall not move the bank back into the waterway). The slope may be steeper (i.e., greater than a 2:1 (H:V) slope) in a narrow transitional zone between the project site and the existing bank, or for short distances between constructed terraces.

2. The permittee shall plant the effected streambank with native vegetation. Planting wetland and riparian vegetation along the toe of the bank may include excavation and backfilling below the plane of the ordinary high water mark (e.g., when installing brush layering to reach the saturated soil layer). The bank shall be planted at a density and configuration sufficient to dissipate the energy associated with high flows and to develop a dense root structure. Vegetation planted along the top of bank shall be planted at a width and density to prevent erosion from overland flows. The planting palette shall be comprised of local native riparian species and take into consideration the relative soil moisture at a particular elevation on the bank. The use of non - native and/or invasive live plant species is prohibited under this RGP.

The following bioengineering techniques are not required, but are authorized under this RGP:

3. The permittee may install a biodegradable geotextile mat (e.g., a coconut - fiber fabric known as coir), a biodegradable geotextile roll (e.g., a coir roll, fiberschine), clean soil, root wads, tree logs, willow wattles, native riparian poles, a brush trench, a vegetative geogrid (i.e., a biodegradable fabric encapsulated soil system with willow cuttings placed between each soil layer), or native brush mattress. Geotextile materials that may pollute waters of the United States (e.g., jute materials that use petrochemical preservatives) are prohibited . Allowable erosion control measures may be secured using wooden or steel stakes, rope, twine, uncoated wire, or in the case of root wads and tree logs, large diameter cables and boulders. Materials made of plastic are not authorized. The permittee shall properly secure these materials to the bank to prevent their displacement during expected high flows.

4. The permittee may place, at a maximum, a single row of ungrouted rocks along the toe of the bank. The rock shall be of a size and specific gravity necessary to prevent displacement during expected high flows (generally greater than 1 foot in diameter, but less than 3 feet in diameter). A trench keyed into the toe of the bank to secure a biodegradable geotextile fabric using approximately cobble - sized rocks may be up to 3 feet wide along the toe of the bank. Gabions, concrete, and grouted rock riprap are not authorized under this RGP. Construction debris, broken concrete, brick, or similar materials are not authorized.

5. The permittee may place, at a maximum, a single row of ungrouted rocks along the face of the bank, perpendicular to the flow path, at the up - and downstream boundary of the stabilization structure (i.e., a rock refusal keyed into the bank to prevent flanking of the structure). The rock shall be of a size and specific gravity necessary to prevent displacement during expected high flows (generally greater than 1 foot in diameter, but less than 3 feet in diameter). A trench keyed into the slope of the bank to secure a biodegradable geotextile fabric using cobble - sized rocks may be up to 3 feet wide along the face of the bank perpendicular to the flow path.

6. The permittee may construct flow deflection structures (e.g., groins, spur dikes, J - hooks) in waters of the United States using ungrouted rocks, live pole plantings, or tree logs. Flow deflection structures shall not be constructed in tidal waters. Flow deflection structures shall not extend more than 1/3 of the way into the channel from the toe of the stabilized streambank (e.g., in a channel measuring 21 feet wide between the toe of each bank at the project site, the structure could extend up to 7 feet into the channel). Properly designed J - hooks may be placed up to 2/3 of the width of the channel. The width of the structure shall be commensurate with the site conditions and length of the structure (i.e., a 10 - foot - long structure would be approximately 4 feet wide at its base). The structure shall slope down from its highest point on the bank to the existing grade of the channel bed at the terminus of the structure. The structure shall not exceed the height of the bank. Flow deflection structures shall only be placed in front of streambanks that are stabilized in accordance with terms 1 and 2 above. The flow deflection structures should be spaced along the bank according to commonly accepted design methods (see Fischenich and Allen 2000) that take into account the width of the channel and the length of the structure. Generally, one flow deflection structure would be constructed per equivalent channel width in front of the stabilized bank (i.e., to stabilize a 40 - foot - long section on the outside bend of a meander in a stream that is 20 feet wide, there would be 3 flow deflection structures spaced 20 feet apart). In the Colorado River, flow deflection structures may only be installed for the purpose of establishing wetland vegetation along the banks between the structures. The U.S. Army Corps of Engineers will authorize the use of flow deflection structures on a case - by - case basis and after a review of the dimensions, orientation, need for the structures, and site characteristics (e.g., hydrologic and hydraulic data).

While not part of a stabilization structure, it may be necessary to temporarily dewater the work area or construct a temporary access path during construction to prevent adverse impacts to water quality.

