



Regional General Permit 16

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

AQUATIC HABITAT RESTORATION AND ENHANCEMENT ACTIVITIES

EFFECTIVE: August 14, 2024

EXPIRES: August 14, 2029

The U.S. Army Corps of Engineers (USACE), Sacramento District (District), hereby issues Regional General Permit (RGP) 16 authorizing activities involving the discharge of dredged or fill material into waters of the United States, including wetlands, and/or structures or work in or affecting navigable waters of the United States for aquatic habitat restoration and enhancement activities.

Note: The term "you" and its derivatives, as used in this RGP, means the permittee or any future transferee. The term "this office" refers to the appropriate U.S. Army Corps of Engineers, Sacramento District office identified in the Contacts and Additional Information section below. After you receive verification for your project under this RGP from this office, you are authorized to perform that work in accordance with the terms and conditions specified below, and any project specific special conditions included in the written verification.

ISSUING OFFICE: U.S. Army Corps of Engineers, Sacramento District

ACTION ID: SPK-2014-00534

AUTHORITIES: Section 10 of the Rivers and Harbors Act (10 RHA) of 1899 for structures or work in or affecting navigable waters of the United States and Section 404 of the Clean Water Act (404 CWA) for the discharge of dredged or fill material in waters of the United States.

LOCATION: This RGP covers aquatic habitat restoration and enhancement activities in waters of the United States, subject to the authorities of the U.S. Army Corps of Engineers, Regulatory Program within the Sacramento District boundaries of California, Nevada, and Utah (see attached District map).

ACTIVITIES COVERED: The proposed RGP would authorize work or structures within navigable waters of the U.S. and/or the permanent or temporary discharge of fill material into waters of the U.S. for construction and maintenance activities associated with aquatic habitat restoration and enhancement activities. Typical activities to be authorized under this RGP include, but are not limited to, fish passage and screening improvements; bioengineered bank stabilization; engineering/designing with nature; nature-based solutions; water conservation; aquatic habitat restoration and enhancement of tidal and non-tidal streams, wetlands, and

other waters; and removal of pilings, small dams, tide gates, flood gates, and other in-water structures. Compensatory mitigation is not required for activities authorized under this RGP since these activities must be restoration or enhancement in nature, resulting in no net loss of aquatic resource functions and services. The conversion of waters from one type to another is authorized as long as there is an overall no net loss of aquatic resource functions and services.

TERMS:

1. Temporary construction related impacts, such as access roads, staging areas, etc., must be sited to avoid and minimize impacts to wetlands and other aquatic resources.
2. All activities authorized under this RGP must be restoration or enhancement in nature, resulting in no net loss of aquatic resource functions and services. Activities resulting in a loss of aquatic resource functions and services, or requiring compensatory mitigation, are not authorized under this RGP. The permittee must demonstrate that the proposed long-term benefits would outweigh any short-term adverse effects.

GENERAL CONDITIONS:

1. You shall not begin any work in waters of the U.S. until notified by this office that the activity is authorized under this RGP, subject to the terms, General Conditions, and any added Special Conditions. Notification must be submitted through the Regulatory Request System (<https://rrs.usace.army.mil>) using the "Apply for a Permit" function and include all information identified below for each activity.
2. Activities that require permission from, or review by, the USACE pursuant to 33 U.S.C. 408, are not authorized by this RGP until the USACE issues the section 408 permission to alter, occupy, or use the USACE project.
3. This USACE permit does not authorize you to take an endangered species, and their designated critical habitats. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). In California, the following Programmatic Biological Opinions and Not Likely to Adversely Affect determinations may be used:
 - a. Restoration PBO USFWS
 - b. Restoration PBO NMFS
 - c. NLAA USFWS for FRGP

For projects in Nevada and Utah, and other projects that are not covered under the above PBOs and NLAA determinations, the USACE may need to conduct consultation under Section 7 of the ESA as appropriate.

4. All work shall be conducted in accordance with the work windows identified in the USFWS LOC (Attachment 2), NMFS PBO (Attachment 3), and USFWS PBO (Attachment 4). In general, in-water work should be conducted when the work area is naturally dry or during low-flow conditions. Adverse effects to the aquatic ecosystem resulting from temporary impoundments of water, accelerated passage of water, or restricted passage of flow must be minimized to the maximum extent practicable.
5. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee is responsible for ensuring that the action authorized by this permit complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
6. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
7. Temporary construction related impacts, such as access roads, staging areas, etc., must be sited to avoid and minimize impacts to wetlands and other aquatic resources. Temporary discharges of dredged and/or fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills and/or structures must be removed in their entirety and the affected areas returned to pre-construction contour and elevation. The areas affected by temporary fills must be revegetated, as appropriate.
8. You must allow representatives from this office to inspect the authorized activity 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 authorization.
9. You are responsible for all authorized work and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of the permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all activities are completed.
10. Where the certifying authority has not previously certified compliance of this RGP with CWA Section 401, individual water quality certification for the proposed discharge must be obtained or waived. If the certifying authority issues an individual water quality certification for the proposed discharge, you must submit a copy of the certification to this office. The

discharge is not authorized until this office has notified you that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

11. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States, unless otherwise specifically approved by this office under separate authorization. Proper sediment controls must be used (see 401 water quality certification).

12. No activity is authorized which may have the potential to cause effects to 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) have been satisfied.

13. If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity authorized by this RGP, you must immediately notify this office of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. We will initiate the Federal, Tribal, and State coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

14. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high-water mark or high tide line, must be permanently stabilized at the earliest practicable date. You are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

15. Unless determined to be not appropriate or practicable by this office, for all temporary staging, access, dewatering, and construction activities resulting in temporary fill within waters of the U.S., you shall: Install a horizontal marker (e.g., fabric, certified weed free straw, waddles etc.) to delineate the existing bottom elevation of the waters of the U.S. prior to the placement of temporary fill in waters of the U.S.; and remove all temporary structures, work and fills, including cofferdams and temporary emergency management measures, in their entirety within 30 days following completion of construction activities in waters of the U.S. authorized by this RGP. You shall return any area affected by temporary construction, dewatering, and access work, including staging areas, to their pre-existing contours and conditions, and re-vegetate with appropriate native vegetation common to the area, within 45 days following completion of construction activities in waters of the U.S. authorized by this RGP. Proposed plans for de-watering structures and/or diversions must be approved, in writing, by this office.

16. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

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17. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. You are not authorized to initiate any activities in waters of the U.S. that have the potential to impair tribal rights under this RGP until this office has completed necessary tribal coordination/consultation or has determined the proposed action does not impair tribal rights, unless tribal coordination/consultation is addressed programmatically (e.g., by a Programmatic Agreement).

