



**US Army Corps  
of Engineers®**

# PUBLIC NOTICE

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Applicant:  
Lindsey Vivian  
The California Department of  
Transportation District 4

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**San Francisco District  
Permit Application No. 2020-00219**

**TO WHOM IT MAY CONCERN:** The San Francisco District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) **and** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the proposed re-issuance of the Regional General Permit 33, for routine maintenance activities undertaken by District 4 of the California Department of Transportation.

**APPLICANT:** Lindsey Vivian  
The California Department of Transportation District 4  
111 Grand Avenue  
Oakland, California 94612

**WATERWAY AND LOCATION:** The project/review area would encompass 6,272 square miles and would include the entirety of the overlapping areas in which Caltrans District 4 implements projects and the USACE San Francisco District has regulatory authority. Please refer to the attached map of the program area (Figure 1). The program area includes the entireties of Marin, Napa, San Francisco, San Mateo, Santa Clara, and Sonoma Counties and the western portions of Alameda, Contra Costa, and Solano Counties that drain to the San Francisco Bay watershed.

**EXISTING CONDITIONS:** The project area includes diverse soils, hydrology, topography, and consequently a wide range of aquatic resources. The area's climate is characterized as Mediterranean, with precipitation primarily restricted to winter months followed by warm, dry summers. This restriction of rain to winter months causes many of the area's aquatic resources to be intermittent or ephemeral. Most of the work that would be proposed for authorization under the RGP would occur in non-wetland waters of the U.S. (e.g., rivers, creeks, and small streams) and along the margins of San Francisco Bay. Work may occasionally occur within palustrine wetlands and less commonly within tidally influenced wetlands.

## **PROJECT PURPOSE:**

**Basic:** The basic project purpose comprises the fundamental, essential, or irreducible purpose of the project, and is used by USACE to determine whether the project is water dependent. The basic project purpose is to create a more efficient, expedited review process for the permitting of routine transportation infrastructure projects.

**Overall:** The overall project purpose is to establish a streamlined review process for the permitting of routine transportation projects required to maintain, replace, and construct road improvements, culverts, bridges, and other highway infrastructure, which would have only minimal environmental impacts, while still ensuring the continued protection of environmental resources within the nine Bay Area counties in which Caltrans District 4 works and USACE San Francisco District has regulatory authority.

**PROPOSED WORK:** The applicant requests re-authorization of the RGP to conduct routine maintenance activities that was initially issued on January 15, 2021, and expired on December 31, 2025. The routine maintenance activities are grouped into six categories: Bridge Rehabilitation and Replacement; Drainage System Rehabilitation; Safety and Traffic Improvements; Bank Stabilizations and Slide Abatement; Stormwater, Trash, and Debris Management; and Scientific Investigations.

Bridge rehabilitation and replacement: Work activities required to prolong the use and function of bridges, typically in response to a problem that affect public safety or the integrity of the structure. Culverts may be replaced with small bridges. Bridge rehabilitation and replacement activities authorized under the RGP are limited to work on structures with a total span of 250 feet or less. There is no span length limit however for bridge maintenance projects.

Drainage system projects: Work activities required for new construction, rehabilitation, and replacement of culverts, drains, and ditches to ensure conveyance of surface waters, avoid erosion of infrastructure, and protect adjacent infrastructure and property. Culverts may be replaced utilizing open-cut trenching methods, rehabilitated by installing a liner in the existing culvert, or replaced using jack-and-bore construction. Culverts may be replaced in-kind or modified to improve safety standards or fish passage. Rock slope protection (RSP) may be installed or replaced at the downstream ends of culverts to provide erosion protection. Culverts, drainage channels, ditches, and associated components may be cleaned. Accumulated debris and sediment may be removed from ditches, channels, and detention or retention basins to return them to as built contours. This may require excavation or grading.

Safety and traffic improvement projects: Work activities required to prolong the life of a roadway and enhance public safety. Projects in this category may include shoulder widening, installing roundabouts, or reconfiguring interchanges. Additionally, projects may consist of pavement rehabilitation; guard rail, railings, barrier, and fencing installation or repair; rumble strip installation; or signage improvements.

Bank stabilization and slide abatement projects: Work activities required for streambank and slope stabilizations to protect infrastructure and adjacent property, as well as to minimize adverse impacts to aquatic resources and listed species habitat that may be caused by erosion. These projects typically involve the placement of RSP and/or bioengineered stabilization treatments or the construction of retaining walls or revetments. Slope stabilization activities authorized under the RGP may include placement of retaining walls (e.g., soldier pile walls), revetments, or bioengineered treatments to stabilize landslide and unstable slopes. Bank stabilization and erosion protection authorized under this RGP must be associated with existing facilities or installations.

