



SANTA CLARA VALLEY
HABITAT AGENCY



City of Gilroy

City of Morgan Hill

City of San José

County of Santa Clara

Santa Clara Valley Water District

Santa Clara Valley
Transportation Authority



Santa Clara Valley Habitat Plan Regional General Permit REPORTING FORM FOR PUBLIC PROJECTS

Submit the Reporting Form for Public Projects to the Habitat Agency. The requirements in this Reporting Form for Public Projects are minimum requirements. The Habitat Agency may request more information to clarify or complete this form.

Habitat Plan Application File Number
(Assigned by Co-Permittee)

Co-Permittee File Number, if applicable
(Assigned by Co-Permittee)

Resources for Completing this Application: Answering many of the questions in this application form will require accessing the Santa Clara Valley Habitat Agency [Geobrowser](#) maps. The Habitat Agency [Geobrowser](#) maps are available at each of the City and County planning departments and online at the Santa Clara Valley Habitat Agency website (www.scv-habitatplan.org). The Habitat Agency [Geobrowser](#) provides maps to identify the Habitat Plan Permit Area (this is the same as the RGP permit area), Private Development Area, Land Cover, Fee Zones, Survey Areas, Stream Buffers and Setbacks, Woodland Areas, Urban Reserve System Interface Zones, and Urban Service Areas.

Part I. Project Overview

Project Name: _____

Co-Permittee: _____ Submittal Date: _____

Item 1—Applicant Information

Co-Permittee Information

Co-Permittee Representative's Name: _____

Mailing Address: _____

Phone: _____ Cell: _____

Email: _____ Fax: _____

Agent Information (if applicable)

Agent Company/Firm: _____

Agent Contact Name: _____

Mailing Address: _____

Phone: _____ Cell: _____

Email: _____ Fax: _____

Item 2—Project Description with Respect to Wetland Impacts

1. Property Description

Project Location: _____

Project Assessor's Parcel Number(s) or GPS Latitudinal/Longitudinal Coordinates (start/end points):

Directions to the site: _____

Name of Waterbody: _____

2. RGP Activity Type

Check all that apply:

Activities	Project Limits
<input type="checkbox"/> 1. Bridge removal and repair	0.1 ac, 100 linear feet
<input type="checkbox"/> 2. Bridge replacement, widening, and installation	0.5 ac, 300 linear feet
<input type="checkbox"/> 3. Culvert repair, replacement, and removal	0.25 ac, 300 linear feet
<input type="checkbox"/> 4. Culvert installation	0.5 ac, 300 linear feet
<input type="checkbox"/> 5. Outfall repair, replacement, removal, and installation	0.1 ac, 50 linear feet
<input type="checkbox"/> 6. Water intake structure repair, replace., and install.	0.25 ac, 100 linear feet
<input type="checkbox"/> 7. Sediment removal	0.25 ac, 300 linear feet
<input type="checkbox"/> 8. Removal of vegetation and storm debris	No limit, but subject to conditions
<input type="checkbox"/> 9. Temporary construction access and dewatering	0.1 ac, 50 linear feet
<input type="checkbox"/> 10. Recreational facility const., reconst., and maint.	0.25 ac, 200 linear feet
<input type="checkbox"/> 11. Restoration, establishment, and enhancement	No limit, but subject to conditions
<input type="checkbox"/> 12. Installation of fish screens	0.1 ac
<input type="checkbox"/> 13. Bank stabilization	0.1 ac, 300 linear feet
<input type="checkbox"/> 14. Minor maintenance of levees, canals, and ditches	0.2 ac
<input type="checkbox"/> 15. Surveying activities	0.08 ac
<input type="checkbox"/> 16. Utility repair, removal, replacement, and installation	0.2 ac
<input type="checkbox"/> 17. Development	0.5 ac, 300 linear feet

3. Description of Project Purpose and Need:

4. Description of Completed Project's Impact to Waters (Permanent/Temporary and New Materials Placed in Waters?):

5. How has the activity been designed to avoid and minimize adverse effects (temporary, permanent, direct and indirect) to waters of the United States?

6. Fill and dredge information:

- a. Will fill be needed? Yes No (If yes, complete information below)
- b. What source? _____
- c. Method of placement? _____
- d. Will material be dredged? Yes No (If yes, complete information below)
- e. Method of dredging? _____
- f. Location of staging? _____ (Lat/Long, Address or Illustrated on Figure)
- g. Location of long-term disposal?^a _____ (Lat/Long, Address or Illustrated on Figure)

^a Must be in a location in an area that has no waters of the United States unless otherwise authorized by the Corps.