18. 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 the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

19. No activity may cause more than a minimal adverse effect on the course, condition, or capacity of a navigable water. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the U.S. You must install and maintain, at your expense, any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on your authorized facilities. You understand and agree 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, you will be required, upon due notice from this office, to remove, relocate, or alter the structural work or obstructions caused hereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

PRECONSTRUCTION NOTIFICATION PROCEDURES:

1. In accordance with General Condition 1, the PCN shall include a letter or a completed *Department of the Army Permit Application Form* (ENG 4345), requesting authorization under this RGP, and shall contain the following information to be considered complete:

- a. Name, address, and telephone number of the project proponent or their designated point of contact.
- b. Location of the proposed project, including a vicinity map and a map identifying the location of all waterbodies, staging area(s), and access route(s).
- c. Color photographs of the site.

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d. Description of existing site conditions and habitat, including factors in the watershed that may be contributing to the site's degradation or problematic conditions.

e. Description of the proposed activity, including methods and materials of construction and a brief discussion regarding how the proposed work would restore or enhance the habitat and/or functions and services of the aquatic resource(s).

f. Project plans or drawings showing all aspects of the proposed activity and the location of avoided and impacted waters of the U.S. Plan-view and cross-section plans shall be included. Both temporary (e.g., access, staging) and permanent impacts to waters of the U.S. shall be identified.

g. Delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland and Ordinary High Water Mark delineations must be prepared in accordance with the current method required by the USACE.

h. If dewatering is required, include the proposed dewatering/diversion plan.

i. If temporary access or staging is required, include the proposed location(s) and dimension(s) of the access route or staging area.

j. If temporary fills are required, include a brief description of proposed restoration activities and, if necessary, revegetation of affected aquatic resources.

2. The PCN shall include a brief narrative describing how the proposed activity would comply with all Terms and General Conditions of this RGP or a statement identifying why the General Condition does not apply or a description of why compliance with the General Condition is not practicable. Failure to comply with a Term or General Condition may result in this office determining the proposed activity does not qualify for authorization under this RGP and will be evaluated under an alternative process.

3. For an activity that requires permission from, or review by, the USACE pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a USACE project, the PCN must include a statement confirming that you have submitted a written request for section 408 permission from, or review by, the USACE office having jurisdiction over that USACE project.

4. For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by

the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For activities that require a PCN, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.

5. For non-federal permittees, if the activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For activities that require a PCN, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act.
6. For an activity that will 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 the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river.”
7. This office will determine if the PCN is complete within 30 calendar days of the date of receipt. If the PCN is determined to be incomplete, we will notify you within 30 days to request the additional information necessary to make the PCN complete. Generally, we will request additional information necessary to make the PCN complete only once. However, if you do not provide all the requested information, then we will notify you that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received.
8. Activities may not proceed under the authority of this RGP until you have been notified, in writing, by this office that the activity is authorized.

FURTHER INFORMATION:

1. 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), and/or Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Limits of this authorization:
 - a. 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.

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d. This RGP does not authorize interference with any existing or proposed federal projects.

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.

c. 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 comply with the terms and conditions of your RGP and for the initiation of legal action where appropriate.

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You will be required to pay for any corrective measures 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. **Discretionary Authority:** This office has the discretion to suspend, modify, or revoke authorizations under this permit. This discretionary authority may be used by us to further condition or restrict the applicability of this permit for cases in which we have concerns associated with the Clean Water Act Section 404(b)(1) Guidelines, or regarding any factor of the public interest. Should we determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to waters of the United States or otherwise be contrary to the public interest, we will modify the authorization to reduce or eliminate those adverse effects or notify you that the proposed activity is not authorized by this permit and provide instructions on how to apply for authorization under another type of DA permit.

Activities not meeting the terms and conditions of this permit may be authorized through another type of permit from us, such as a Nationwide Permit, Regional General Permit, Letter of Permission, or Standard Permit. We will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or cumulatively, on the aquatic environment or may be contrary to the public interest. We may include additional special conditions to a verification under this permit to ensure the activity has minimal impact. We may also restore authorization under this RGP at any time we determine the reason for asserting discretionary authority has been resolved or satisfied by a condition, project modification, or new information. We may also use our discretionary authority to modify, suspend, or revoke this permit at any time.

PERMIT DURATION: This RGP is valid for 5 years from the date of issuance and will expire on August 14, 2029. The USACE may re-evaluate the terms and conditions of this RGP at any time deemed necessary to protect the public interest. Activities verified by the USACE are valid until the date the RGP expires, is modified, reissued, or revoked. If we have not reissued the RGP by the expiration date, the RGP will no longer be valid. Activities requiring PCN under this RGP must be verified in writing by this office.

CONTACTS AND ADDITIONAL INFORMATION:

U.S. Army Corps of Engineers, Sacramento District
Regulatory Division
1325 J Street
Sacramento, California 95814-2922
Email: SPKRegulatoryMailbox@usace.army.mil
Phone: 916-557-5250

ATTACHMENTS:

U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Sacramento, CA 95814-2922

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1. Sacramento District Regulatory Division Map
2. USFWS Letter of Concurrence
3. NMFS Biological Opinion
4. USFWS Biological Opinion

This RGP becomes effective when the federal official, designated to act for the Secretary of the Army has signed below.



Michael S. Jewell
Chief, Regulatory Division
Sacramento District

14 August 2024

Date



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

CESPK-RD (File Number, SPK-2014-00534)

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings (SPK-2014-00534)

This document constitutes the Environmental Assessment, 404(b)(1) Guidelines Evaluation, as applicable, Public Interest Review, and Statement of Findings for Regional General Permit (RGP) 16, *Aquatic Habitat Restoration and Enhancement Activities*.

1. Introduction and Overview: Information about the proposal subject to one or more of the Corps' regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 10 and findings and determinations are documented in Section 12 of this memorandum. Further, summary information about the activity including administrative history of actions taken during project evaluation can be found in ORM2.

a. Activity location: This RGP covers aquatic habitat restoration and enhancement activities in waters of the United States, subject to the authorities of the U.S. Army Corps of Engineers, Regulatory Program, within the Sacramento District boundaries of California, Nevada, and Utah.

b. Description of activity requiring permit:

The RGP would authorize work or structures within navigable waters of the U.S. and/or the permanent or temporary discharge of fill material into waters of the U.S. for construction or maintenance activities associated with aquatic habitat restoration and enhancement activities. Typical activities to be authorized include, but are not limited to, fish passage and screening improvements; bioengineered bank stabilization; engineering/designing with nature; nature-based solutions; water conservation; aquatic habitat restoration and enhancement of tidal and non-tidal streams, wetlands, and other waters; and removal of pilings, small dams, tide gates, flood gates, and other in-water structures. Compensatory mitigation is not required for activities under this RGP since these activities must be restoration or enhancement in nature, resulting in no net loss of aquatic resource functions and services. The conversion of waters from one type to another is authorized as long as there is an overall no net loss of aquatic resource functions and services.

Impacts to waters of the U.S. related to the following activities may be authorized under this RGP:

(1) Fish Passage and Screening Improvements: This activity type is specifically focused on improving access to spawning and rearing areas for anadromous fish by removing or improving human-made barriers at stream crossings. Human-made crossings over or through a stream channel include, but are not limited to, paved or unpaved roads, railroads, trails and paths, Arizona crossings, bridges, and box, pipe, or concrete culverts and baffles.

