Wetland Project Permitting Guide

Permitting Stream and Wetland Projects

- ***in Ventura County***
- ***along the Santa Clara River in Los Angeles County***

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Permitting Stream and Wetland Projects in Ventura County and along the Santa Clara River in Los Angeles County

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Produced by the County of Ventura, Planning Division

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Other Wetland Guides Available from the Planning Division:

Guide to Streamside Vegetation
Native and Invasive Riparian Plants in Ventura and Los Angeles Counties

Guide to Stream and Wetland Project Funding
in Ventura and Los Angeles Counties

Disclaimer: The purpose of this guide is to provide general information concerning the legal requirements that may apply when persons wish to engage in activities that would directly affect wetlands or streams. Due to the complexity of the regulations, this guide gives a broad overview of the regulatory process. This guide is general and is not determinative of any issue; nor does it establish or affect legal rights. Agency decisions in any particular case will be made by applying applicable law to the specific situations.

Additionally, your particular project may require other permits from state, federal or local agencies. You should be aware of the need for permits and your obligation to obtain any permits or authorizations that may be required for your project. Even activities aimed at improving wetlands and streams are likely subject to permits.

Contents

Introduction

Projects that might alter streams or wetlands are likely to need permits. The regulations are wide-ranging and complex. Numerous agencies control what can and cannot be done. Furthermore, the agencies' definitions of wetlands and streams can differ, and some regulations conflict.

This guide offers help by explaining current laws and providing examples of the permitting processes.

Still, if you are contemplating such a project it is your responsibility to identify and address all governmental regulations that apply to it before—not after—work begins. Be tenacious in your pursuit of answers from agency employees, who daily handle many inquiries, permits and other activities. Spending the extra day or two to hear back from permitting agencies will save you much more time in the long run than will proceeding through a project with uncertainty.

Even activities aimed at improving the quality of wetlands and streams, such as habitat restoration projects, are subject to permits.

Even activities aimed at improving wetlands and streams are subject to permits!

What You Will Find in This Guide

This guide is intended to familiarize you with current regulations, the agencies that enforce them and situations that need reviews and approvals. Each section is designed to answer questions and offer explanations, such as:

Why are there so many rules and regulations for streams and wetlands? What exactly is a wetland? What types of streams and wetlands do we have in Ventura County and which ones are regulated?
The section on "Protecting Water: Our Life-Giving Resource" explains the importance of protecting water resources and describes the various types of wetlands and streams that receive regulatory protection.

How do you know which permits might apply to your particular project?
The "Example Projects" section describes 10 common project scenarios. Each example presents different activities and situations that would trigger governmental review. These triggers and the associated permits are described.

Which agencies issue the permits and what are their requirements?
"The Big Four" and "Other Common Permits and Approvals" sections provide an overview of the regulatory agencies and their different rules and permitting processes.

Which permit process do you start first?
The "Coordinating Multiple Permits" section gives an overview of timing and flow when multiple permits are required.

What is mitigation and how do you know if it is required?
The "Mitigation" section addresses these questions.

What about emergency situations?
The "Emergencies" section explains emergency permitting processes and defines emergency situations.