7. Fill and Dredge Table

Fill Type	Volume Discharged (cubic yards)	Dredge Type	Volume Dredged (cubic yards)
<input type="checkbox"/> River rock		<input type="checkbox"/> River rock	
<input type="checkbox"/> Concrete		<input type="checkbox"/> Concrete	
<input type="checkbox"/> Structure		<input type="checkbox"/> Structure	
<input type="checkbox"/> Soil/Dirt		<input type="checkbox"/> Soil/Dirt	
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:	
Total:		Total:	

8. Impact Area Table

Water Body Type	Temporary ^a		Permanent	
	Area (sq. ft.)	Length (ft.)	Area (sq. ft.)	Length (ft.)
Total:				

^a Temporary fill is fill that will be removed immediately after construction. Temporary impacts may not require mitigation under the RGP, but may under the Habitat Plan.

9. Bank Stabilization

- a. Is bank stabilization proposed? Yes No
- b. Will stabilization exceed 300 feet? Yes No
- 1. If yes, what is being done to stabilize the opposite side of the stream and areas upstream and downstream?

10. Wetland Delineation

- a. Has a wetland delineation been prepared? Yes No
- b. Has the Corps made a jurisdictional determination? Yes No
- c. What is the file number?

11. Mitigation

- a. Is applicant-proposed mitigation being provided? Yes No
- 1. If yes, is a conceptual or detailed mitigation plan attached? Yes No
- 2. If no, is a wetland fee being paid to the Habitat Agency? Yes No
- 3. Has the Habitat Agency developed wetland mitigation credits sufficient to cover this project? *(Contact the Habitat Agency to confirm timing and type of credits.)* Yes No
- 4. If no, how will the mitigation be provided? *(If the Habitat Agency does not currently have sufficient credits, the applicant can develop their own mitigation or rely on the Habitat Agency's efforts. If relying on mitigation that is to be developed by the Habitat Agency, additional mitigation may be required by the Corps to account for temporal habitat losses.)*

12. Other Resource Considerations

a. Wildlife Species

Will federally endangered or threatened species be affected? Yes No

Which species? (*Attach Habitat Plan Reporting Form.*) _____

Are these species covered by the Habitat Plan? Yes No

Will critical habitat be affected? Yes No

b. Anadromous Fish

Is the project in anadromous fish habitat? Yes No

Which species? _____

How was this determined? _____

Is a Biological Assessment attached? Yes No

c. Tribal and Cultural Resources

Has a tribal and cultural resources evaluation been conducted? Yes No

Has a preliminary eligibility assessment and an effects determination been made? Yes No

Item 3—Required Attachments

All projects

- a. Wetland Delineation: A formal delineation of waters of the United States on the project site, conducted by a qualified professional, is required to be submitted before or when the application is submitted. Wetland delineations must be prepared in accordance with the *Corps of Engineers Wetland Delineation Manual* (U.S. Army Corps of Engineers 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (U.S. Army Corps of Engineers 2008). Activities in freshwater creeks, rivers and ponds must show the Ordinary High Water Mark (OHWM), including width and length of stream affected within the OHWM. Activities in wetlands must show wetland boundaries. The application package should indicate if the Corps has made a jurisdictional determination. If no jurisdictional determination has been made, the Corps will make one when processing the application. **Label as Attachment 1.** Map and drawing standards are described: <http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/MapStand020816.pdf>
- c. Vicinity Map: Provide a legible vicinity map of the project site and surrounding area that identifies any adjacent streams or water bodies. **Label as Figure 1.**
- b. Site Plan: Provide a site plan that shows the proposed development area¹; land cover type(s)² in the development

¹ Refer to Exhibit 1 of the Habitat Plan Application Form for required Development Area (Habitat Plan Figure 6-1).

area; and any relevant landforms, roads, water bodies, and existing and proposed structures that will be impacted by the proposed project. **Label as Figure 2.**

- d. **Drawings:** Include plan and cross section views, clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the United States on the project site. **Label as Figure 3.** If dredging will occur, cross section graphics must show existing and proposed bottom depths. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The OHWM should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. Requirements are described: <http://www.spd.usace.army.mil/Portals/13/docs/regulatory/standards/MapStand020816.pdf>
- e. **Photographs:** Provide numbered and dated pre-project color photographs showing all waters proposed to be impacted on the project site. The compass angle and positions of each photograph shall be documented on the plan-view drawings.
- f. **Conditions:** Document how the project complies with conditions of the RGP. **(Attachment 2)**
- g. **RGP Processing Fee:** See Part III.
- h. **GIS/CAD Files:** Provide a Geographic Information System (GIS) or Computer-Aided Design (CAD) compatible file (shapefile or CAD file) of Figures 1, 2 and 3 (see above), and of the wetland delineation. File must meet [Spatial Data Submittal Requirements](#), and wetland data must meet Corps aquatic resource submission requirements.