Improved crossings must be a minimum of the full width of the active channel and designed to pass the 100-year storm flow.

(2) Bioengineered Bank Stabilization: This activity type would reduce sediment from bank erosion by stabilizing stream banks with appropriate site-specific techniques. Possible bank stabilization techniques include log stabilization structures, tree revetment, native plant material revetment, willow wall revetment, willow siltation baffles, brush mattresses, brush check dams, and water bars. Eligible bank stabilization projects include stabilization of eroding, collapsing, or otherwise destabilized banks, and stabilization to sustain in-stream habitat restoration projects and/or protect nearby structures that may be impacted by the restoration project.

(3) Engineering with Nature: Engineered solutions make use of engineered processes and innovative technologies. Possible engineering with nature projects include permeable soils and hardscapes, soil amendments (e.g., biochar), and setback levees. These solutions can make use of natural processes and ecosystems. Engineering with nature solutions are sustainable planning, design, environmental management, and engineering practices that weave natural features or processes into the built environment to promote adaptation and resilience. This activity type would combat climate change, reduce flood risk, improve water quality, restore and protect wetlands, stabilize shorelines, reduce urban heat, and add recreational space. Possible projects include stormwater parks, water retention swales and ponds, bioswales, greenways, revegetation and reforestation, and the use of post-assisted log structures (PALs) and beaver dam analogs (BDAs).

(4) Water Conservation: This activity type would conserve water and increase in-stream flow and/or improve in-stream water quality that benefit aquatic species. Potential activities include modifications of water diversions, moving points of diversion, and piping when the water savings are quantified and dedicated for in-stream beneficial flows.

(5) Aquatic Habitat Restoration and Enhancement of Tidal and Non-tidal Streams, Wetlands, and Other Waters: This activity type includes habitat restoration work in stream channels and floodplains. Restoration activities include removal of invasive and non-native plant and animal species, installation of large wood, root wads, boulder features and weirs, gravel augmentation, side channel construction, and floodplain connectivity projects such as off-channel features and floodplain grading projects. Projects should be designed with physical and biological processes in mind and structures should mimic natural self-sustaining examples to the extent possible.

(6) Removal of Pilings, Small Dams, Tide Gates, Flood Gates, and Other In-water Structures: This activity type includes the removal of small structures that impede the natural flow of water and/or the natural movement of aquatic species.

In accordance with 33 CFR 322.2(f)(1), this RGP authorizes activities that are substantially similar in nature that would result in minimal individual and cumulative impacts on the aquatic environment, when conducted under the terms and conditions of this permit.

(1) Proposed avoidance and minimization measures: Each activity authorized under this RGP would be required to meet the above activity descriptions as well as terms and general conditions as identified in the Final RGP located in Appendix A. The terms and

general conditions identified in the RGP were developed to avoid and minimize impacts to waters of the U.S. to ensure that no more than minimal individual and cumulative adverse effects would occur, and to ensure the activities authorized under this RGP would result in no net loss in aquatic resource functions and services.

(2) Proposed compensatory mitigation: Activities authorized by this RGP must be restoration or enhancement in nature, resulting in no net loss of aquatic resource functions and services. Activities resulting in a net loss of aquatic resource functions and services are not authorized under this RGP. It is possible that a restoration project may result in a reduction in the area of the aquatic resource while still increasing the functions and services of the resource. For example, a larger crossing structure may be required to improve fish passage. No compensatory mitigation would be required for activities that qualify for authorization under this RGP.

c. Existing conditions and any applicable project history: The previous RGP 16 was issued on July 11, 2019, and expired on July 11, 2024. The 2019 RGP 16 covered projects funded by the California Department of Fish and Wildlife Fisheries Restoration Grant Program or similar activities that met the terms of the RGP 16. The proposed RGP 16 would allow for aquatic habitat restoration and enhancement activities regardless of funding and cover all of the Sacramento District. Waterways within the Sacramento District have been modified or degraded as a result of human activity, resulting in a reduction of habitat value and availability for aquatic species. Activities impacting habitat quality include present and historic mineral and resource extraction, flood control, water diversion, agricultural practices, and other land development and conversion practices. The existing conditions at the location of each activity would vary and would be described by each project notification package, when required.

d. Permit Authority: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

2. Scope of review for National Environmental Policy Act (i.e. scope of analysis), Section 7 of the Endangered Species Act (i.e. action area), and Section 106 of the National Historic Preservation Act (i.e. permit area):

a. Determination of scope of analysis for National Environmental Policy Act (NEPA): The scope of analysis for each activity under the RGP would be determined on a case-by-case basis, and would include all waters of the U.S. affected by the activity requiring a Corps permit, as well as any adjacent uplands that meet the requirements of 33 CFR 325, Appendix B.

b. Determination of the “Corps action area” for Section 7 of the Endangered Species Act (ESA): The action area for Section 7 of the ESA would be determined on a case-by-case basis and would include threatened and/or endangered species and their habitat directly or indirectly affected by the activity requiring a Corps permit.

c. Determination of permit area for Section 106 of the National Historic Preservation Act (NHPA): The permit area for Section 106 of the NHPA would be determined on a case-by-case basis and would include all waters of the U.S. affected by activity requiring a Corps permit as well as adjacent uplands that meet all three tests identified in 33 CFR 325, Appendix C(g)(1).

3. Purpose and Need:

a. Purpose and need for the project as provided by the applicant and reviewed by the Corps: The purpose of the proposed projects is to provide a streamlined process to allow for restoration, establishment, and enhancement activities within aquatic habitats within the Sacramento District.

b. Basic project purpose, as determined by the Corps: Aquatic habitat restoration and enhancement.

c. Water dependency determination: Since each individual activity has not been identified, it is unclear whether each specific activity would require access or proximity to or siting within a special aquatic site to fulfill the basic purpose. This determination would be made on a case-by-case basis, as necessary.

d. Overall project purpose, as determined by the Corps: Provide a streamlined permitting process for aquatic habitat restoration and enhancement projects within the Sacramento District.

4. Coordination: A public notice was sent on March 7, 2024, via email to the agencies and individuals identified in the public notice email list for the Sacramento District located in Appendix B. A total of five comments were received, as described below.

a. Public Notice Results: The results of coordinating the proposal on Public Notice (PN) are identified below, including a summary of issues raised, any applicant response and the Corps' evaluation of concerns.

Were comments received in response to the PN? Yes.

Was a public meeting and/or hearing requested and, if so, was one conducted? No, no public hearing or meeting was requested.

Comments received in response to public notice:

U.S. Environmental Protection Agency (USEPA), Region 9

In an email dated March 12, 2024, the USEPA, Region 9 made the following comments:

Comment 1: As sea levels rise, habitat types would shift from, for instance, mudflat to low-marsh to high-marsh to upland. The proposed RGP does not address short-term and/or long-term impacts upon the habitat types expected to develop over time, although the impacts would be included in the analysis for no net loss.

