



Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Executive Office

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oFB
Arnold Schwarzenegger
Governor

SEP 14 2005

Ms. Lorraine Ahlquist
Ecologist/Environmental Planner
Environmental Services Unit
Department of Public Works
County of San Diego
5469 Kearny Villa Road, Suite 305
San Diego, CA 92123

Dear Ms. Ahlquist

**ORDER FOR TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION:
COUNTY OF SAN DIEGO (COUNTY), FLOOD CONTROL MAINTENANCE
(U.S. ARMY CORPS OF ENGINEERS [USCOE] LOS ANGELES DISTRICT OFFICE
[LAD] GENERAL PERMIT NO. 53, CORPS FILE NO. 200500205JMB)**

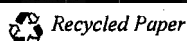
This Certification Order (Order) responds to your letter, initially submitted on November 10, 2004, requesting Clean Water Act (CWA) section 401 Water Quality Certification for the County's Flood Control Maintenance Program (FCMP). The FCMP is permitted by USCOE, LAD Regional General Permit (RGP) 53, which expires on September 20, 2005. The County is seeking re-issuance of RGP 53 in order to continue routine maintenance of drainage channels as described in Enclosure 1.

Staffs of the State Water Resources Control Board (State Water Board) and San Diego and Colorado River Basin Regional Water Quality Control Boards (Regional Water Boards) have reviewed the FCMP in consultation with LAD, U.S. Fish and Wildlife Service, and other agency representatives. Based on initial review, additional project information was requested on December 22, 2004. The County submitted the requested information on March 29, 2005. The County's proposed measures to protect water quality are incorporated into this Order.

Enclosure 2 lists nine hundred sixty-seven (967) maintenance sites covered by this Order. The County expects to add more sites to the list at a future time, pending survey and compliance with the California Environmental Quality Act and federal and State Endangered Species Acts requirements. The additional projects will require a separate future certification or amendment of this certification.

Enclosure 3 is a copy of RGP 53 as proposed by LAD for re-issuance. All discharges subject to this Order will be conducted in compliance with the terms and conditions of RGP 53. Compensatory mitigation for impacts will be provided as described in Enclosure 1.

California Environmental Protection Agency



ACTION

- Order for Standard Certification
- Order for Technically Conditioned Certification
- Order for Denial of Certification
- Order for Waiver of Waste Discharge Requirements

STANDARD CONDITIONS:

- This Order action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23).
2. This Order action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
 3. This Order is conditioned upon total payment of any fee required under Chapter 28, CCR 23, and owed by the applicant.

ADDITIONAL CONDITIONS:

1. **Endangered Species.** FCMP projects covered under this Order shall not result in taking of any endangered, threatened, or candidate species or the habitat of such species except as authorized pursuant to the State and federal Endangered Species Acts.
2. **Other State Permits.** FCMP projects covered under this Order shall comply with all applicable National Pollutant Discharge Elimination System permits and Waste Discharge Requirements.
3. **Toxic Substances.** FCMP projects covered under this Order shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
4. **Hazardous Substances.** FCMP projects covered under this Order shall not discharge waste classified as "hazardous" as defined in Title 22 CCR section 66261 and California Water Code section 13173.

5. **Annual Report.** RGP 53 requires the County to provide an Annual Report to LAD, with copies to the Regional Water Boards and other specified agencies, documenting flood control maintenance activities conducted during the previous year.
 - a. A copy of the Annual Report shall also be transmitted to the State Water Board.
 - b. In addition to the reporting elements specified in RGP 53, the Annual Report shall include:
 - i. a compilation of impacts by the following water body categories:
 - wetland (jurisdictional wetland as determined by current federal delineation protocol);
 - riparian (characteristic riparian vegetation/habitat, but not jurisdictional wetland);
 - streambed (below normal high water, essentially unvegetated, may be wet or dry most of the time);
 - lake;
 - ocean (marine waters).
 - ii. a compilation of compensatory mitigation provided, by type (creation, restoration, enhancement, preservation), for each of the above water body categories.

The Annual Report shall be addressed to "Certification and Wetlands Program Manager," at the letterhead and following addresses respectively. The pre-discharge Notifications required by RGP 53 may be sent to the Regional Water Boards only.