Part II. RGP Conditions

Below is a description of the RGP Conditions of Approval. These include general terms and specific conditions. The check-boxes and text below, ensure that applicants are aware of these conditions. If an applicant takes exception to these conditions they may provide additional justification, but their application may be denied.

GENERAL TERMS:

1. **Applying for RGP authorization:** Prior to commencing a proposed activity, applicants seeking authorization under this RGP shall notify the Corps in accordance with the procedure detailed in the *Santa Clara Valley Habitat Plan Regional General Permit Notification and Program Management Process* (Attachment 2).

This application will serve as the basis for the authorization and approval.

2. **Compensatory mitigation for RGP authorization:** Mitigation for unavoidable impacts to waters of the U.S. must be accomplished by conforming to the Compensatory Mitigation Strategy for Santa Clara Valley Habitat Plan Regional General Permit Prior to Approval of a Proposed In-Lieu Fee Program Program-level Interim Mitigation Strategy and all Appendices (Attachment 3) or an approved Mitigation Bank or In-Lieu Fee Program. Mitigation proposals are required to be consistent with the Corps' mitigation rule (33 CFR Part 332). A final mitigation plan must be approved by the Corps prior to initiating work under this RGP.

Mitigation is described in Section 11 above.

² Refer to Habitat Agency [Geobrowser](#) at www.scv-habitatagency.org for Land Cover Area map.

3. **Financial Assurance:** A finalized description of financial assurances consistent with the Corps' mitigation rule (33 CFR Part 332) is required 30 days prior to initiating work under this RGP.

The Habitat Agency has provided these assurances to the Corps on **April X, 2016**.

4. **SCV Habitat Plan RGP Programmatic Not Likely to Adversely Affect (NLAA):** Project activities requesting inclusion in the Programmatic Consultation must comply with all general and specific criteria outlined in the NMFS NLAA Programmatic Reporting Procedures, Procedural Overview, and Minimization Measures for the SCV Habitat Plan RGP (Attachment 4).

Is the project in anadromous fish habitat?

Yes No

How was this determined?

Will your project adhere to the criteria in **Attachment 2**?

Yes No Not Applicable

If no, is a BA provided?

Yes No

5. **Single and complete project:** The project must be a single and complete project. For example, if construction of a residential development involves phases, the sum of all impacted areas would be the basis for deciding whether or not the project will be covered by this RGP.

Is the project a single and complete project?

Yes No

6. **After-the-fact projects:** This RGP may not be used to authorize activities after they have impacted Waters of the U.S.

This is a pending project?

Yes No

7. **Compliance with SCV Habitat Plan Conditions:** Activities to be authorized under this RGP must be Habitat Plan Covered Activities and must fully comply with the Habitat Plan.

This project will comply with the Habitat Plan conditions?

Yes No

8. **Special conditions:** The Corps may add special conditions to an authorization to ensure the activity complies with the terms and conditions of the RGP, and/or that adverse impacts on the aquatic environment or other aspects of the public interest are individually and cumulatively minimal.

We are aware that the Corps may add special conditions?

Yes

9. **Activity completion:** Any activity authorized by the Corps under the RGP must be completed prior to the RGP expiration date. Activities authorized under the RGP that are under construction or under contract for construction in reliance upon this authorization will remain authorized provided the activity is completed within 12 months of the date of the RGP's expiration, modification or revocation, unless the Corps exercises its discretionary authority to modify, suspend, or revoke the authorization of a specific project. The "authorization date" is the date the Corps verifies in writing that the activity meets the terms and conditions of the RGP.

We are aware that the activity must be completed prior to the RGP expiration date?

Yes

10. Discretionary Authority: The Corps has the discretion to suspend, modify, or revoke authorizations under this RGP. This discretionary authority may be used by the Corps to also further condition or restrict the applicability of the RGP for cases in which it has concerns associated with the Clean Water Act Section 404(b)(1) Guidelines, or regarding any public interest factor. Should the Corps determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to aquatic resources or otherwise be contrary to the public interest, the Corps will modify the authorization to reduce or eliminate those adverse effects, or notify the applicant that the proposed activity is not authorized by the RGP and provide instructions on how to seek authorization under an individual permit. The Corps may restore authorization under the RGP at any time it determines that the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. The Corps may also use its discretionary authority to modify, suspend, or revoke the RGP at any time.