Corps' Response: RGPs are designed to ensure no more than minimal individual and cumulative adverse effects to the aquatic environment. In addition, RGPs are only authorized for 5 years. Any analysis of the effects of a specific activity under the RGP would be completed when that activity is being reviewed. We also note that this RGP does not require

that restored or enhanced aquatic resources remain in perpetuity. It is not possible to predict with adequate accuracy how any specific habitat would change over time, and it is unlikely that such effects would be within the Corps' scope during review, as those are not effects of the proposed action on the environment.

Comment 2: What type of documentation would be adequate for Preconstruction Notification Procedures 1(e) and 4?

Corps' Response: For both pre-construction notification procedures, adequate documentation would consist of any text-based document that provided the required information, including the pre-construction notification forms ENG 6082 (for Nationwide Permits) or ENG 4345 (for all permits other than Nationwide Permits), and any attachment to a pre-construction notification form.

Yocha Dehe Wintun Nation

In a letter dated April 12, 2024, the Yocha Dehe Wintun Nation made the following comment:

Comment 1: The tribe's Cultural Resources Department concluded that the proposed RGP 16 is within the aboriginal territories of the Yocha Dehe Wintun Nation and that, therefore, the tribe has a cultural interest and authority within the proposed project area, which is the Sacramento District. They would like to continue to receive updates on the project, which is the RGP 16.

Corps' Response: On August 12, 2024, the Corps responded to Yocha Dehe and notified them projects would be reviewed on a case-by-case basis and the Yocha Dehe Wintun Nation would be contacted via letter regarding any projects that are believed to be located within the aboriginal territories of the tribe.

U.S. Fish and Wildlife Service

In an email dated April 15, 2024, the U.S. Fish and Wildlife Service made the following comment:

Comment 1: The USFWS acknowledged receipt of the request for "an extension of the November 13, 2018, programmatic informal consultation for the State of California, Department of Fish and Wildlife, Central Valley Fisheries Restoration Grant Program (FRGP) (FWS Reference: 2017-I-0291-1) in portions of Shasta, Tehama, Glenn, Butte, Colusa, Yuba, Sutter, Nevada, Placer, Yolo, El Dorado, Sacramento, Amador, Calaveras, San Joaquin, Tuolumne, Stanislaus, Mariposa, Merced, Madera, Fresno, Tulare, and Kings Counties, California." Adam Stewart was identified as the point-of-contact for the consultation.

Corps' Response: No questions or concerns were identified.

Additional discussion of submitted comments, applicant response and/or Corps' evaluation: N/A.

b. Additional issues raised by the Corps: N/A.

c. Comments regarding activities and/or effects outside of the Corps' scope of review: N/A.

5. Alternatives Analysis: (33 CFR Part 325 Appendix B(7), 40 CFR 230.5(c) and 40 CFR 1502.14). An evaluation of alternatives is required under NEPA for all jurisdictional activities. An evaluation of alternatives is required under the Section 404(b) (1) Guidelines for projects that include the discharge of dredged or fill material. NEPA requires discussion of a reasonable range of alternatives, including the no action alternative, and the effects of those alternatives; under the Guidelines, practicability of alternatives is taken into consideration and no alternative may be permitted if there is a less environmentally damaging practicable alternative.

a. Site selection/screening criteria: In order to be practicable, an alternative must be available, achieve the overall project purpose (as defined by the Corps), and be feasible when considering cost, logistics and existing technology.

Criteria for evaluating alternatives as evaluated and determined by the Corps: A reasonable alternative must provide an accelerated permitting process for aquatic habitat restoration projects while avoiding and minimizing impacts to natural resources and federally listed species. A reasonable alternative must result in no net loss in functions and services of the aquatic resource.

b. Description of alternatives:

(1) Alternative 1 – No action: Under this alternative, the proposed RGP would not be issued and if the work were not an exempt activity as defined 404(f) of the Clean Water Act, as further clarified in 33 CFR 323.4(a)(2), the applicant would need to meet the terms and conditions of an existing General Permit (GP) or apply for an Individual Permit (IP). To be processed under another GP, the proposed project would need to utilize an ecological reference, would need to have a net increase in aquatic resource functions and services, and could not convert stream or natural wetlands to another aquatic habitat type. If the proposed project did not meet one of those terms, the project would need to be processed as an IP which would not expedite restoration activities. Verifying a GP or issuing an IP for each activity may require additional processing time and individual consultation with external agencies for each activity. Although actions could be permitted separately through the GP or IP process, resulting in the implementation of the action, this alternative may not expedite restoration activities. This alternative does not meet the project purpose.

(2) Alternative 2 – Proposed RGP: Under this alternative the proposed RGP would be issued for aquatic habitat restoration and enhancement activities as described above. To allow for the RGP to be utilized for more restoration project, the proposed RGP would require there to be no net loss of aquatic resource functions and services and would be applicable throughout the entire Sacramento District. Programmatic consultations have been completed through Section 7 of the ESA with the USFWS and the National Marine Fisheries Service (NMFS) in order to accelerate the authorization of each activity. Consultation with NMFS also included consultation under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This alternative would result in an accelerated process for authorizing aquatic habitat restoration and enhancement projects and facilitate the implementation of restoration

projects within the Sacramento District.

(3) Alternative 3 – Re-issue Original RGP: Under this alternative, the proposed RGP would be re-issued without changes. The proposed project would be required to have a net increase in aquatic resource functions and services and would be limited to California. The CDFW must review all proposed projects and complete an environmental analysis, in accordance with the California Environmental Quality Act (CEQA), for each project selected to receive funding through the FRGP. Due to the level of review that each funded action must receive, individual project notification would not be required for projects meeting the terms and conditions of the RGP. Annual notification would be provided to this office by the CDFW, listing all projects and the acreage of impacts/restoration funded under the FRGP and authorized under this RGP. Authorization for funded actions would be streamlined through a single decision document for all projects in the annual notification.

Any proposed action not funded by the FRGP or that requires additional consultation under Section 7 of the ESA or Section 106 of the NHPA, must submit a notification to this office in order to complete consultation and be authorized under this RGP.

(4) Alternative 4 – Alternative terms and conditions of the RGP: A number of conditions were considered for the proposed RGP to ensure that no more than minimal individual and cumulative impacts would occur under the RGP. We have determined that not providing conditions on the RGP would, in some instances, fail to provide an adequate and necessary level of assurance for the minimal impact determination. Conversely, we have determined that more restrictive conditions would not substantially increase the probability that the impacts would be minimal, but would likely restrict the viability of the RGP and adversely affect its use.

c. Alternatives evaluation under the Section 404(b)(1) Guidelines and NEPA: The no action alternative and alternatives 3 and 4 do not meet the project purpose to provide an accelerated permitting process for aquatic habitat restoration and enhancement projects. Although proposed restoration activities could still be authorized through the existing permitting process or through individual review and authorization, there would not be an improvement over the existing permitting process.

d. Least environmentally damaging practicable alternative under the 404(b)(1) Guidelines: Alternative 2, the proposed RGP, would meet the project purpose and result in no net loss in function and services of the aquatic resource. By implementing alternative 2 and approving the RGP, activity sponsors would be encouraged to modify the proposed activities to meet the terms and conditions in order to use the accelerated permitting process. The permitting process under this RGP would also reduce the amount of staff hours required to review and approve each proposed action, allowing additional time to be spent on the review of other permit actions. Due to the accelerated permitting process and avoidance and minimization of impacts, Alternative 2 is the least environmentally damaging practicable alternative (LEDPA) and the environmentally preferable alternative.