Stormwater, trash, and debris management: Work activities including various best management practices designed to protect and improve water quality. Installation of trash control BMPs associated with the trash control measures may include the following: retrofit of existing stormwater treatment BMPs for full trash capture (FTC), bioretention with FTC, gross solids removal devices such as trash nets, gross solids removal devices with biofiltration swale, biofiltration swales/strips, design pollution prevention infiltration area, infiltration device, media filters and chemical separators, and rock mulch swale. Stormwater management activities may include construction and maintenance of stormwater treatment systems. New systems may include construction of biofiltration swales/strips, and bioretention basins. Existing waters of the U.S. may not be used to treat stormwater, but construction of stormwater treatment systems may impact waters of the U.S. Retention or detention basins may also be maintained to preserve the line, grade, depth, and cross section to which they were originally designed.

Scientific investigation: Work activities may include geotechnical surveys, soil and sediment sampling, and cultural resource, biological, and hydrologic studies.

**AVOIDANCE AND MINIMIZATION:** The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Caltrans would utilize standard avoidance and minimization measures (AMMs) for projects authorized under the RGP. USACE would determine on a project-specific basis whether a project would require compensatory mitigation and expects to require compensatory mitigation for all projects with permanent impacts exceeding 0.10 acre of waters of the U.S. These avoidance and minimization measures include the following:

- Seasonal Work Windows: June 1-October 31 in perennial and tidal waters, April 1-October 31 in non-perennial waters.
- Environmental Awareness training: environmental awareness training for all work personnel conducted by a biologist prior to any work.
- Protect Environmentally Sensitive Areas: limiting work in environmentally sensitive areas (ESA's) and fencing ESA's outside of the work area.

- Suitable Material: construction material must be free from toxic pollutants in toxic amounts.
- Implement Stormwater Best Management Practices.
- Implement Project Site Best Management Practices.
- Vegetation Removal: vegetation clearance only where necessary.
- Restore Disturbed Area: restoration of disturbed areas to preconstruction condition.
- Control Invasive Weed: compliance with Executive Order 13112 to reduce to spread of invasive, non-native species.
- Work from Uplands: construction equipment to be operated from upland areas to the maximum extent practicable to reduce adverse effects to aquatic resources.
- Management of Water Flows: maintaining or restoring pre-construction water flows and condition to the maximum extent practicable.
- Removal of Temporary Fills: removal of temporary fills and restoration of area to pre-construction elevation and re-vegetation.

Additional, project-specific avoidance and minimization measures may be required or proposed on a case-by-case basis when special circumstances merit the need for additional protective measures.

**COMPENSATORY MITIGATION:** The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

If compensatory mitigation is required for a project, the purchase of mitigation bank credits by Caltrans would be the preferred option if the project site occurs within the service area of an existing, approved mitigation bank. Caltrans has already purchased 0.5 acre of tidal wetland credits from the San Francisco Wetland Mitigation Bank, which they have not yet applied to a project and intend to utilize as mitigation for qualified projects to be permitted under this RGP. If mitigation bank credits are not available for a project, Caltrans would implement permittee-responsible compensatory mitigation, either through on-site restoration or enhancement, if possible, at the project site, or off-site mitigation opportunities within the same watershed. Parcels where permittee responsible compensatory mitigation is implemented would be protected in perpetuity by a USACE-approved site protection instrument. Caltrans is establishing an Advanced Mitigation Program with the intention of streamlining mitigation efforts by implementing off-site mitigation at key sites for multiple projects within the same watershed. USACE has not endorsed the submitted compensatory mitigation proposal at this time and will conduct an independent review before reaching a final mitigation decision.

## **CULTURAL RESOURCES:**

As the federal lead agency for this undertaking via a memorandum of agreement with the Federal Highway Administration (FHWA), Caltrans would initially be responsible for determining the presence or absence of historic properties or archaeological resources and the need to conduct Section 106 consultation. Caltrans has made a *preliminary* determination that historic or archaeological resources may be present in the permit area of some of the projects to be authorized under the RGP. Caltrans would initiate project-specific Section 106 consultation with the State Historic Preservation Officer for projects with a potential to affect historic properties. If programmatic Section 106 consultation is applicable to a project, the programmatic consultation would be listed and compliance with terms and conditions would be documented. An existing programmatic agreement for FHWA-assisted projects in California entitled “Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California (106 PA),” issued on December 6, 2024, may be applicable for some of the projects to be permitted under the RGP.

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

**ENDANGERED SPECIES:** As the federal lead agency for this project via a memorandum of agreement with the Federal Highway Administration (FHWA), Caltrans would initially be responsible for determining the presence or absence of federally listed species and designated critical habitat and the need to conduct ESA section 7 consultation.