We are aware the Corps may use its discretionary authority to modify, suspend, or revoke a permit at any time? Yes

11. Expiration of RGP: This permit shall be valid for a period of five years from the date of issuance, unless suspended or revoked by issuance of a public notice by the District Engineer. A review will be conducted to determine if continuance of the permit is in the public interest after the 5-year expiration date. If this permit expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on this permit will remain in effect provided the activity is completed within 12 months of the date this permit expired or was revoked. If the Corps has not reissued or extended the RGP by the expiration date, the RGP will no longer be valid. This RGP may also be modified, suspended or revoked by the Corps at any time deemed necessary.

The Habitat Agency will renew the permit when appropriate.

SPECIAL CONDITIONS:

1. Threatened and Endangered Species, U.S. Fish and Wildlife Service (USFWS): No activity is authorized under the RGP that does not comply with the mandatory terms and conditions of the USFWS's *Final Biological Opinion for the Corps' Regional General Permit (RGP) for the Santa Clara Valley Habitat Plan (SCVHP)* (USFWS file number 08ESMF00-2015-F-1169-2; Corps file number 2012-00302S), dated October 16, 2015 (Attachment 5). The Biological Opinion contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" authorization under this RGP. Authorization under this RGP is conditional upon your compliance with all of the mandatory terms and conditions of the Biological Opinion. Failure to comply with the terms and conditions of the Biological Opinion would constitute non-compliance with the RGP. The USFWS is the appropriate authority to determine compliance with the terms and conditions of the Biological Opinion, and with the ESA. The permittee must comply with all applicable conditions of this Biological Opinion, including those ascribed to the Corps.

Compliance with the Habitat Plan conditions will ensure compliance with the BO.

Will critical habitat be affected? Yes No

Which species? _____

Are these species covered by the Habitat Plan? Yes No

2. Threatened and Endangered Species, National Oceanic and Atmospheric Administration (NOAA) NMFS: Project activities authorized under the RGP may be eligible for inclusion in the SCV Habitat Plan RGP NLAA program. If the activity fits within the parameters of the program, the work must comply with the requirements and procedures in the *Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Santa Clara Valley Habitat Conservation Plan Regional General Permit [Corps File No. 2012- 00302S]* (NMFS file number WCR-2015-3821) (Attachment 6). NMFS concurred with the determination that the project was not likely to adversely affect Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) DPS, South-Central California Coast (SCCC) steelhead DPS, North American green sturgeon southern DPS (*Acipenser medirostris*) and designated critical habitat for these species. The criteria and work restrictions are incorporated as special conditions to this authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.

Project activities not eligible for inclusion in the SCV Habitat Plan RGP NLAA program, must obtain a NMFS project-specific Endangered Species consultation prior to verification under this RGP.

Project adherence to these criteria is detailed in Attachment 2. If the criteria cannot be met a BA will be provided.

3. Protected Species: Incidents where any individuals of Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) DPS, South-Central California Coast (SCCC) steelhead DPS, North American green sturgeon southern DPS (*Acipenser medirostris*) listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this RGP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the San Francisco District of the U.S. Army Corps of Engineers at (415) 503-6795. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

We are aware that we must notify the Habitat Agency and NOAA if these species are found? Yes

4. Water Quality Certification: Section 401 Water Quality Certification is required for activities to be authorized by this RGP, with the exception of those occurring entirely within Section 10 waters. The Corps may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal impacts, individually or cumulatively.

We are aware that we must obtain a Section 401 Water Quality Certification prior to conducting work? Yes

5. Historic Properties: No activity is authorized under the RGP if the activity may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, until the requirements of Section 106 of the National Historic Preservation Act (NHPA), as amended, have been satisfied. Applicants must notify the Corps if the activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified historic properties. The Corps will consult with the State Historic

Preservation Officer (SHPO), as appropriate, following the policy and procedural standards of 33 CFR Part 325 Appendix C.

Will the project affect historic properties? Yes No

How was this determined? _____

If yes, has an appropriate report been prepared? Yes No

6. **Unanticipated Cultural Resources Discoveries:** If previously unidentified cultural materials are unearthed during construction, all work shall be halted until a qualified archaeologist can examine the deposit and determine its nature and significance. In the event of discovery of possible human remains, state law requires that the County Coroner be contacted.