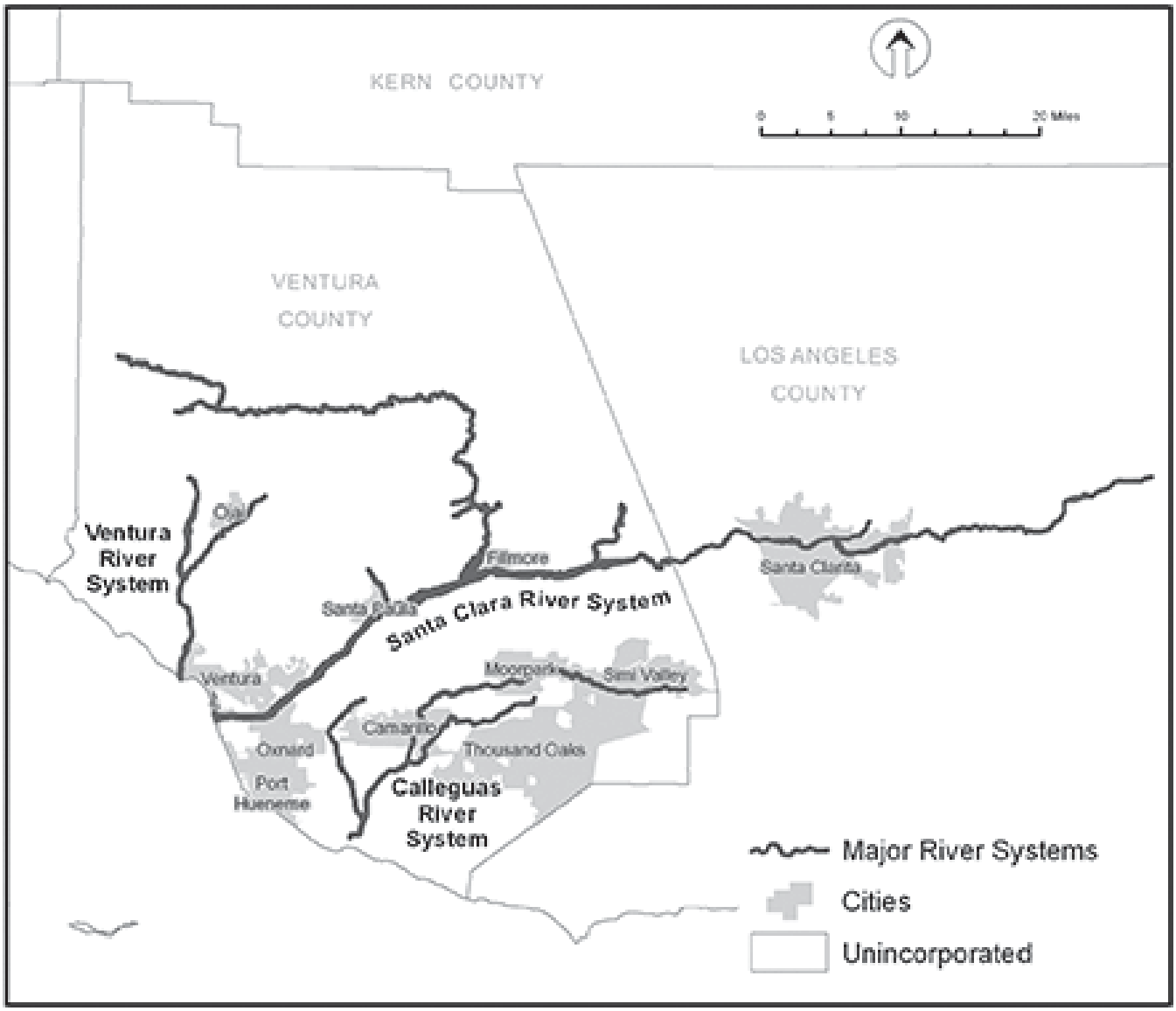
Where do you go for help with the technical wording?
Definitions of technical terms and agency abbreviations are listed in the "Glossary" and "Acronyms" sections.

A Note About Local Permits

The "Local Permits" section of this guide covers only permits applicable to projects located in Ventura County's unincorporated areas (areas not within city boundaries). However, it is likely that other local jurisdictions have similar permit requirements. Each page that addresses a Ventura County permit also includes phone numbers for relevant local agencies in Ventura County's 10 cities (Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, Santa Paula, Simi Valley, Thousand Oaks and Ventura) or along the Santa Clara River in Los Angeles County.

Of course, the state and federal regulations covered in this guide apply to all areas of the county.

River systems and wetlands rarely adhere to political boundaries. For example, the Santa Clara River and its extensive watershed cover large areas in Ventura and Los Angeles counties. The *local* regulations covered in this guide focus on Ventura County's unincorporated areas, but agency contact information is also provided for the 10 cities in Ventura County as well as those jurisdictions along the Santa Clara River in Los Angeles County.



wetlands help maintain water quality.

wetlands and streams provide habitat and breeding ground for fish, wildlife and plants.

wetlands help control flood waters, replenish groundwater and reduce erosion.

Protecting Water: Our Life-Giving Resource

Our streams and wetlands are protected because they are essential to our ecosystem. Protecting them benefits everyone. Water is like air: without it, no living thing can survive.

Many of Ventura and Los Angeles Counties' historic wetlands and waterways have been destroyed or at least diminished by human activity. Federal, state and local regulations now emphasize guarding the remaining resources by carefully managing activities that might affect them.

Although permitting can become burdensome for both the agency and the applicant, the reasons for regulating activities near and in streams and wetlands include the following:

- Wetlands and streams provide important habitat and breeding ground for fish, wildlife and plants. It is estimated that more than one-third of our country's threatened and endangered species live only in wetland habitats, while nearly half use wetlands at some point in their lifetime.
- Wetlands help control floodwaters, replenish groundwater and reduce erosion.
- Streams and wetlands provide people with opportunities for recreation, education and research, and can encourage appreciation of nature's beauty.
- Wetlands help maintain water quality, protecting both people and wildlife.

Streams and Wetlands Defined

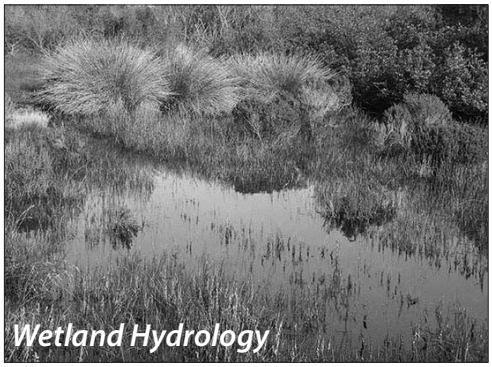
The official definition of "wetland" differs among regulatory agencies, but all variations involve these three elements:

Wetland Hydrology: The presence of water at or above the soil surface for a sufficient period of the year to significantly influence the plant types and soil chemistry.