7. The permittee may install a temporary water diversion prior to construction or maintenance of the bioengineered bank stabilization structure using sand - or gravelbags, visqueen, and adequately sized pipes. Alternatively, the permittee may use a portable structural cofferdam (i.e., a steel support frame covered with a flexible waterproof membrane) or sheet piling. This diversion may be accomplished by installing two cofferdams across the creek (one located upstream and the other downstream of the project site), or by installing a cofferdam parallel with the channel to isolate the project site from flowing water. The permittee shall ensure that adverse impacts to water quality downstream of the diversion are minimized by routinely monitoring and properly maintaining the diversion. The permittee shall remove the temporary water diversion immediately after construction is complete and restore the disturbed area to its preconstruction contours.

8. The permittee may dewater the work area during construction or maintenance of the bioengineered bank stabilization structure. The permittee shall ensure that all turbid water pumped from the work site is processed with Standard Best Management practices to remove suspended sediments prior to being discharged back into the waterway. The permittee shall ensure water being discharged back into the waterway does not cause in - stream erosion or generate additional turbidity (e.g., by allowing the water to infiltrate into the streambed through an adjacent terrace). The permittee shall restore all areas excavated for dewatering to their preconstruction contours.

9. The permittee may construct a temporary access path on the bank (i.e., above the toe of the bank) immediately adjacent to the project area to facilitate construction or maintenance of the bioengineered bank stabilization structure. The access path must be the minimum width and length necessary to complete the project and may not be used to move heavy equipment, such as a tracked excavator, into the streambed. The access path shall be restored to preconstruction contours, stabilized, and replanted with appropriate native vegetation immediately following the work. Alternatively, the permittee may operate heavy equipment on the bank (i.e., above the toe of the bank) that is being stabilized in order to install the vegetation, grade the slope, or place authorized rock and wood. This temporarily impacted area shall be incorporated into the bioengineered bank stabilization structure by the permittee during construction.

Basic Project Purpose- The basic project purpose is erosion control. Erosion control is generally not considered a water dependent activity, but this determination would need to be made on a case-by-case basis after evaluating the specific circumstances.

Overall Project Purpose- The overall project purpose is to establish an RGP for bioengineered bank stabilization activities that satisfy certain criteria established by the Corps.

Proposed Special Conditions

1. **Time Period Covered:** This RGP shall remain in effect until *five years from date of issuance*. The Corps Regulatory Division retains the discretion to reissue, modify, rescind, or exclude certain activities or areas from this RGP.

2. **Notification:** Proper design of a bioengineered bank stabilization structure requires an assessment of current site conditions (e.g., flow patterns, shear stresses, sediment transport dynamics, vegetation characteristics, etc.), watershed conditions, and a careful selection of available bioengineering techniques. Therefore, an application for this RGP must demonstrate that the necessary assessments have been conducted.

- a. The applicant must notify the District Engineer (DE) and shall not begin the activity until after receiving a written Notice to Proceed (NTP) from the DE. The Corps of Engineers encourages pre - application meetings to facilitate processing of the application. The NTP may include site - specific special conditions imposed by the DE to avoid and minimize adverse impacts to waters of the United States.

The notification must be in writing and include the following information:

- i. The name, address and telephone number of the applicant and the designated point of contact and their address and telephone number;
- ii. The location of the proposed project in detail, including the identification of the waterbody(ies) (this should include a copy of a U.S. Geologic Survey [USGS] topographic map, Thomas Guide map, or hand - drawn location map with suitable landmarks);
- iii. Color photographs of the site (including views up - and downstream of the site);
- iv. A description of the current site conditions, including factors in the watershed that may be contributing to the erosion problem;
- v. A description of the proposed bank stabilization structure (including

demonstration of compliance with the required project description items 1 and 2, as well as consistency with optional project description items 3, 4, 5, 6, and 9), methods and materials of construction, an explanation of how the proposed structure would address the erosion problem, and a description of the direct and indirect adverse environmental effects the project could cause;

- vi. Detailed drawings (plan view and cross - section) of the proposed structure. The drawings shall include the current location of the toe and top of the bank, the height of the bank, the low - flow path of the stream (i.e., the channel thalweg), and a description of vegetation currently growing at the site;
 - vii. For proposed flow deflection structures, the applicant must include a thorough assessment of flow conditions (e.g., flow velocities for different flow events, sediment transport dynamics), stream morphology, and the intended modifications the structure would have on those flow conditions. Notification for flow deflection structures proposed in a Regulatory Floodway (see general condition 21) shall include a hydrologic and hydraulic analysis that demonstrates the structure would not cause any rise in base flood levels;
 - viii. If a water diversion is proposed or if the site would need to be dewatered, the notification must include a detailed dewatering plan in accordance with project description items 7 and 8; and
 - ix. If a temporary access path is proposed, the notification must include a diagram showing the location and dimensions of the path in accordance with project description item 9.
- b. The standard Application for Department of the Army Permit, available from the Los Angeles District's Website at (<http://www.spl.usace.army.mil/Missions/Regulatory.aspx>), may be used as the notification and must include all of the information required in General Condition 2.a. (i) through (viii) above. A letter or facsimile transmission may also be used.
- c. Incomplete notifications received by the DE will not be processed until all of the necessary information is submitted.