We are aware that we must stop work if unidentified cultural materials are discovered? Yes

7. **Fills within 100-Year Floodplains:** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

We are aware that we must comply with applicable FEMA-approved state or local floodplain management requirements? Yes

8. **Proper Maintenance:** Permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. Permittee is not relieved of this requirement if permittee abandons the permitted activity or sells the property associated with this permit. Permittee may make a good faith transfer to a third party. If permittee sells the property associated with this permit, permittee 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. Should permittee wish to cease to maintain the authorized activity or should permittee desire to abandon it without a good faith transfer, permittee must obtain a modification of this permit from this office, which may require restoration of the area.

We agree to these terms. Yes

9. **Aquatic Life Movements:** No activity may substantially disrupt the necessary life cycle movement of aquatic species indigenous to the water body, 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. If feasible, they should be designed as open-bottom culverts.

We agree to these terms. Yes

10. **Equipment:** Heavy equipment working in wetlands must be placed on mats, or other measures, such as low-ground pressure equipment, must be implemented to minimize soil disturbance.

We agree to these terms. Yes

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.

We agree to these terms. Yes

12. **Suitable Material:** Fill material must be clean and free of contaminants and noxious plants. Fresh cement or concrete is not allowed in waters unless it is placed in sealed forms. Unsuitable fill material includes vehicle bodies, farm machinery, appliances and other metal objects, asphalt, biodegradable construction debris and tires, concrete with exposed rebar.

We agree to these terms. Yes

13. **Removal of Temporary Fills:** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations and re-vegetated in accordance with the plans authorized under this RGP.

We agree to these terms. Yes

14. **Management of Water Flows:** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration project).

We agree to these terms. Yes

15. **Migratory Birds and Bald and Golden Eagles:** The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

We agree to these terms. Yes

16. **Access:** The permittee must allow representatives from the Corps to inspect the authorized activity (and any avoidance or mitigation areas, if applicable) at any time deemed necessary to ensure that the activity is being, or has been, accomplished in accordance with the terms and conditions of the permit.

We agree to these terms. Yes

17. **Transfer of RGP Authorization:** If the permittee sells the property associated with this permit, the permittee must obtain the signature and mailing address of the new owner on the permit verification letter, and forward a copy to this office to validate the transfer.

We agree to these terms. Yes

18. **Reporting Responsibilities:** The permittee must submit an annual report in accordance with the procedures in the *Santa Clara Valley Habitat Plan Regional General Permit Notification and Program Management Process* (Attachment 2).

We agree to these terms. Yes

19. **For Section 10:** For activities authorized through this permit under Section 10 of the Rivers and Harbors Act of 1899, the permittee understands and agrees that, if future operations by the United States require the

removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee will be required, upon due notice from the 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.

We agree to these terms. Yes

20. For Section 408: Any proposed modification to an existing Corps projects (either federally or locally maintained) that go beyond those modifications required for normal Operations and Maintenance (O&M) require approval under 33 USC 408. There shall be no temporary or permanent alteration, occupation or use of these public works including but not limited to levees, sea walls, bulkheads, jetties and dikes for any purpose without the permission of the Secretary of the Army or his authorized representative for those cases where the proposed modification is determined to be minor. Under the terms of 33 USC 408, any proposed modification requires a determination by the Secretary that such proposed alteration or permanent occupation or use of a Federal project is not injurious to the public interest and will not impair the usefulness of such work.

We agree to these terms. Yes

Part III. Fees

RGP application processing fees and RGP wetland mitigation fees are currently being evaluated. The Habitat Agency will require reimbursement for staff time to process applications. Wetland mitigation commitments under the RGP go beyond the requirement of the Habitat Plan and will require an RGP mitigation fee specific to the project's obligations.

If land is to be dedicated in lieu of fees or if restoration or creation of jurisdictional wetlands or waters is to be performed in lieu of fees, summarize the actions and attach written documentation of what will be provided. The Habitat Agency may approve these actions in lieu of fees. See Section 9.4.1 of the Habitat Plan for details.

Part IV. Application Signature

Application is hereby made for verification that subject regulated activities associated with the subject project qualify for authorization under the Corps RGP #18. I certify that I am familiar with the information contained in this application and, that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant the agency to which this application is made the right to enter the above-described location to inspect the proposed, in-progress or completed work. I agree to start work only after all necessary permits have been received and to comply with all terms and conditions of the authorization.

Signature of Applicant _____ Date: _____

I hereby authorize the agent named in this application to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information to support this permit application. I understand that I am bound by the actions of my agent and I understand that if a federal or state permit is issued, I, or my agency, must sign the permit.