Colorado River Basin Regional Water Board
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

San Diego Regional Water Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

6. **Enforcement.** Representatives of the Regional Water Boards shall have access to discharge and mitigation areas to determine ecological condition and compliance with this certification. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law. For purposes of CWA section 401(d), the applicability of any State law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.
 - a. In response to a suspected violation of any condition of this Order, the State Water Board may require the holder of any permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems

appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- b. In response to any violation of the conditions of this Order, the State Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

7. **Effective Period.** This Order will remain in effect until September 20, 2010; or until RGP 53 expires or is retracted, whichever occurs first.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that discharges from the project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredged or Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this Water Quality Certification. This General Waste Discharge Requirement can be accessed at <http://www.waterboards.ca.gov/cwa401/index.html>.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed consistent with the applicants' project description and the enclosed Project Information Sheet (Enclosure 1), and (b) compliance with all applicable requirements of the appropriate Regional Water Board's Water Quality Control Plan.

If you have any questions, please direct them to Oscar Balaguer, Chief, Certification and Wetlands Unit, at 916-341-5485 or obalaguer@waterboards.ca.gov. You may also contact James Maughan, Chief, Wastewater Section, at 916-341-5522 or jmaughan@waterboards.ca.gov.

Sincerely,



Celeste Cantú
Executive Director

Enclosures (3)

cc (See next page)

cc: (Continuation page)

Mr. Tim Vendlinski
U.S. Environmental Protection Agency
Region 9
Wetlands Regulatory Office (WTR-8)
75 Hawthorne Street
San Francisco, CA 94105

Ms. Jeannette Baker
Regulatory Branch
U.S. Army Corps of Engineers
16885 West Bernardo Drive, Suite 300A
San Diego, CA 92127

Ms. Janet Stuckrath
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

Ms. Kelly Fisher
CA Department of Fish and Game, Region 5
4949 Viewridge Avenue
San Diego, CA 92123

Mr. Robert Perdue, Executive Officer
Colorado River Basin Regional Water Quality Control Board
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Mr. John H. Robertus, Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

PROJECT INFORMATION SHEET

<p>Applicant:</p> <p>Project Contact:</p>	<p>San Diego County Department of Public Works</p> <p>Lorraine Ahlquist, Ecologist/Environmental Planner County of San Diego, Dept. of Public Works, Environmental Services Unit 5469 Kearny Villa Road, Suite 305 San Diego, CA 92123 858-874-4055</p>
<p>2. Project Purpose and Description</p>	<p><i>Title:</i> County of San Diego Flood Control Maintenance (Regional General Permit No. 53, Corps File No. 200500205jmb)</p> <p><i>Purpose:</i> To conduct periodic, routine flood control maintenance, including debris, vegetation and/or sediment removal, of culverts, bridges, and other facilities, to prevent flooding of either adjacent roadways or dwellings throughout the County of San Diego, including all unincorporated areas maintained by the County.</p> <p><i>Description:</i> The San Diego County Department of Public Works will conduct channel clearing and excavation as authorized by the US Army Corps of Engineers, Los Angeles District's (LAD) Regional General Permit (RGP) 53. RGP 53 will expire on September 20, 2005. The County is seeking the re-issuance of RGP 53 by LAD and certification of the proposed activities by the State Water Board. The Certification covers 967 drainage channels identified by the county and shown in Enclosure 2.</p>
<p>3. Receiving Water Names</p>	<p>The project involves maintenance of 967 waterways identified in Enclosure 3.</p>
<p>4. Water Body Types and Area Filled/Excavated (Acres)</p>	<p>See Item 7 below.</p>
<p>5. Federal Permit</p>	<p>U. S. Army Corps of Engineers, LAD RGP 53 (Corps File Number 200100033AJS)</p> <p>U. S. Fish and Wildlife Service, Carlsbad Office, Biological Opinion, Log No. 1-6-05-F-4297, August 29, 2005</p>
<p>6. Non-Compensatory Mitigation</p>	<p>San Diego County Department of Public Works will implement best management practices specified in the County of San Diego <i>Watershed Protection, Stormwater Management, and Discharge Control Ordinance</i> (WPO) (Ordinance Nos. 9424 and 9426, County Codes 67801 et seq.) February 20, 2002.</p> <p>The terms and conditions of RGP 53 include a number of mitigation measures, including:</p> <ul style="list-style-type: none"> • Requirement that work be the minimum needed to alleviate flooding potential in the immediate vicinity of culvert, bridge and/or channel; • Pre-project site-specific notification to LAD, the Regional Water Board, and other resource agencies, including proposed site-specific mitigation; • Requirement for site-specific approval by LAD before initiation of work; • Annual reports to LAD, the Regional Water Boards, and other resource agencies of activities conducted; • Exclusion of work in creeks running adjacent to a road; • Avoidance of trees with a diameter at breast height (DBH) of greater than two inches (2") to the maximum extent practicable; • Required use of erosion and siltation control measures; • Required use of mats or other measures for heavy equipment working in wetlands.