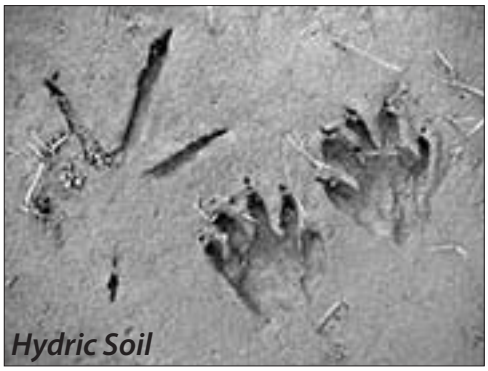
Hydric Soil: Soil that is wet long enough during the growing season to develop low-oxygen conditions.

Hydrophytic Plants: Plants adapted to saturated soil conditions.

The U.S. Army Corps of Engineers, for example, requires that all three elements be present to define a wetland. To the California Department of Fish and Game, however, the presence of any one of these three elements defines a wetland.



Wetland Hydrology



Hydric Soil

Hydrophytic Plants

Streams have water flowing at least part of the year and typically have a bed, two banks and a channel.

Types of Streams and Wetlands

Ventura and Los Angeles Counties are home to a variety of types of streams and wetlands. Many of these are natural; some of them are artificially created. Regulations can apply to both.

Natural

Our county's natural streams include a few that are perennial (flow all year), more that are intermittent (flow only part of the year) and many that are ephemeral (flow only briefly following rainfall). All are equally important.

Riparian wetlands—those that occur next to streams or other bodies of water—are the most common type of wetland in Ventura and Los Angeles Counties. Other types include lagoons, salt marshes, dune swales, freshwater marshes, seeps, springs, wet meadows, ponds and vernal pools.

Four types of wetlands (left, top to bottom):

Freshwater Marsh: Freshwater marshes occur in areas with still or slow-moving shallow water and nutrient-rich mineral soils, often next to lakes and rivers.

Riparian Wetlands: Riparian wetlands are the transitional habitats between aquatic habitats (such as streams) and upland habitats (dry lands).

Wet Meadows: Wet meadows are found in flat areas where the water table is at or near the surface for at least part of the year.

Ephemeral Stream: Many local wetlands are hard to recognize because they are only wet for a short time each year, such as this ephemeral stream.

Three types of streams (bottom, left to right):

Perennial streams flow continuously for all or most of the year.

Intermittent streams flow seasonally and when groundwater provides water for stream flow.

Ephemeral streams flow only during and immediately after rainfall.

Artificially Created

As in most developed areas, Ventura and Los Angeles Counties have many artificially created streams and wetlands. For example, we have debris basins, channelized streams, drainage ditches, lakes and livestock ponds.

Artificially created stream and wetland types (right, top to bottom):

Debris basins are artificial basins that intercept sediment, rocks and other debris in a stream or channel to prevent it from filling or clogging downstream flood control facilities.

Channelized streams are typically natural streams that have been straightened and (often) lined with concrete or rock to direct or confine water flow.

Drainage ditches are channels constructed to drain water, such as from agricultural fields. These drainages may or may not have begun as natural streams and may or may not be lined with concrete or rock.

Local lakes, such as Lake Casitas shown here, were formed by damming streams.

Artificial ponds, often originally created for livestock, are formed by damming small streams.

If water flows, ponds or is present even part of the year, it may be a regulated stream or wetland!

Permitting a Project That Affects Streams or Wetlands

If a project affects an area where water flows, ponds or is present even part of the year, it is likely to be regulated by one or more agencies.

A representative from the regulatory agency or a qualified biologist can help you determine whether you have a regulated wetland, stream or associated resource onsite. Ultimately, it is the regulatory agency with jurisdiction, or regulatory control, that decides whether project activities require a permit.

Several factors unique to your project may trigger requirements for wetland and stream permits. These include the proposed work, location, biology and size of the project, as described below.

Proposed Work: The type of work you propose, as well as the timing of the work, can trigger the need for one or more permits.

- When there is a need to divert water in a stream in order to do work, the project will generally trigger more permit requirements than if the work is done at a time of year when the stream is dry.
- Scheduling work when protected biological resources are not present (for example, when it is not the bird nesting season) can significantly decrease permitting requirements.
- Some project activities, such as emergency repairs or removal of invasive species, involve permitting processes that are somewhat simplified, within certain limits.
- Projects that are considered "discretionary" will have a much more involved permitting process, including California Environmental Quality Act (CEQA) compliance, than those that are considered "ministerial." A discretionary project is permitted through a process that requires the exercise of judgment on the part of the regulatory agency. Ministerial projects are permitted merely by applying the law to the facts, without using discretion or judgment, in reaching a permit decision. A number of the key permits involved with streams and wetlands require discretionary review and CEQA compliance.

Location: Some permits are required because of the project's location in a special area.

- Coastal Zone
- Ventura County Watershed Protection District's (VCWPD) red-line streams *(See map on page 11)*
- Public land
- U.S. Army Corps of Engineers (USACE) jurisdictional waters *(See illustration on page 12)*
- California Department of Fish and Game (CDFG) jurisdictional areas *(See illustration on page 12)*

Biology: Some permits may be required when protected biological resources are, or are anticipated to be, in or adjacent to the project area. The regulatory agencies may call for a biological survey to make this final determination.