6. Evaluation for Compliance with the Section 404(b)(1) Guidelines: The following sequence of evaluation is consistent with 40 CFR 230.5.

a. Potential impacts on physical and chemical characteristics of the aquatic ecosystem (Subpart C 40 CFR 230.20).

The following has been considered in evaluating the potential impacts on physical and chemical characteristics (see Table 1):

Table 1 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate				X		
Suspended particulates/ turbidity				X		
Water			X			
Current patterns and water circulation			X			
Normal water fluctuations			X			
Salinity gradients			X			

Discussion: Construction of proposed activities would result in impacts to substrate through grading or the addition of bed material such as spawning gravel. These impacts would be short term, occur during construction, and would result in improvements to the habitat, thus the negative impacts would be minimal or possibly negligible for some activity types. In-water work may result in a temporary increase in suspended particulates and turbidity. This impact would be temporary and would be minimized through the implementation of standard best management practices required in the terms and conditions of the RGP. The approved activity types may result in impacts to the remaining categories and are expected to improve current conditions. The project manager would ensure, on a case-by-case basis, that activities authorized under the RGP would result in no more than minimal individual/cumulative adverse effects.

b. Potential impacts on the living communities or human uses (Subparts D, E and F):

(1) Potential impacts on the biological characteristics of the aquatic ecosystem (Subpart D 40 CFR 230.30).

The following has been considered in evaluating the potential impacts on biological characteristics (see Table 2):

Table 2 – Potential Impacts on Biological Characteristics						
Biological characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species				X		

Table 2 – Potential Impacts on Biological Characteristics						
Biological characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Fish, crustaceans, mollusk, and other aquatic organisms				X		
Other wildlife				X		

Discussion: Construction of proposed activities would result in short-term impacts to habitat and individuals present at the project site or within downstream waters. All activities must comply with the terms and conditions in the USFWS Biological Opinion (2022-0005149-S7, August 31, 2022), the NMFS Biological Opinion (WCR-2017-8532, August 31, 2018) (BO) and the USFWS letter of concurrence (08ESMF00-2017-I-0291-1, November 13, 2018) (LOC). Projects that do not meet these terms and conditions require individual consultation with the appropriate service(s). Through compliance with the NMFS BO, activities would be not likely to jeopardize the continued existence of Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), California Central Valley steelhead (*Oncorhynchus mykiss*), and southern DPS of North American green sturgeon (*Acipenser medirostris*), and their designated critical habitats. The NMFS BO states that due to the nature of the activities, actions would have minimal adverse effects to Pacific salmon and Pacific groundfish essential fish habitat (EFH). Because any adverse effects to EFH would be minimal and multiple benefits to these habitats are expected, EFH conservation recommendations were not offered.

Through compliance with the USFWS BO, activities would be not likely to jeopardize the continued existence of the species located in table 1 on pages 2 and 3 of the UFSWS BO.

Through compliance with the USFWS LOC, activities would be not likely to adversely affect valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), giant garter snake (*Thamnophis gigas*), western distinct population segment (DPS) of the yellow-billed cuckoo (*Coccyzus americanus*), and Least Bell's vireo (*Vireo bellii pusillus*).

Although proposed activities may adversely impact non-native species, habitat restoration would result in beneficial environmental impacts for aquatic species and other wildlife. The project manager would ensure, on a case-by-case basis, that activities authorized under the RGP would result in no more than minimal individual/cumulative adverse effects.

(2) Potential impacts on special aquatic sites (Subpart E 40 CFR 230.40):

The following has been considered in evaluating the potential impacts on special aquatic sites (see Table 3):

Table 3 – Potential Impacts on Special Aquatic Sites

Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges				X		
Wetlands				X		
Mud flats				X		
Vegetated shallows				X		
Riffle and Pool Complexes				X		
Coral reefs	X					

Discussion: All special aquatic sites, with the exception of coral reefs, may be present within potential restoration sites. Riffle and pool complexes may be restored through potential grading or gravel augmentation to restore, improve, or create additional riffles and pools. Disconnected or modified floodplains and channels may support vegetated shallows and wetlands. Multiple federal and state refuges occur along waterways with the RGP area. The project manager would confirm that the proposed aquatic habitat restoration and enhancement activities are consistent with the habitat management goals of the sanctuaries and refuges. If impacts to special aquatic sites are unavoidable, authorized activities may result in short-term individual and cumulative adverse environmental effects. However, given the RGP's limitations, terms, and conditions, we have determined that activities authorized by the RGP would be individually and cumulatively minimal and would result in no net loss of aquatic functions and services.

(3) Potential impacts on human use characteristics (Subpart F 40 CFR 230.50):

The following has been considered in evaluating the potential impacts on human use characteristics (see Table 4):

Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies		X				
Recreational and commercial fisheries				X		
Water-related recreation				X		
Aesthetics				X		
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves			X			

Discussion: It is acknowledged that the construction phase of project implementation may result in short-term effects to aesthetics and water-related recreation, including recreational fishing, located at the action site. The presence of construction equipment and vehicles as well as the view of freshly disturbed earth may result in a temporary adverse effect to the aesthetics of the area. These impacts would be temporary and ultimately result in improved conditions once the sites are restored and new vegetation has been established. Approved actions also have the potential to impact fisheries and recreation through habitat modification. Proposed activities may also be located in or near parks and similar preserves. In both cases, the effects would be beneficial and improve both fisheries and the value of parks and other preserves. The project manager would ensure, on a case-by-case basis, that activities authorized under the RGP would result in no more than minimal individual/cumulative adverse effects.

c. Pre-testing evaluation (Subpart G, 40 CFR 230.60):

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. See Table 5:

Physical characteristics	X
Hydrography in relation to known or anticipated sources of contaminants	X
Results from previous testing of the material or similar material in the vicinity of the project	X
Known, significant sources of persistent pesticides from land runoff or percolation	X
Spill records for petroleum products or designated (Section 331 of CWA) hazardous substances	X
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	X
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	X

Discussion: All fill material discharged into water of the U.S. must be clean and free of contaminants and noxious plants per the terms and conditions, as identified in the Final RGP located in Appendix A. The project manager would ensure that all of the conditions are met and no fill material is used that contains possible contaminants.

d. Evaluation and testing (Subpart G, 40 CFR 230-61):

Discussion: The project manager would determine, on a case-by-case basis, if testing is required.

e. Actions to minimize adverse impacts (Subpart H). The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure minimal adverse effects of the proposed discharge. See Table 6:

Table 6 – Actions to Minimize Adverse Effects
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Actions concerning the location of the discharge	
Actions concerning the material to be discharged	X
Actions controlling the material after discharge	
Actions affecting the method of dispersion	
Actions affecting plant and animal populations	X
Actions affecting human use	

Discussion: All fill materials used must be clean and suitable for the location as discussed in Section 6(c) and 6(d) above. Effects to plant and animal populations would be minimized through implementation of the terms and conditions of the Final RGP in Appendix A, the NMFS BO, the USFWS BO and the USFWS LOC. Although the actual location of each individual activity and method of implementation is unknown at the time of permit issuance, adherence to the restoration manual would ensure that the activities are implemented in a way that would avoid and minimize impacts to the environment and other resources.

f. Factual Determinations (Subpart B, 40 CFR 230.11).