3. Impact Area: There are no length or area restrictions for structures constructed or maintained in accordance with the terms and conditions of this RGP, but the applicant must demonstrate a need to stabilize the bank and impact waters of the United States. If the Corps Regulatory Division determines that the adverse effects of the proposed project are greater than minimal, individually or cumulatively, then the project would not qualify for authorization under this RGP, and the applicant would need to seek authorization under a standard individual permit.

4. Mitigation: Compensatory mitigation is not required for bioengineered bank stabilization structures conducted in compliance with this RGP.

5. Suitable Material: 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)

6. Timing: Installation of bioengineered structures should be timed to occur either in the summer when stream flows are at their lowest, or in the fall prior to the winter rains.

Because the same winter rains that provide moisture may also wash out recently planted vegetation, it is essential to employ suitable erosion control measures (e.g., biodegradable geotextile fabric) when the structure is constructed in the fall. The permittee shall construct or conduct maintenance of the bioengineered bank stabilization structure between 1 July and 31 October.

7. Construction: Bioengineered bank stabilization projects tend to be less expensive than traditionally - engineered structures, but require additional specialized labor to construct.

- a. The permittee shall operate all heavy equipment from the top of bank, or as directed under project description item 9. If adjacent wetlands are present at the top of bank, then all heavy equipment shall be operated on Corps - approved construction mats, and the site restored to pre - project conditions;
- b. The permittee shall not conduct any work in flowing water, with the exception of installing and removing an approved water diversion;
- c. No mechanized equipment, rubber - tired vehicles, track vehicles, or other equipment shall be stored, staged, or fueled in waters of the United States, including wetlands.
- d. The permittee shall ensure that all contractors receive a copy of this RGP and are made aware of the conditions and restrictions contained herein;
- e. The permittee shall 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 within the terms and conditions of the permit.

8. Maintenance: In general, bioengineered bank stabilization structures require maintenance and monitoring until the planted vegetation has become established.

- a. The permittee shall monitor and maintain the bioengineered bank stabilization structure 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. Reports shall be submitted to the Corps Regulatory Division in accordance with the published guidelines and requirements.
- b. If the Corps Regulatory Division determines the project is contributing to adverse effects to public or private property, or poses a threat to public safety, then corrective measures shall be required.

9. Erosion and Siltation Controls: Every effort must be made to ensure that any dredged or excavated material 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, straw bales, or other means designed to minimize turbidity in the watercourse above background levels existing at the time of construction, 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. Hay bales are not authorized because of their potential to spread non - native and/or invasive plant seeds. All exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be stabilized at the earliest practicable date to preclude additional damage to the project area through

erosion or siltation.

10. Water Quality Certification: The permittee shall obtain an individual Water Quality Certification, or waiver thereof, in accordance with Section 401 of the Clean Water Act for activities regulated under Section 404. Within the State of California, the permittee shall contact their local Regional Water Quality Control Board (http://www.swrcb.ca.gov/water_issues/programs/cwa401/index.shtml or call (916) 341 - 5455). Within the State of Arizona, the permittee shall contact the Arizona Department of Environmental Quality (<http://www.azdeq.gov/enviro/water/permits/dredge.html> or call (602) 771-4502). On Tribal lands, the permittee shall contact the U.S. Environmental Protection Agency (EPA) (<http://www.epa.gov/region09/water/wetlands/index.html> or call (415) 972-3464), or their local Tribal representative that has been granted 401 responsibilities.

11. Coastal Zone Management: For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the permittee obtain concurrence from the California Coastal Commission (CCC) that the project is consistent with the State's certified Coastal Management Program (<http://www.coastal.ca.gov/fedcd/fedcndx.html>). Because a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the CZMA, the permittee should also contact the Federal Consistency Coordinator for the CCC at (415) 904-5289 to determine the appropriate procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, or for any activity conducted by a federal agency, the permittee should also contact the Federal Consistency Coordinator to determine the appropriate procedures.