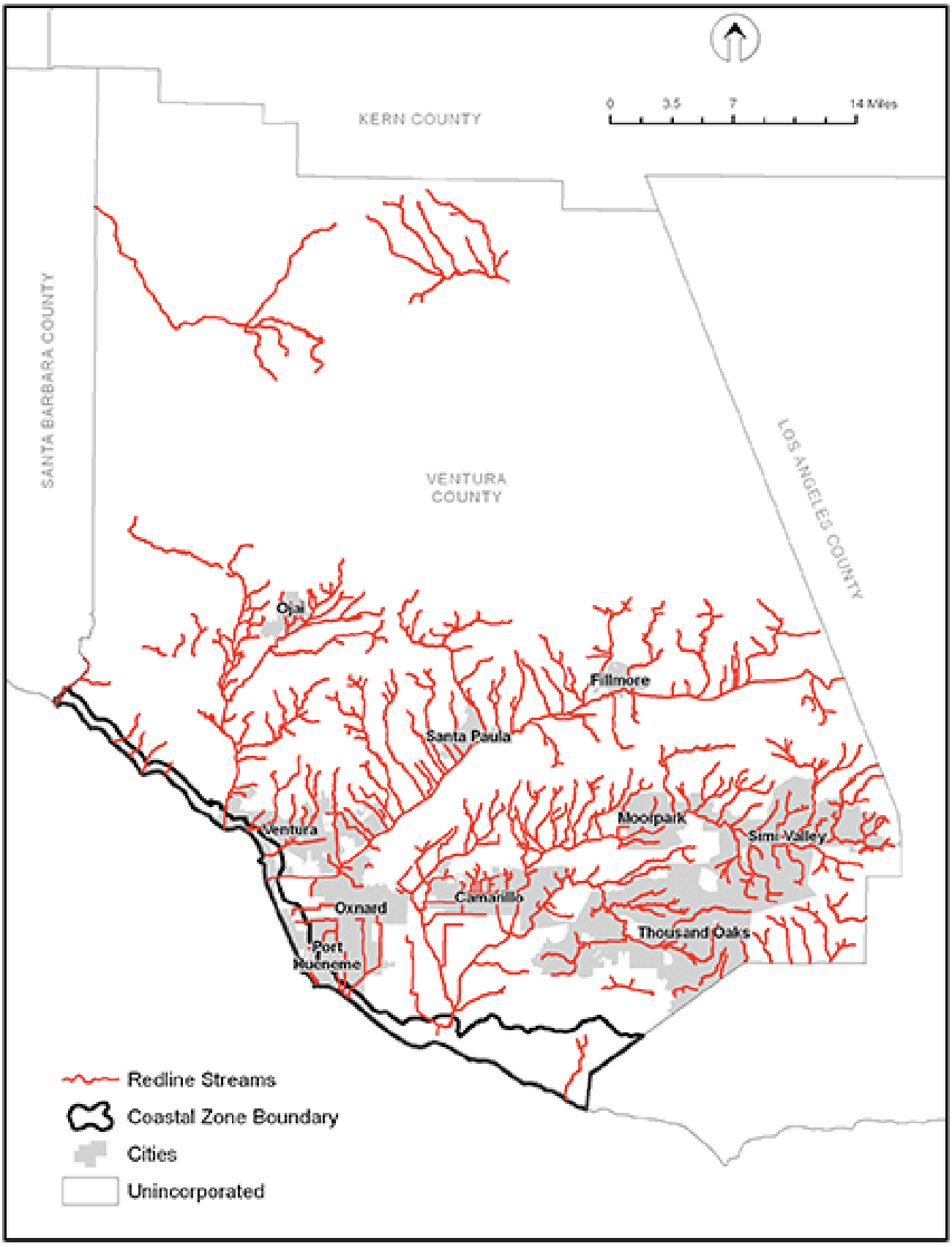
- Species that are protected by local, state or federal law
- Protected vegetation communities
- Locally protected trees
- Wildlife migration corridors

Project Size: Some permits or permit exemptions are dictated by project size.