The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants. See Table 7:

Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate				X		
Water circulation, fluctuation and salinity			X			
Suspended particulates/turbidity				X		
Contaminants			X			
Aquatic ecosystem and organisms				X		
Proposed disposal site				X		
Cumulative effects on the aquatic ecosystem			X			
Secondary effects on the aquatic ecosystem			X			

Discussion: A discussion of impacts to physical substrate, water circulation, fluctuation, and salinity, and suspended particulates/turbidity can be found in Section 6(a). A discussion of impacts to aquatic ecosystem and organisms can be found in Section 6(b). A discussion of contaminants can be found in Sections 6(c) and 6(d). Impacts resulting from the proposed activities would result in negligible effects or minimal, short-term effects, limited to the construction phase of implementation. All activities would restore and enhance the aquatic resources and adjacent uplands, resulting in benefits to the ecosystem, including the

human environment. Due to the beneficial impacts of the proposed activities, they would not result in cumulative or secondary impacts.

g. Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12). Based on the information above, including the factual determinations, the proposed discharge has been evaluated to determine whether any of the restrictions on discharge would occur. See Table 8:

Table 8 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		X
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		X
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Act)?		X
4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?		X
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		X
6. Will the discharge cause or contribute to significant degradation of waters of the U.S.?		X
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	X	

Discussion: In order to be authorized by this RGP, activities would avoid and minimize impacts to the environments through compliance with the requirements of the Final RGP and the restoration manual. The accelerated permitting process would encourage applicants to minimize impacts in order to qualify for this RGP.

7. General Public Interest Review (33 CFR 320.4 and Regulatory Guidance Letter 84-09): The decision whether to issue a permit would be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

a. Public interest factors reviewed: All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail. See Table 9 and any discussion that follows.

The project manager would ensure, on a case-by-case basis, that activities authorized under the RGP would result in no more than minimal individual/cumulative adverse effects.

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation: Implementation of the actions covered under this RGP would result in the restoration and enhancement of aquatic habitat.					X	
2. Economics: Implementation of the actions covered under this RGP would result in economic benefits through grant funding to the applicant and work created for those involved in the implementation/construction and monitoring of the activity.					X	
3. Aesthetics: Activities, as described in Section 6(b), would result in minimal, short-term impacts to aesthetics during construction. The presence of construction equipment and vehicles as well as the view of freshly disturbed earth may result in a temporary adverse effect to the aesthetics of the area. These impacts would be temporary and ultimately result in improved conditions once the sites are restored and new vegetation has been established.					X	
4. General Environmental Concerns: Implementation of the actions covered under this RGP may temporarily alter habitat characteristics of streams and wetlands, decreasing quantity and quality of habitat during construction activities. However, aquatic habitat restoration and enhancement activities may result in a net beneficial effect to aquatic resource habitats.				X		
5. Wetlands: Some activities may result in impacts to wetlands adjacent to riverine habitat or within floodplains. The terms and conditions of the RGP require the applicant to avoid and minimize all impacts to wetlands. It is anticipated that some temporary impacts may result during construction and be restored upon completion of construction. Wetlands that are permanently impacted or converted to another aquatic resource type as part of the restoration activities, would result in improved habitat for aquatic species.				X		

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
6. Historic Properties: All activities with the potential to impact historic properties would require additional review and consultation with the California State Historic Officer and appropriate Native American tribes or other organizations.			X			
7. Fish and Wildlife Values: As described in Section 6(b), construction of proposed activities would result in short-term impacts to habitat and individuals present at the project site or within downstream waters. Compliance with the terms and conditions in the USFWS BO, the NMFS BO, and USFWS LOC would reduce impacts such that the activities would be not likely to adversely affect or not likely to jeopardize the continued existence of threatened or endangered species. After implementation of the proposed activities and site cleanup, the habitats would be restored and enhanced for species present.					X	
8. Flood Hazards: Projects would not be authorized under this RGP that would result in an increase in flood hazards. The terms and conditions of the RGP require a Section 408 approval from the Corps for all activities affecting a federal project. Although it is possible that some channel modifications could result in improvements to the conveyance of flood waters, it is unknown if authorized activities would either individually or cumulatively result in a noticeable beneficial effect.				X		
9. Floodplain Values: Restoration activities may modify and restore the floodplain to reconnect with the channel and allow use of the floodplain for food production and aquatic habitat. No structures or other uses of the floodplain would be authorized under this RGP.					X	
10. Land Use: Land use would be limited to temporary construction and staging and the restoration of aquatic habitat or associated lands within or adjacent to waterways. This RGP additionally allows for the conversion of aquatic habitat type, but does not allow for the conversion of aquatic habitat to upland habitat.					X	

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
11. Navigation: Proposed activities must maintain the current navigational uses of the affected waterways. In-stream restoration of waterways may result in benefits to non-motorized recreational boating, such as rafting.				X		
12. Shoreline Erosion and Accretion: Modifications to the riverine channel may result in minimal changes to shoreline erosion or accretion. These are natural processes and may be beneficial to aquatic habitat. No project would be authorized that results in erosion that would threaten property or negatively impact the waterway.				X		
13. Recreation: As described in Section 6(b), it is acknowledged that the construction phase of project implementation may result in short-term effects to water-related recreation located at the action site, including recreational fisheries. These impacts would be temporary and ultimately result in improved conditions once the sites are restored.				X		
14. Water Supply and Conservation: Water conservation is one of the authorized activity types and would provide more efficient use of water extracted from stream systems and result in an increase of in-stream flow and/or improvement of in-stream water quality that benefit aquatic species. Implementation of these projects are anticipated to improve water supply and in-stream flows.					X	
15. Water Quality: All activities are required to receive a 401 Water Quality Certification, or waiver, prior to implementation. The general conditions of the RGP require compliance with the terms and conditions of the individual certification. General Water Quality Certifications have been requested for the proposed RGP 16.				X		
16. Energy Needs: Activities in waters of the United States authorized by the proposed RGP associated with aquatic habitat restoration and enhancement activities would result in negligible effects to energy resources by using a minimal amount of materials and/or fuel to complete the work.				X		
17. Safety: Activities reviewed by the Corps would be reviewed for impacts to the environment, including the presence of any improvements within the waterway that could impact the safety of future users.				X		