Caltrans has made a *preliminary* determination that some but not all of the projects to be permitted under the RGP may affect federally listed species and/or their designated critical habitat. Federally-listed species managed by the USFWS within the program area that may be affected by projects authorized under the RGP may commonly include, but are not limited to, the California red-legged frog (*Rana draytonii*), California tiger salamander (*Ambystoma californiense*), Ridgway’s rail (*Rallus obsoletus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), Alameda whipsnake (*Masticophis lateralis*), San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), San Joaquin kit fox (*Vulpes macrotis mutica*), and longfin smelt (*Spirinchus thaleichthys*). Federally-listed species managed by NMFS within the program area that may be affected by projects authorized under the RGP may commonly include, but are not limited to, the

Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) distinct population segment (DPS); Central California Coast (CCC) evolutionarily significant unit (ESU) of coho salmon (*Oncorhynchus kisutch*); California Coastal (CC) ESU, Sacramento River Winter-run (SRWR) ESU, and Central Valley Spring-run (CVSR) ESU of Chinook salmon (*Oncorhynchus tshawytscha*), and North American green sturgeon (*Acipenser medirostris*) southern DPS.

Caltrans would initiate project-specific ESA section 7 consultation with the USFWS and/or NMFS for projects that may affect federally listed species and/or their designated critical habitat. If programmatic ESA consultation is applicable to a project, the programmatic consultation would be listed in the submittal to USACE and compliance with terms and conditions would be documented. An existing programmatic agreement between NMFS, Caltrans, and USACE entitled "Caltrans' Routine Maintenance and Repair Activities in Districts 1, 2, and 4, and Individual Corps Permits for These Activities," issued by NMFS on October 13, 2013, may be applicable for some of the projects to be permitted under the RGP. Caltrans is currently engaged in technical assistance with the USFWS to develop potential programmatic agreements for the federally listed species most commonly encountered within the geographic range of the RGP.

This notice serves as request to the U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

**ESSENTIAL FISH HABITAT:** Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information. As the federal lead agency for this project via a memorandum of agreement with the Federal Highway Administration (FHWA), Caltrans would initially be responsible for determining the presence or absence of EFH and the need to conduct consultation, pursuant to Section 305(5)(b)(2) of the Act.

Caltrans has made a *preliminary* determination that EFH for Pacific coast salmon, Pacific groundfish, and/or coastal pelagic species may be present at the location or general vicinity of some of the projects to be permitted under the RGP and that the critical elements of EFH may be adversely affected by project implementation. Projects may affect EFH by resulting in increased underwater noise and motion disturbance, decreased water quality (increased turbidity, suspended sediment, chemical pollution, and salinity), and reduced aquatic and riparian vegetation, including eelgrass.

Caltrans would initiate project-specific consultation with NMFS for projects that may affect EFH. If programmatic EFH consultation is applicable to a project, the programmatic consultation would be listed and compliance with terms and conditions would be documented. An existing programmatic agreement between NMFS, Caltrans, and USACE entitled "Caltrans' Routine Maintenance and Repair Activities in Districts 1,

2, and 4, and Individual Corps Permits for These Activities,” issued by NMFS on October 13, 2013, includes EFH conservation recommendations and may be applicable for some of the projects to be permitted under the RGP.

USACE will render a final determination on the need for EFH consultation. To complete the administrative record and the decision on whether to issue a Department of the Army Permit for a project, USACE will obtain all necessary supporting documentation from Caltrans concerning the EFH consultation process and compliance with EFH conservation recommendations. Any required EFH consultation for a project must be concluded prior to the issuance of a Department of the Army Permit verification for the project.

**NAVIGATION:** Each project proposed to be authorized under this RGP would be evaluated to determine if it would impact navigation.

**SECTION 408:** The applicant will require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) when a proposed project, in whole or in part, would alter, occupy, or use a Corps Civil Works project.

**WATER QUALITY CERTIFICATION:** Water Quality Certification may be required from the California Regional Water Quality Control Board (RWQCB) to obtain water quality certification for projects to be permitted under the RGP. No Department of the Army Permit authorization will be valid until the applicant obtains the required certification or a waiver of certification. A waiver can be explicit, or it may be presumed if the RWQCB fails or refuses to act on a complete application for water quality certification within 60 days of receipt, unless the District Engineer determines a shorter or longer period is a reasonable time for the RWQCB to act.

Water quality issues should be directed to either the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, or the Executive Officer, California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403, by the close of the comment period.

**NOTE:** This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered

including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

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

The San Francisco District will receive written comments on the proposed work, as outlined above, until February 27, 2026. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Michael Orellana at [Michael.s.orellana@usace.army.mil](mailto:Michael.s.orellana@usace.army.mil). Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, San Francisco District, Attention: Michael Orellana, 450 Golden Gate Avenue, 4th Floor, San Francisco, California 94102. Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.