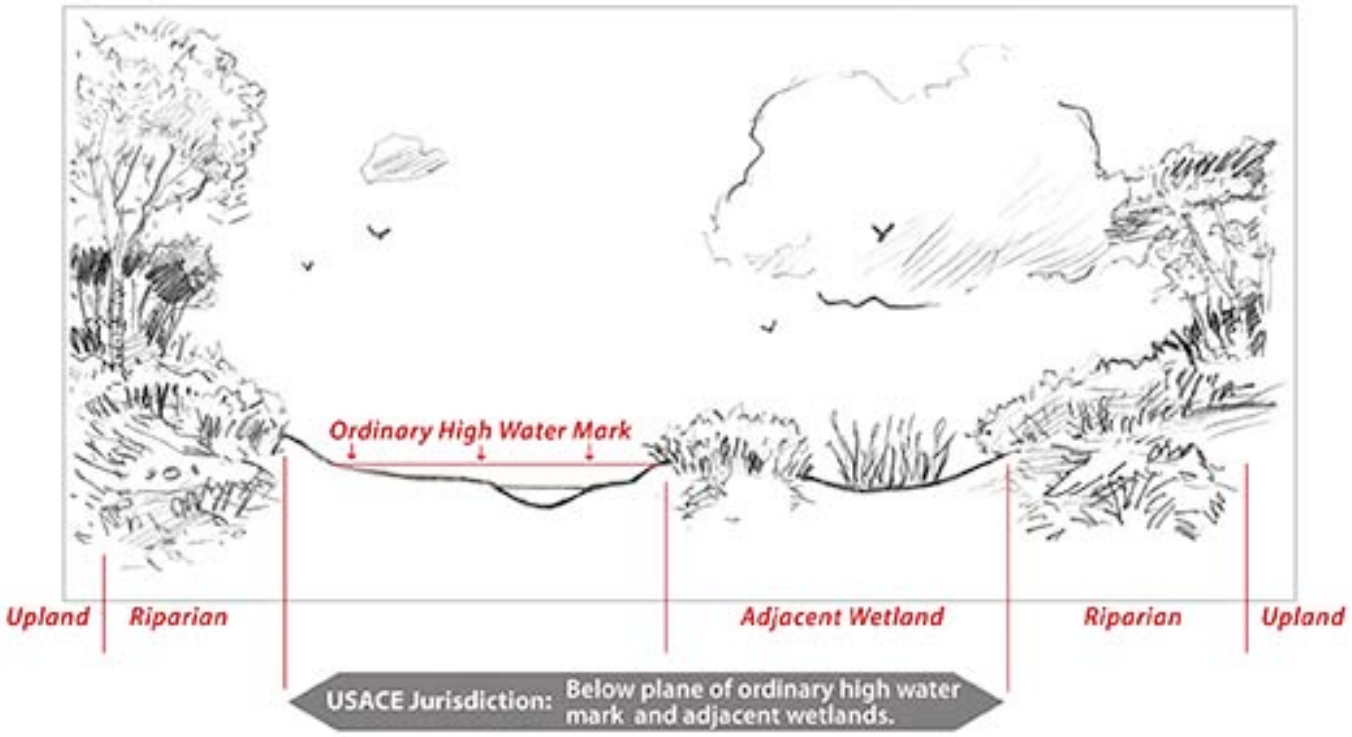
- A CEQA exemption exists for habitat restoration projects 5 acres or smaller.
- Many USACE Nationwide Permits (NWP) have size thresholds for impacts. Projects that exceed these thresholds may not be able to use an NWP.
- A State Water Resources Control Board (SWRCB) Construction General Permit/Stormwater Pollution Prevention Plan (SWPPP) is triggered when more than 1 acre of soil disturbance is associated with new construction projects.

Red-line Streams in Ventura County

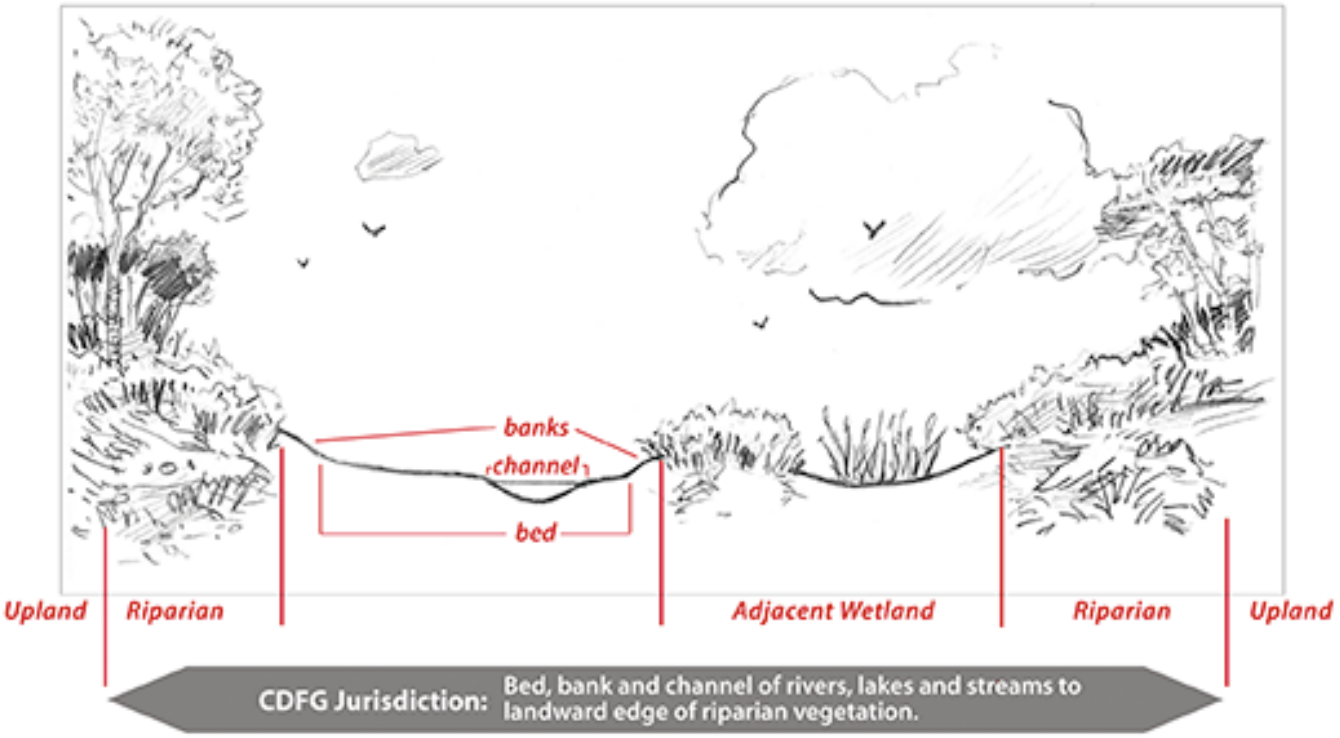
Red-line streams are within the jurisdiction of the Ventura County Watershed Protection District for flood control purposes.