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
18. Food and Fiber Production: Activities in waters of the United States authorized by the proposed RGP would not result in impacts to food and fiber production.						X
19. Mineral Needs: Restoration activities may require mineral resources such as river rock or other suitable material. Although the source of material is unknown, similar projects are typically sourced onsite or from commercial suppliers.				X		
20. Consideration of Property Ownership: None of the activities in waters of the United States authorized by the proposed RGP would convey property rights, nor authorize injury to property or invasion of other rights. The applicant is responsible for obtaining the property ownership or legal rights to implement the authorized activity.	X					
21. Needs and Welfare of the People: Implementation of the activities under this RGP would result in restored and improved habitat within the Sacramento District. Improved habitat would aid in the recovery of federally listed species and contribute to the overall health of the aquatic ecosystem. All people living within the region or downstream of the project area would benefit from the improved aquatic ecosystem.					X	

Additional discussion of effects on factors above: N/A.

b. Public and private need:

The relative extent of the public and private need for the proposed structure or work: Implementation of the activities included in this RGP would result in restored and enhanced habitat for aquatic species and contribute to the overall health of the aquatic ecosystem within the Sacramento District. All people living within the region or downstream of the project area would benefit from the improved aquatic ecosystem.

c. Resource use unresolved conflicts: If there are unresolved conflicts as to resource use, explain how the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work was considered.

Discussion: There were no unresolved conflicts identified as to resource use.

d. Beneficial and/or detrimental effects on the public and private use: The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited:

Detrimental effects are expected to be minimal and temporary. A discussion of temporary impacts during construction can be found in Sections 6(b) and 7(a) above. Temporary impacts during construction include turbidity, aquatic species, water-related recreation, and aesthetics. Potential impacts to non-native fisheries, which are acknowledged as a potential to result from these activities, are not considered adverse since they are the result of restoring native fisheries habitat.

Beneficial effects are expected to be more than minimal and permanent. Beneficial effects are discussed in Section 6(b) and 7(a) above and result from the restoration of riverine and adjacent habitats. These beneficial effects include threatened and endangered species, aquatic species, special aquatic sites, recreational and commercial fisheries, water-related recreation, aesthetics, the aquatic ecosystem, conservation, economics, floodplain values, water supply and conservation, and needs and welfare of the people. The proposed activities would also benefit from the establishment of an accelerated permit process. This process would reduce the amount of time for the both the project proponent and the Corps and potentially save time and money for the implementation of restoration activities.

e. Climate Change: The proposed activities within the Corps' federal control and responsibility likely would result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps' federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest.

8. Mitigation (33 CFR 320.4(r), 33 CFR Part 332, 40 CFR 230.70-77, 40 CFR 1508.20 and 40 CFR 1502.14):

a. Avoidance and Minimization: When evaluating a proposal including regulated activities in waters of the United States, consideration must be given to avoiding and minimizing effects to those waters. Avoidance and minimization measures are described above in Section 1.c.1.

Describe other mitigative actions including project modifications implemented to minimize adverse project impacts (see 33 CFR 320.4(r)(1)(i)): Avoidance and minimization measures are described in Section 1(b)(1). The terms and conditions of the final RGP would ensure that nor more than minimal individual and cumulative adverse effects would occur.

b. Compensatory mitigation requirement: Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? No.

Rationale: As described in Section 1(b)(2), activities authorized by this RGP must be restoration or enhancement in nature, resulting in no net loss of aquatic functions and services. Activities resulting in a loss of functions and services are not authorized under this RGP. It is possible that a restoration project may result in a reduction in the area of the aquatic resource while still increasing the functions and services of the resource. For example, a larger crossing structure may be required to improve fish passage. No compensatory mitigation would be required for activities that qualify for authorization under this RGP.

c. Type and location of compensatory mitigation: N/A

9. Consideration of Cumulative Effects (40 CFR 1508 & Regulatory Guidance Letter 84-9): Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor direct and indirect but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider how the direct and indirect environmental effects caused by the proposed activity requiring DA authorization (i.e., the incremental impact of the action) contribute to the aggregate effects of past, present, and reasonably foreseeable future actions, and whether that incremental contribution is significant or not.

Since these activities would result in no net loss in aquatic resource functions and services, they would not provide an incremental contribution to cumulative effects occurring in the area.

10. Compliance with Other Laws, Policies, and Requirements:

a. Section 7(a)(2) of the Endangered Species Act (ESA): Refer to Section 2.b. for description of the Corps action area for Section 7.

(1) Lead federal agency for Section 7 of the ESA:

Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? No.

(2) Listed/proposed species and/or designated/proposed critical habitat:

Are there listed species or designated critical habitat that may be present or in the vicinity of the Corps' action area? Unknown; individual project reviews would determine the presence of federally listed/proposed species and/or their designated/proposed critical habitat.

(3) Section 7 ESA consultation: No activity is authorized under the proposed RGP which would affect federally listed/proposed species and/or their designated/proposed critical habitat until the requirements of the ESA have been satisfied. Compliance with the terms and conditions in the USFWS BO, the NMFS BO, and the USFWS LOC would reduce impacts such that the activities would be not likely to adversely affect or not likely to jeopardize the continued existence of threatened or endangered species. Federal permittees would follow their own procedures for complying with the requirements of ESA. If pre-construction notification is required for the proposed RGP activity, the Federal permittee would provide the district office with the appropriate documentation to demonstrate compliance with ESA. The district office would verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under the ESA may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with the ESA.

b. Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Essential Fish Habitat (EFH): Unknown; individual project reviews would determine the presence of EFH.

(1) Lead federal agency for EFH provisions of the Magnuson-Stevens Act:

Has another federal agency been identified as the lead agency for complying with the EFH provisions of the Magnuson-Stevens Act with the Corps designated as a cooperating agency and has that consultation been completed? No.

(2) Magnuson-Stevens Act

Did the proposed project require review under the Magnuson-Stevens Act? No.

(3) National Marine Fisheries Service Consultation for EFH

Consultation with the National Marine Fisheries Service: No activity is authorized under the proposed RGP which has the potential to adversely affect Essential Fish Habitat (EFH), as designated by the Pacific Fishery Management Council, until the requirements of the Magnuson-Stevens Act (MSA) have been satisfied. The NMFS BO states that due to the nature of the activities, actions would have minimal adverse effects to Pacific salmon and Pacific groundfish essential fish habitat (EFH). Because any adverse effects to EFH would be minimal and multiple benefits to these habitats are expected, EFH conservation recommendations were not offered. Federal permittees would follow their own procedures for complying with the requirements of the MSA. If pre-construction notification is required for the proposed RGP activity, the Federal permittee would provide the district office with the appropriate documentation to demonstrate compliance with the MSA. The district office would verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under the MSA may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with the MSA.

c. Section 106 of the National Historic Preservation Act (Section 106): Refer to Section 2.c for permit area determination.

(1) Lead federal agency for Section 106 of the National Historic Preservation Act

Has another federal agency been identified as the lead federal agency for complying with Section 106 of the National Historic Preservation Act with the Corps designated as a cooperating agency and has that consultation been completed? No.

(2) Historic properties

Known historic properties? Unknown; individual project reviews would determine the presence of historic properties.