7. Compensatory Mitigation

The terms and conditions of RGP 53 require compensatory mitigation for impacts, as outlined below. Compensatory mitigation will occur at San Diego County's Sweetwater River Offsite Mitigation Area. San Diego County has documented protocols for compensation (Burkhart 1999). A jurisdictional delineation has determined that adequate mitigation capacity exists at the Sweetwater site (Mooney•Jones and Stokes, May 2005).

- For areas with more than minimal wetland vegetation subject to high frequency disturbance (more than once every three years), mitigation will be through creation, restoration, and/or enhancement, on a one-time basis (see table of ratios below).
- For areas with more than minimal wetland vegetation subject to low frequency disturbance (no more than once every three years), mitigation may be through a program of exotic species removal (e.g., *Arundo donax*). The amount of exotic species removal required will be commensurate with the quantity and quality of the habitats being impacted and enhanced and will range from 1:1 to 4:1.
- Regardless of the frequency of disturbance, mitigation for impacts to listed species' habitats will be mitigated at a minimum ratio of 2:1 (Mooney•Jones and Stokes, March 2005).

No compensatory mitigation will be required for impacts to areas that currently have little or no wetland vegetation and where no significant increases in vegetation would be expected to occur in the absence of maintenance activities.

Estimated impacts and required compensatory mitigation ratios by habitat type follow:

Habitat Type	Acre of Impact (acres)	Mitigation ratio	Mitigation Required (acre)
Arundo	0.98	N/A	N/A
Freshwater Marsh	2.61	1:1	2.61
Southern Willow Scrub	2.99	2:1	5.98
Mulefat Scrub	0.64	2:1	1.28
Riparian Woodland	1.14	3:1	3.42
Disturbed Wetland	2.57	1:1	2.57
Other Waters of US	49.38	N/A	N/A
Total	60.31	-	15.86

Ahlquist, March 10, 2005

8. Additional Information

California Environmental Quality Act:

Lead Agency – County of San Diego Mitigated Negative Declaration (MND); adopted by Board of Supervisors August 11, 1998, Notice of Determination OPR File # 199090184 filed August 31, 1998. Subsequent MND adopted November 10, 1999, adding additional sites. Addendum to the Subsequent MND, June 2001. Subsequent Addendum for September 2005 renewal of RGP 53 adopted on March 10, 2005.

References:

- Ahlquist, Lorraine. County of San Diego Public Works. Letter to S. Baczkowski. RGP 53... Renewal Application. March 10, 2005.
- Burkhart Environmental Consulting. Revised Conceptual Mitigation Plan for San Diego County DPW; Sweetwater River Offsite Mitigation Area. June 1999.
- LAD. Public Notice for Renewal of RGP 53. Online: <http://www.spl.usace.army.mil/regulatory>.
- Mooney•Jones and Stokes. Biological Assessment for the County of San Diego Department of Public Works Renewal of RGP 53. March 2005.
- Mooney•Jones and Stokes. Jurisdictional Delineation for the Sweetwater River offsite Mitigation Area, San Diego County, California. May 2005.
- San Diego County Department of Public Works. County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance (WPO) (Ordinance Nos. 9424 and 9426, County Codes 67801 et seq.). February 20, 2002.

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

**DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT
Renewal of Regional General Permit (RGP) No. 53
Routine Flood Control Maintenance
of Bridges, Culverts and Selected Channels**

Permittee: County of San Diego, Department of Public Works

Permit Number: 200400571-JMB

Issuing Office: Los Angeles District

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

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

Project Description: To perform routine flood control maintenance of bridges, culverts and selected channels that would include mechanical clearing of debris, sediment and/or vegetation to prevent flooding of adjacent roadways or buildings, as shown on the attached tables and drawings.

Project Location: In various waters of the U.S. throughout San Diego County, California, as shown on the attached tables and drawings.

Permit Conditions

General Conditions:

1. RGP 53 is valid until **September 20, 2010**. Requests to renew this RGP should be received at least 6 months prior to the proposed expiration date.
2. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
3. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

4. You must allow representatives from this office to inspect the activities authorized by this RGP at any time deemed necessary to ensure that they are being or have been accomplished according to the terms and conditions of your permit.