U.S. Army Corps of Engineers Jurisdiction



California Dept. of Fish and Game Jurisdiction



Example Projects

In this section you will find 10 examples of common projects that can trigger requirements for governmental reviews and permits. Each example contains a scenario and an illustration of situations—such as "protected species present" or "located in Coastal Zone"—that would trigger reviews. Each example also shows the types of permits likely to be required.

The examples in this section will help you determine how to approach your own project. The permitting requirements for any given project will be based on the nature of the proposed work, the location of the project, the biological resources that might be affected and the project size.

It is your responsibility to determine all the reviews and permits required and to obtain those permits before you start work.

It is important to know that receiving permits and approvals from one governmental agency—such as a land use, grading or building permit from a city or the county—does not mean that permits from other agencies are not required.

Every situation is different. This guide is concerned only with permits that are typically triggered when a stream or wetland is involved. Your project may trigger other reviews and permits not covered here.

Each permit generally has an expiration date, which can often be extended. Working past the permit expiration date without an extension or completing activities not authorized by your permit may expose you to fines, stop-work orders or additional requirements.

Also be aware that if your project changes after receiving your permits, amendments to your permits may be required.

It is your responsibility to determine all the reviews and permits required and to obtain those permits before you start work.

Make sure you review all possible permit triggers for your project.

Example 1: Streambank Stabilization

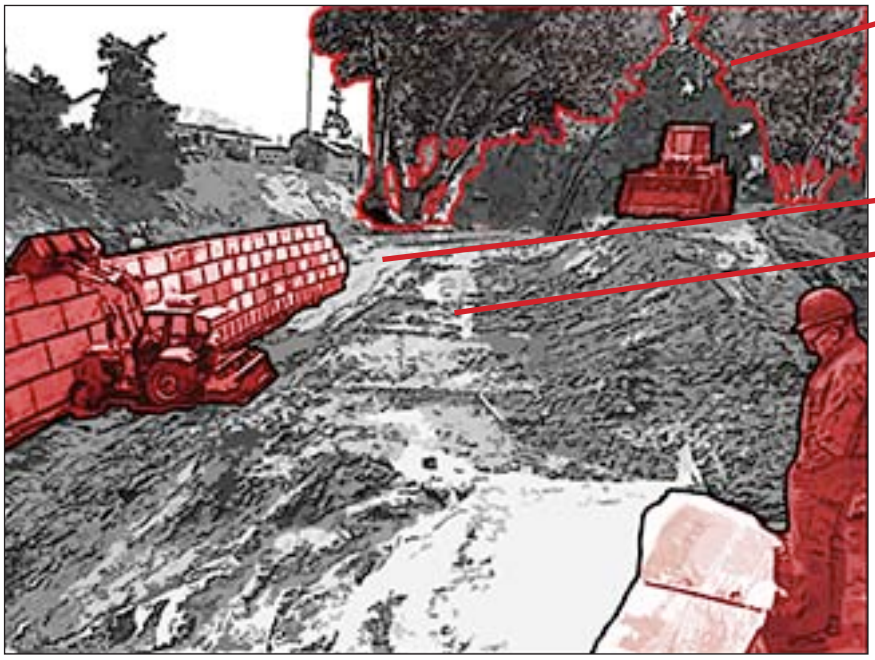
Streambank stabilization is frequently necessary to protect property from erosion during high storm flows. It may involve construction of groins in a stream to divert water flow, or installation of riprap, geotextiles and/or planted vegetation to stabilize the bank. Streambank stabilization activities often require permits. Routine maintenance required for bank stabilization is also a regulated activity.

Proposed Work: Recontouring a streambank and channel, installation of stabilization materials and native plants. Work will occur at a time of year when surface water is not present.

Location: Stream under USACE and CDFG jurisdiction; VCWPD red-line stream; not in the Coastal Zone.

Biology: A biological survey found no protected species or their habitats, other than locally protected sycamore trees that will need to be trimmed to provide access.