12. Endangered Species: No activity is authorized under this RGP which is likely to jeopardize the continued existence of a federally threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which is likely to destroy or adversely modify the designated critical habitat of such species. Federal agencies shall provide to this office, in writing, their ESA compliance determination with the notification. Non - federal permittees shall notify the Corps Regulatory Division if any listed species or critical habitat may be affected or is in the vicinity of the project and shall not begin work on the activity until notified by the Corps Regulatory Division that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service. The Corps Regulatory Division may require focused endangered species surveys be performed prior to verification of compliance with this RGP.

13. Essential Fish Habitat: No activity is authorized which may adversely affect Essential Fish Habitat (EFH) until the Corps Regulatory Division has complied with the provisions of Section 305(b)(2) of the Magnuson - Stevens Fisheries Conservation and Management Act (Magnuson - Stevens Act). The prospective permittee must notify the Corps Regulatory Division if the authorized activity may affect any EFH, and shall not begin the activity until notified by the Corps Regulatory Division that the requirements of the Magnuson - Stevens Act have been satisfied and that the activity is authorized.

14. Historic Properties: No activity is authorized which may adversely affect historic

properties included in, or eligible for inclusion in, the National Register of Historic Places until the Corps Regulatory Division has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the Corps Regulatory Division if the authorized activity may affect any historic properties included in or eligible for inclusion in, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the Corps Regulatory Division that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Site - specific information on the location and existence of known historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). Federal permittees should follow their own procedures for compliance with the requirements of the National Historic Preservation Act. Federal agencies shall provide to this office, in writing, their compliance determination with the notification. If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this RGP, the Corps Regulatory Division office that verified use of the RGP must immediately be notified. The Corps Regulatory Division will initiate the federal and state coordination required to determine if the discovered resources warrant a recovery effort or if the site is eligible for inclusion in the National Register of Historic Places.

15. 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 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 (e.g., FWS, National Park Service, USDA Forest Service, Bureau of Land Management, etc.). Currently the only designated Wild and Scenic River systems in the Los Angeles District are the main stem of Sespe Creek from its confluence with Rock Creek and Howard Creek downstream to where it exits Section 26, T5N, R20W in Ventura County, California, and the Sisquoc River from its origin to the Los Padres National Forest boundary in Santa Barbara County, California.

16. Agency Coordination: In addition to acquiring 401 Water Quality Certification and, in the coastal zone, CZMA consistency, permittees shall take steps to secure, as appropriate in the State of California, a Lake and Streambed Alteration Agreement with the California Department of Fish and Wildlife for bioengineered bank stabilization activities. Specific contact information and applications can be found at <http://www.dfg.ca.gov/habcon/1600/>, or by calling (562) 430-7212 in the Inland Deserts Region, (858) 636 - 3160 in the South Coast Region, or (559) 243-4005 in the Central Region (i.e., San Luis Obispo County).

17. Navigation: No activity may cause more than minimal adverse effects to navigation. Activities shall not interfere with the public's right to free navigation on all navigable waters of the United States. The permittee shall understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work authorized herein, 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, you will be required, upon due notice from the U.S. Army Corps of Engineers, 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. For projects occurring in navigable waters of the United States, the permittee shall notify the Commander, U.S. Coast Guard, District Eleven, BLDG 50 - 6 Coast Guard Island, Alameda, California, 94501 - 5000, (510) 437 - 2968, at least two weeks prior to start of activity and 30 days if buoys are to be placed.

The notification should include the following information:

- a. The location of the work site;
- b. The size and type of equipment that will be performing the work;
- c. Name and radio call signs for working vessels, if applicable;
- d. Telephone number for on - site contact with project engineers; and
- e. The schedule for completing the project.

18. 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. 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 or appropriate Tribal representative.

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 shall be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination with the permittee and the appropriate federal and state agencies.

20. Aquatic Life Movements: No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area.

21. Floodplain Management: Any structure or fill authorized by this RGP shall be constructed in accordance with the National Flood Insurance Program (NFIP) and current effective Flood Insurance Rate Maps (FIRM), where applicable. Structures that change existing Special Flood Hazard Areas shall submit the appropriate hydrologic and hydraulic data to the Federal Emergency Management Agency (FEMA) for a FIRM revision per the NFIP directions. Information on NFIP and FIRM can be found on the FEMA website: <http://www.fema.gov/hazard/flood/info.shtm>.

22. Inspection: 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.

For additional information please call Crystal L.M. Huerta of my staff at 805-585-2143 or via e-mail at crystal.huerta@usace.army.mil . This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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