Special Conditions

Notification:

(A) Timing: The project proponent, the County of San Diego Department of Public Works (DPW) must notify the District Engineer (cc: USFWS, USEPA, and RWQCB) as early as possible and shall not begin any activity:

- 1) Until notified by the District Engineer that the activity may proceed under the RGP with any special conditions imposed by the District or Division Engineer. It is expected that there will be a quick turn-around/authorization by the Corps as this RGP is meant to avoid flooding hazards.
- 2) The applicant may notify the Corps by November first of each year with a complete list of proposed maintenance activities for the upcoming rainy season but may not proceed until written verification that the activities are covered by RGP No. 53 is issued by the Corps.
- 3) In the event emergency authorization is required, the project must be authorized either under a different Corps permit that addresses those situations or by implementing emergency procedures at 33 CFR Part 325.2(e)(4). A separate application may be required.

(B) Contents of Notification: The notification should be in writing and include the following information:

- 1) Location of the proposed project including latitude and longitude or UTM coordinates;
- 2) Brief description of the work to be performed;
- 3) Type of structure that will be maintained out, e.g., box culvert, etc;
- 4) Total area that will be impacted, e.g., .02 acre of unvegetated waters of the U.S. and .03 acre of southern willow scrub;
- 5) Description of the adjacent habitats likely to be affected.
- 6) Proposed mitigation. To ensure that all mitigation is commensurate with expected impacts, mitigation requirements shall be based upon: a) quality of existing habitat including consideration of the historical or ultimate habitat types that would be present if there had not been ongoing maintenance activities in the past, and b) frequency of proposed disturbance.

a) Areas with more than minimal wetland/riparian habitat. - Maintenance activities which occur in areas with more than minimal wetland vegetation will require mitigation based on the frequency of the proposed maintenance activities.

- 1) High Frequency Maintenance Activities. - Maintenance activities that occur more frequently than once every 3 years and that are in areas with more than minimal wetland vegetation will require mitigation through creation,

restoration and/or enhancement. All required wetland mitigation would be on a one-time basis. Future maintenance impacts to mitigation areas would require new mitigation as replacement.

2) **Low Frequency Maintenance Activities.** - Maintenance activities that occur less frequently, once every 3 years or longer can be mitigated by a program of giant reed (*Arundo donax*) and/or other exotic species removal. The amount of exotic species removal required will be commensurate with the quantity and quality of the habitats being impacted and enhanced and will range from 1:1 to 4:1.

b) Areas with minimal or no wetland/riparian habitat. - No mitigation will be required for maintenance activities that occur in areas where there is currently little or no wetland vegetation and no significant increases in wetland vegetation would be expected to occur in the absence of maintenance activities.

To determine whether an area falls into category 1 or 2 (see above) the Corps will evaluate each site based on specific parameters. The parameters would include: percent vegetation cover, diversity of species, width of existing stream, percent of exotic species present, and whether a site is mowed or treated with herbicides.

(C) **Form of Notification:** The standard permit application form (Form ENG 4345) may be used for each site, or a series of sites, as the notification and must include all of the information required in (b)(1)-(6) of Special Condition 1. A form may also be used that will be prepared by the Corps in consultation with the permittee, that will contain all relevant information.

(D) **District Engineer's Decision:** In reviewing the notification for the proposed activity, the District Engineer will determine whether the activity falls within the guidelines of this RGP and if it will result in minimal adverse environmental effects. Activities that exceed the criteria authorized by this RGP will need to be reviewed separately for potential authorization under other general permits or an individual permit.

2. Any work performed under this RGP must be the minimum necessary to alleviate flooding potential in the immediate vicinity of the culvert, bridge and/or channel, and shall not exceed the limits specified for each site in the attached tables. In all areas, trees with a DBH of 2" or greater must be avoided to the maximum extent practicable. The permittee shall stake, flag and/or otherwise mark the impact limits, as well as use appropriate siltation and erosion control measures (e.g. haybails or silt fences), to prevent additional wetland impact and spread of silt from the construction zone into adjacent wetlands and waters. The permittee shall submit to the Corps (cc: USFWS, USEPA and RWQCB) for approval final construction plans and photographs showing fenced limits of impact, and all Corps jurisdictional areas to be impacted and preserved at least 10 days prior to the planned date of initiating waters/wetlands impact authorized by this permit. If wetland impacts occur outside of these limits, all work shall cease and the Corps shall be notified immediately. Any wetland impacts that occur outside of the marked limits shall be mitigated at a minimum 5:1 ratio.