Project Size: 0.5 acre



Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream	USACE 404 NWP	pg 28
Necessary when a 404 Permit is required	RWQCB 401 Certification *(Requires CEQA)*	pg 30
Altering a stream, disturbing riparian vegetation	CDFG Streambed Alteration Agreement *(Requires CEQA)*	pg 31
Grading in a stream or wetland	VCPWA Grading Permit *(Requires CEQA)*	pg 47
Necessary when discretionary approval required	CEQA compliance	pg 33
Removing or trimming a protected tree	VCPD Protected Tree Permit	pg 46
Working in VCWPD red-line stream	VCWPD Encroachment and/or Watercourse Permit	pg 44

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 2: Culvert Installation or Removal in a Stream

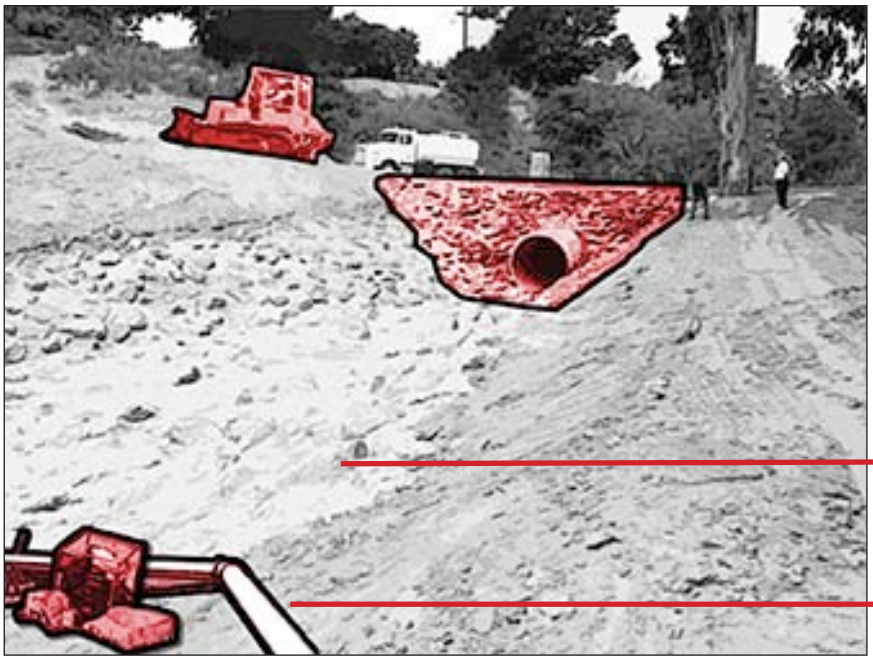
Culverts are structures that convey water flow under a road. Installation frequently involves placement of the culvert, construction of head walls and water diversion or removal during construction. Culvert removal or replacement may also be undertaken to improve passage for migrating steelhead trout (an endangered species).

Proposed Work: Installing a culvert to channel a stream under a road. Due to high groundwater levels, removal and rerouting of water will be necessary during construction.

Location: Stream under USACE and CDFG jurisdiction; not a VCWPD red-line stream; in the Coastal Zone.

Biology: All streams are considered "environmentally sensitive habitat areas" in the Coastal Zone; a biological survey found no protected species or their habitats.

Project Size: Less than 0.25 acre



Coastal Zone

Stream jurisdiction: USACE, CDFG

Water removal and rerouting necessary

Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream	USACE 404 NWP	pg 28
Necessary when a 404 Permit is required	RWQCB 401 Certification *(Requires CEQA)*	pg 30
Required by 404 Permit when in Coastal Zone	CCC Letter of Concurrence	pg 29
Altering a stream, disturbing riparian vegetation	CDFG Streambed Alteration Agreement *(Requires CEQA)*	pg 31
Grading in a stream or wetland	VCPWA Grading Permit *(Requires CEQA)*	pg 47
Regulated land use *(in Coastal Zone)*	VCPD Land Use/Coastal Zone Permit *(Requires CEQA)*	pg 45
Necessary when discretionary approval required	CEQA compliance	pg 33
Pumping or releasing water *(discharging wastewater)*	RWQCB WDR/NPDES Permit	pg 41

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 3: Utility Line Installation Under a Stream

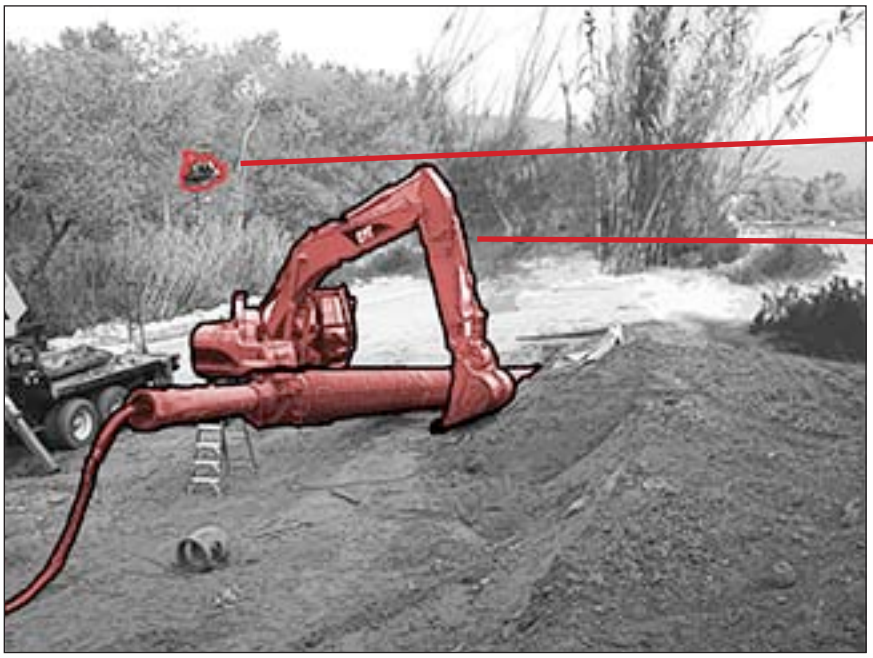
Utility line installations frequently require trenching through a stream or drilling under it (using horizontal directional drilling). Drilling under the stream is increasingly common because it often requires fewer permits. This is because the work remains outside of USACE and/or CDFG jurisdiction and can avoid impacts to protected species and habitats. CDFG usually requires a special plan (called a frac-out plan) to address the potential for escape of drilling muds and lubricants into waterways.