Signature of Applicant _____ Date: _____

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate.

Signature of Agent _____ Date: _____

Attachment 2. National Marine Fisheries Service Not Likely to Adversely Affect (NLAA) Assessment

Please confirm your project meets the following criteria.

GENERAL CRITERIA:

The following criteria apply to all projects under the 2015 Habitat Plan RGP NLAA Program that may affect NMFS listed fish species. Projects that cannot comply with these criteria will need to submit a Biological Assessment (BA).

- No large woody debris (LWD) will be removed in active (wetted) channels. Relocation of LWD may be acceptable through coordination with NMFS, applicants must describe relocation of LWD in authorization request.
- Trees may be removed for access routes for construction equipment. If trees need to be removed from other portions of the project site, do not remove willows over 3 inches in diameter at breast height or reduce canopy cover provided by hardwoods or conifers. For channel access only, grubbing of root systems should be avoided or justified in the authorization request if absolutely necessary. Where practicable, replant any trees with stems over 3 dbh removed from project site to achieve 1:1 successful revegetation by one of the following methods: a) trees removed can be replanted at 3:1, or b) site can be monitored for 2 years and replanted until 1:1 successful revegetation is achieved.
- Limit new access routes requiring tree removal and grading to no more than two. Access routes should not be along the top of the stream bank but relatively perpendicular (45 to 90 degrees is acceptable) to bank.
- Where available, use existing ingress or egress points, or perform work from the top of the stream banks or bridges.
- Check heavy equipment daily for leaks prior to starting work. Do not use equipment until leak is fixed.
- Refuel outside of active stream channel or above ordinary high water at designated sites with suitable containment.
- A Spill Prevention and Control Plan will be created, and the Plan and all materials necessary to implement will be accessible on site.
- No work during wet weather or where saturated ground conditions exist; if a 60% chance of a 0.5 inch of rain or more within a 24-hour period is forecasted, then operations will cease until 24 hours after rain has ceased.
- Petroleum products, chemicals, fresh cement, or water contaminated by the aforementioned will not be allowed to enter flowing waters.
- Adequate erosion control supplies (e.g., gravel, straw bales, silt fences, mulch, shovels, etc.) will be stored on site.
- Any disturbed ground must receive appropriate erosion control treatment (mulching, seeding, planting, etc.) prior to the end of the construction season, prior to a cease of operations due to forecasted wet weather, and within seven days of Project completion. Operations will use all feasible techniques to prevent any sediment from entering a drainage system.
- Work pads, falsework, and other construction items will be removed from the 100-year floodplain by the end of the construction window.
- In areas expected or forecasted to get rainfall during the construction season, effective erosion control measures must be in place at all times during construction activities. Construction within the 5-year floodplain (20% occurrence interval in any given year) does not begin until all temporary erosion controls (e.g., straw bales, silt fences that are effectively keyed-in) are in place, downslope of project activities within the riparian area. Erosion control structures must be maintained throughout, and possibly after, construction activities. Sediment will be removed from sediment controls once it has reached one-third of the exposed height of the control. Whenever straw bales are used, they must be staked and dug into the ground no less than 12 cm. Catch basins will be maintained so that no more than 15 cm of sediment depth accumulates within traps or sumps.

Stream dewatering or fish relocation are not permitted within anadromous waterbodies.

SPECIFIC CRITERIA BY ACTIVITY:

Proceed to your covered activity and check the boxes associated with that activity to confirm you understand the criteria for that activity.

1. Bridge Removal and Repair

Structures may not maintain or create passage impediments for salmonids.

Piles of any size (steel, wood, or concrete – any size or number) may be installed using vibratory hammers. Impact hammers using steel piles (limited to piles 12-inch diameter or less). Hammer must be 3000 pounds or smaller. Must use a wood or nylon cushion block between the hammer and pile to attenuate sound. Limited to 20 piles per day. Impact hammers with wood piles limited to no more than 20 piles per day – no size limitation. Impact hammers with concrete piles must be 18-inch in diameter or less and no more than 20 piles per day. Pile driving must be done in a naturally dewatered area.

Bridge widening or replacement projects designed to accommodate a projected increase in traffic due to new developments or provide access to new developments are not included in this consultation.

This consultation does not apply to multi-year projects where falsework is left in the channel outside of the work windows.

New bridges are not covered unless they replace an existing bridge that has been removed or will be removed prior to or concurrent with new bridge installation.