3. **Equipment:** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

4. **Regional and Case-by-Case Conditions:** The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the District Engineer or by the state in its Section 401 water quality certification.

5. Water Quality Certification: A blanket Section 401 water quality certification is currently pending with the State Water Resources Control Board.
6. Coastal Zone Management: An individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)) where the project may affect the Coastal Zone unless general concurrences are issued or waived for this regional general permit.
7. Endangered Species: The permittee shall follow all Reasonable and Prudent Measures, and Terms and Conditions, of the "Biological Opinion on the Regional General Permit #53 for Routine Flood Control Maintenance in San Diego County, California" (1-6-05-F-4297)(USFWS August 29, 2005)(attached) and any amendments.
8. Historic Properties: Impacts to historic properties listed, proposed for listing, or potentially eligible for listing on the National Register of Historic Places will be avoided to the maximum extent practicable. If such resources are inadvertently impacted as a result of actions authorized under this RGP, the permittee shall provide a full report of the action and the impacts incurred by the resource to the Corps within 30 days after completion of the action.
9. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
10. Suitable Material: No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.,) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
11. Any excavated material shall be disposed of at a suitable upland site.
12. Spawning Areas: Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
13. Obstruction of High Flows: To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).
14. Adverse Effects From Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
15. Waterfowl Breeding Areas: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
16. Removal of Temporary Fills: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation and revegetated with appropriate native riparian or wetland vegetation common to the area.
17. The permittee will remove noxious, invasive exotic plant species from areas immediately upstream, downstream, and adjacent to the area of project impacts where practical. Some species to be removed include: giant reed (*Arundo donax*), salt cedar (*Tamarix* spp.), common reed (*Phragmites australis*), tree tobacco

(*Nicotiana glauca*), castor bean (*Ricinus communis*), Russian thistle (*Salsola tragus*), star thistle (*Centaurea solstitialis*), artichoke thistle (*Cynara cardunculus*), thistle (*Cirsium* spp.) pampas grass (*Cortaderia selloana*), fountain grass (*Pennisetum setaceum*) and cocklebur (*Xanthium strumarium*). Removal of these plants will minimize the recruitment of exotic species within the maintenance activity area which is inherently vulnerable to such recruitment. The Corps will consider the removal of exotic plants as mitigation for certain maintenance activities.

18. The permittee shall submit to the Corps (cc: USFWS, USEPA, RWQCB) by June 1 of each year annual reports (including summary tables, scaled maps, and photographs of the impacts areas, as well as the certification of compliance given below) that summarize activities performed under this RGP, and documents that impacts at each site were not exceeded and compliance with the conditions above.

Further Information:

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

()Section 10 of the Rivers and Harbors 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.

This RGP does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This RGP does not grant any property rights or exclusive privileges.

c. This RGP does not authorize any injury to the property or rights of others.

d. This RGP does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this RGP, 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.

Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this RGP.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this RGP.

4. **Reliance on Applicant's Data.** The determination of this office that issuance of this RGP is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of RGP Decision.** This office may reevaluate its decision on this RGP 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 RGP.
- b. The information provided by you in support of your RGP 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 RGP 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. **Renewal.** General condition 1 establishes a time limit for the completion of the activity authorized by this RGP. This RGP must be renewed in order to remain valid.

7. **Areas Exempt From The RGP-Brow Ditches.** Brow ditches are constructed adjacent to roadways for the purpose of conveying storm runoff from the road surface. Typically, such drainage ditches are constructed in areas similar to the roadway itself (i.e., in an upland area not otherwise subject to Corps jurisdiction under Section 404 of the Clean Water Act). Such ditches are a road feature and are maintained on a periodic basis just as the roadway would be. Therefore, the Corps typically does not regulate such features.

8. **Activities Not Authorized By This RGP.** This RGP is intended to allow clearing of selected channels with no to only minimal wetland vegetation, and is not intended to allow clearing of creeks with more than minimal wetland vegetation. Clearing of waters of the U.S. including more than minimal wetlands for the maintenance of a roadway in the immediate vicinity is not authorized under this RGP. Native riparian vegetation in relatively natural stream channels is an expected occurrence. The fact that such channels may be adjacent to roadways is due to planning and construction of the roadways, and simple inundation is primarily a short-term inconvenience rather than an imminent threat of loss of life or structural property if appropriate measures are taken to prevent access during such periods.

"Enclosure 3 is not included in this electronic copy because of its large size."