Effect determination and basis for that determination: No activity is authorized under the proposed RGP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places (NHRP) until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. Federal permittees would follow their own procedures for complying with the requirements of Section 106 of the NHPA. If pre-construction notification is required for the proposed RGP activity, the Federal permittee would provide the district office with the appropriate documentation to demonstrate compliance with NHPA. The district office would verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

The Corps sent tribal coordination letters to all federally recognized tribes within the Sacramento District providing a description of the proposed RGP and a request for comments on June 13, 2024. On July 3, 2024, the United Auburn Indian Community provided a term for temporary construction impacts; however, the email appeared to be missing context. The Corps sent a follow-up email on July 9, 2024, asking for clarification and UAIC responded the same day notifying the Corps that the email was sent in error. UAIC stated they would provide comments later that week; however, no other comments have been received from UAIC. On August 5, 2023, the Paskenta tribe requested to continue to receive updates regarding the RGP 16. On August 12, 2024, the Corps responded to the Paskenta tribe stating that tribal coordination would be conducted for proposed project requesting to use the RGP 16. No other comments were received in response to the Corps' coordination efforts.

d. Tribal Trust Responsibilities:

(1) Tribal government-to-government consultation

Was government-to-government consultation conducted with federally recognized Tribe(s)? No; however tribal coordination was conducted.

(2) Other Tribal including any discussion of Tribal Treaty rights? N/A.

e. Section 401 of the Clean Water Act – Water Quality Certification (WQC)

(1) Section 401 WQC requirement

Pursuant to Section 401 of the Clean Water Act (CWA), Tribal or State Water Quality Certification (WQC), or waiver thereof, is required for activities authorized by the proposed RGP that may result in a discharge of fill material into waters the U.S. In accordance with Corps regulations at 33 CFR 325.2(b), if water quality certification for the proposed activity is necessary, the Corps shall notify the applicant and obtain from them or the certifying agency a copy of such certification.

On June 21, 2024, Sacramento District requested pre-filing meetings, pursuant to 40 CFR 121.4(a), with USEPA (Region 9), USEPA (Region 8), the California State Water Quality Control Board (SWQCB), Nevada Division of Environmental Protection, Utah Department of Environmental Quality, and all Treatment of State tribes within the States of California, Nevada, and Utah with CWA Section 401 certification authority. On July 8, 2024, Sacramento District held a pre-filing meeting with USEPA (Region 9), the Nevada Department of Environmental Protection, Division of Water Quality in the State of Utah, and the Summit Lake Paiute Tribe of Nevada, and on July 12, 2024, Sacramento District held a pre-filing meeting with the SWQCB. Sacramento District gave the certifying authorities an overview of the proposed RGP and received general comments and questions.

Pursuant to 40 CFR 121.5(c), Sacramento District intends to request general Section 401 WQC from all the certifying authorities within the Sacramento District.

(2) 401(a)(2) process

If the certifying authority granted an individual WQC, did EPA make a determination that the discharge ‘may affect’ water quality in a neighboring jurisdiction? Unknown; if general certification is not received from certain states and/or tribes, individual project reviews would determine the need for compliance with the 401(a)(2) process.

f. Coastal Zone Management Act (CZMA): N/A. There are no coastal zones within this District’s area of responsibility in California, Nevada, and Utah.

g. Wild and Scenic Rivers Act

(1) National Wild and Scenic River System

Is the project located 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? Unknown; individual project reviews would determine the need for compliance with the National Wild and Scenic Rivers Act.

Effect determination and basis for that determination: Per General Condition 19, no activity would 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 the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity would not adversely affect the Wild and Scenic River designation or study status.

h. Effects on Corps Civil Works Projects (33 USC 408):

(1) Permission requirements under Section 14 of the Rivers and Harbors Act (33 USC 408)

Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy or use a Corps Civil Works project? Unknown; individual project reviews would determine the need to obtain permission under Section 14 of the Rivers and Harbors Act.

Effect determination and basis for that determination: Per General Condition 1.g, prior to commencing work in waters of the United States, permittees shall submit a PCN for activities that require permission from, or review by, the Corps pursuant to 33 U.S.C. 408.

i. Corps Wetland Policy (33 CFR 320.4(b)):

(1) Wetland impacts

Does the project propose to impact wetlands? Yes.

(2) Wetland impact public interest review

Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

j. Other (as needed): N/A.

k. Compliance statement: The Corps has determined that it has fulfilled its responsibilities under the following laws, regulations, policies, and guidance:

Table 10 – Compliance with Federal Laws and Responsibilities		
Laws, Regulations, Policies, and Guidance	Yes	N/A
Section 7(a)(2) of the ESA	X	
EFH provisions of the Magnuson-Stevens Act	X	
Section 106 of the NHPA	X	
Tribal Trust	X	
Section 401 of the CWA	X	
CZMA	X	
Wild and Scenic Rivers Act	X	
Section 408 - 33 USC 408	X	
Corps Wetland Policy (33 CFR 320.4(b))	X	

11. General and Special Conditions: Applicants must comply with the terms and general conditions included in the RGP, as identified in the Final RGP located in Appendix A. In addition, project managers may determine special conditions are necessary for individual RGP actions.

12. Findings and Determinations:

a. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit would not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

b. Presidential Executive Orders (EO):

(1) EO 11988, Floodplain Management: Compliance with EO 11988 would be evaluated by the project manager on a case-by-case basis. For floodplain restoration projects, alternatives located outside of the floodplain were determined to be not practicable or appropriate. Locating floodplain restoration projects outside of a floodplain would not meet the project purpose. See Section 5.

(2) EO 12898, Environmental Justice: In accordance with Title III of the Civil Right Act of 1964 and Executive Order 12898, it has been determined that the RGP would not directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities. Project managers would make a case-by-case determination on compliance with EO 12898 for individual activities proposed under the RGP.

(3) EO 13112, Invasive Species, as amended by EO 13751: Restoration of native habitat and the use of clean fill material would result in a reduction of invasive species in the project area. The eradication of non-native and invasive species is included in the Aquatic Habitat Restoration and Enhancement of Tidal and Non-tidal Streams, Wetlands, and Other Waters project type. Project managers would make a case-by-case determination on compliance with EO 13112 for individual activities proposed under the RGP.

(4) EO 13212 and EO 13302, Energy Supply and Availability: Activities authorized under this RGP would not increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

c. Findings of No Significant Impact: Having reviewed the information provided by all interested parties and an assessment of the environmental impacts, we find that this RGP would not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement would not be required.

d. Compliance with the Section 404(b)(1) Guidelines: Having completed the evaluation above, we have determined that the proposed RGP complies with the Section 404(b)(1) Guidelines.

e. Public interest determination: Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest. The permit would be issued with appropriate conditions included to ensure minimal effects, ensure the

authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the authorities identified in Section 10.

PREPARED BY:

Hillary Regnart
Senior Project Manager
CA North Section

Date: August 14, 2024

REVIEWED BY:

Lisa M. Gibson
Chief, Special Project Branch
Sacramento District

Date: August 14, 2024

APPROVED BY:

Michael S. Jewell
Chief, Regulatory Division
Sacramento District

Date: August 14, 2024