The streambed within the work area and access routes must be outside of flowing or standing water. For anadromous streams, dewatering shall not be used to obtain dry conditions.

Construction activities must cease if flows rise above the silt fence levels. Except for project footprint, the bed and banks must be undisturbed.

If an existing bridge is replaced, the new bridge must be sized to pass 100-year flow event without encroachment into stream channel.

In-channel piers, if necessary, must be cylindrical columns.

2. Bridge Replacement, Widening, and Installation

The criteria are the same as those above. Please complete that checklist.

3. Culvert Repair, Replacement, and Removal

Culverts covered by this consultation must meet NMFS Fish Passage Guidelines and be no longer than 100 feet as measured at the stream centerline.

Except for project footprint, the bed and banks must be left as found.

Replaced or upgraded culverts must be the same kind or go up in order of preference of alternatives and structure types set out in NMFS Fish Passage Guidelines (<http://swr.nmfs.noaa.gov/hcd/NMFSSCG.PDF>) and may not maintain or create a passage barrier for adult or juvenile salmonids.

Culverts must be sized to accommodate a 100-year flow event and associated debris and sediment with headwater to diameter ratio <1.

Fine sediment cleaned out from the inside of culverts must be removed to an upland location, where it cannot enter stream networks or road drainages that are hydrologically connected to a stream, and stabilized.

4. Culvert Installation

New culverts on streams accessible to steelhead are not included in the NLAA. A project-specific BA will be needed.

5. Outfall Repair, Replacement, Removal, and Installation

For anadromous streams, all work must be done in naturally dry conditions, no dewatering is authorized, or must be done from the bank without entering flowing waters during construction.

Outfall pipes must be designed to not allow fish entrance to avoid straying or injury.

New stormwater outfalls must be fitted with trash collecting devices to prevent or minimize the discharge of trash and other anthropogenic storm debris from entering waterways.

Outfall repair, replacement, removal, and installation at current water supply management facilities that are known to impede fish passage are not covered under this program.

6. Water Intake Structure Repair, Replacement, and Installation

All water intakes must have screens that comply with NMFS Fish Screen Guidelines. Design drawings must be provided to NMFS for review and comment five weeks in advance of Corps approval.

All associated structures (diversion dams, weirs, wing walls, etc.) must comply with NMFS fish passage guidelines.

New water diversion facilities with a capacity to exceed 3 cfs diversion are not authorized with this NLAA consultation.

Work to repair or replace existing diversions is limited to the period of December 15 and March 31st.

No water diversion may occur until streamflows exceed the estimated unimpaired February median flow at the point of diversion.

New water diversions on streams accessible to steelhead are not included in this consultation.

7. Sediment Removal

Sediment removal projects must be associated with a facility or man-made structure (e.g., bridge, outfall, gauge, grade control)

Sediment removal projects may not exceed 300 linear feet along the channel bed.

Sediment removal equipment must only be operated a dry channel bed.

Excavated sediment must be placed on dump trucks for transport to an off-site disposal location that is in upland in a location where it will not re-enter the waterway.

Work site must be accessed via existing roads.

Pre- and post-project assessments for impacts to gravel and instream habitat complexity must be performed by a qualified fish biologist.

8. Removal of Vegetation and Storm Debris Involving Soil Disturbance

Removal of woody vegetation would only be performed when pruning will not suffice to provide clearance for maintenance vehicles and heavy equipment. Prior to removal or stand thinning of trees, an assessment of the ecological health of the riparian and/or upland woodland would be conducted and submitted with the authorization request.

9. Temporary Construction Access and Dewatering

All temporary construction access must be associated with Corps' regulated activities and comply with any and all restrictions associated with that activity.

Dewatering of streams accessible to steelhead are not included in this consultation. A project-specific BA will be needed.

10. Recreational Facility Construction, Reconstruction, and Maintenance

New recreational facilities on steelhead streams and streams that are direct tributaries to steelhead streams are not included in this consultation. A project-specific BA will be needed.

11. Restoration, Establishment, Enhancement Activities Involving Soil Disturbance, Including Removal and Modification of Fish Passage Impediments

The applicant must demonstrate (and NMFS agree) that the completed project provides a net environmental benefit to aquatic species and habitat.

The streambed within the work area and access routes must be outside of flowing or standing water. Dewatering shall not be used to obtain dry conditions.

All work on SCVWD owned fish passage facilities must be permitted under the Stream Maintenance Program consultation, rather than this programmatic consultation.

12. Installation of Fish Screens

All fish screen installations must comply with NMFS Fish Screen Guidelines.

All associated structures (diversion dams, weirs, wing walls, etc.) must comply with NMFS fish passage guidelines.

Water diversion facilities with a capacity to exceed 3 cfs diversion are not authorized with this NLAA Programmatic consultation.

Existing diversions are limited to the period of December 15 and March 31st.

No water diversion may occur until streamflows exceed the estimated unimpaired February median flow at the point of diversion.

No new water diversions on steelhead streams and streams tributary to steelhead bearing stream will be authorized using this NLAA Programmatic Consultation.

13. Bank Stabilization

Work in the channel bed must occur when the channel is seasonally dry.

Access to bank stabilization sites must occur via existing access roads. Staging of equipment should occur on previously disturbed areas.

When repairs are made, banks would be re-contoured to match the adjacent bank slope (i.e., returned to pre-failure configuration) to the extent possible.

If healthy riparian vegetation exists adjacent to the bank failure site, care would be taken to minimize disturbance of such vegetation, including mature trees.

Pre- and post-project assessments for impacts to gravel and instream habitat complexity must be performed by a qualified fish biologist.

New bank stabilizations:

Projects will not exceed 300 linear feet of stream bank or 1,000 square feet in area.

Bioengineering techniques intended to create shaded riverine aquatic habitat, accumulate coarse sediments, and increase in-stream habitat complexity shall be the first materials considered for use. Bio-engineering projects emphasize the use of live plant material in the construction of durable erosion control structures. Projects should be designed to begin the process of naturally restoring the streambank's plant and animal community. Approaches that widen the floodplain area or the margin of the river channel near the low flow water surface and at the toe of the bank are encouraged. Design should emphasize the use of natural and local building materials (e.g., stone, gravel, sand, soil, wood, branched logs, and native trees, shrubs, and grasses). Rock rip-rap may be used in limited and discrete areas such as fill in a toe trench at the base of the bank and further up the bank where shear stress during high stream flow events are greatest (not to exceed bankfull level). Any rock used should have the smallest diameter possible, be used sparingly, and be capped with sediment and native vegetation as part of the design. Natural drainage patterns should be considered and incorporated into the design where appropriate. Projects without bioengineered techniques must provide analysis of which techniques have been considered and why those techniques are not practicable.

Projects that rely solely on rock rip-rap or other hardscape materials for bank protection are not allowed under this consultation.

Gabions, concrete mats, tires, and rubble may not be used under this consultation.

Cables may be used to anchor large woody debris. Natural drainage patterns should be considered and incorporated into the design where appropriate.

Repair of existing bank stabilization:

Replacement of failing or damaged bank stabilization with rip-rap (no grouting or concrete mats) is allowed.

Replacement or repair with gabions grouted rip-rap, debris (e.g., car bodies, pipe and tire revetments, etc.) is not allowed.

Repair of gabions on steelhead streams and streams tributary to steelhead bearing stream will not be authorized using this NLAA Programmatic Consultation.

The footprint of the repaired, replaced, or maintained bank stabilization must not exceed existing footprint. Projects shall not exceed 300 linear feet of stream bank or 1,000 square feet in area.

Replacement with bioengineering techniques is encouraged. Rock rip-rap may be replaced with ungrouted rip-rap only.

Rock rip-rap must be planted with native vegetation. Willow cuttings or other native plants will be placed in spaces between rocks/boulders – an average of one plant per square meter of bank stabilization.

Rip-rap must be adequately sized for a 100-year flow event. Toe trenches may be used.

14. Minor Maintenance of Levees, Canals and Ditches

Projects must be no more than 300 feet in length.

The work area and access routes must be outside flowing or standing water. Dewatering shall not be used to obtain dry conditions.

Except for project footprint, the bed and banks must be left as found.

The work site of a Minor Maintenance activity must be less than 0.1 acre (4,356 sq. ft.) of wetland or riparian vegetation, and any access or staging would be calculated as part of this total.

15. Surveying Activities

All associated structures (diversion dams, weirs, wing walls, etc.) must comply with NMFS fish passage guidelines.

16. Utility Repair, Removal, Replacement, and Installation

All associated structures (diversion dams, weirs, wing walls, etc.) must comply with NMFS fish passage guidelines.

Structures may not maintain or create passage impediments for salmonids.

No new utilities on steelhead streams and streams tributary to steelhead bearing stream will be authorized using this NLAA consultation.

17. Discharges Associated with Development

No discharges associated with development on steelhead streams and streams directly tributary to steelhead streams will be included in this consultation. A project specific BA will be needed.