Proposed Work: Directional drilling under the stream; drilling will be outside of riparian areas; drilling muds will be disposed of at a permitted disposal facility; work will occur outside of hawk nesting season.

Location: Stream under USACE and CDFG jurisdiction, but work will occur outside or below jurisdictional areas; VCWPD red-line stream; in the Coastal Zone.

Biology: All streams are considered "environmentally sensitive habitat areas" in the Coastal Zone; a biological survey found a protected hawk's nest, but work will occur outside of hawk nesting season.

Project Size: 0.75 acre



Triggers	Likely Permits/Approvals	
Drilling under stream *(could release drilling muds)*	CDFG Coordination *(Streambed Alteration Agreement with frac-out plan may be required) (Requires CEQA)*	pg 31
Regulated land use *(in Coastal Zone)*	VCPD Land Use/Coastal Zone Permit *(Requires CEQA)*	pg 45
Necessary when discretionary approval required	CEQA compliance	pg 33
Working in VCWPD red-line stream	VCWPD Encroachment and/or Watercourse Permit	pg 44

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 4: Temporary Access in a Stream

Equipment often needs to be moved across or within streams or wetlands. Agency permits or approvals may not be required if none of the following occurs: 1) changing the streambed, bank or channel in any way; 2) pushing soil into the stream; 3) trimming vegetation; or 4) storing equipment in or near a stream or wetland. If the temporary access involves any of these activities, permits are required.

Proposed Work: Film crews need access to an area within and beyond a flowing stream and will work in and cross the stream many times. Earth will be moved within the stream to allow equipment access.

Location: Stream under USACE and CDFG jurisdiction; not a VCWPD red-line stream; not in the Coastal Zone.

Biology: Biological survey found no protected species or their habitats.

Project Size: 0.5 acre

Stream jurisdiction: USACE, CDFG

Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream	USACE 404 NWP	pg 28
Necessary when a 404 Permit is required	RWQCB 401 Certification *(Requires CEQA)*	pg 30
Altering a stream, disturbing riparian vegetation	CDFG Streambed Alteration Agreement *(Requires CEQA)*	pg 31
Grading in a stream or wetland	VCPWA Grading Permit *(Requires CEQA)*	pg 47
Necessary when discretionary approval required	CEQA compliance	pg 33
Regulated land use (filming)	VCPD Land Use Permit	pg 45

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 5: Realigning a Stream

Filling or realigning segments of streams may be proposed as part of large development projects. Permits for these activities generally require extensive and costly mitigation in order to ensure no net loss of wetlands. Mitigation and monitoring for at least 5 years is also likely. Early coordination with regulatory agencies to modify development plans can help reduce the time and costs of permitting and mitigation.

Proposed Work: A stream will be realigned for a development project. Stream flow will need to be diverted.

Location: Stream under USACE and CDFG jurisdiction; VCWPD red-line stream; not in the Coastal Zone.

Biology: Biological survey found a Two-striped Garter Snake, a California Species of Special Concern (CSC), in the project area. A protected oak tree needs trimming to permit access.

Project Size: 10 acres

Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream	USACE 404 IP *(IP as disturbs greater than 0.5 acre)*	pg 28
Necessary when a 404 Permit is required	RWQCB 401 Certification *(Requires CEQA)*	pg 30
Altering a stream, disturbing riparian vegetation	CDFG Streambed Alteration Agreement *(Requires CEQA)*	pg 31
State protected species *(CSC species handled as part of CDFG Streambed Alteration Agreement)*	CDFG consultation	pg 42
Grading in a stream or wetland	VCPWA Grading Permit *(Requires CEQA)*	pg 47
Necessary when discretionary approval required	CEQA compliance	pg 33
Project disturbs more than 1 acre of soil	SWRCB Construction General Permit & Storm Water Pollution Prevention Plan	pg 40
Pumping or releasing water *(discharging wastewater)*	RWQCB WDR/NPDES Permit	pg 41
Working in VCWPD red-line stream	VCWPD Encroachment and/or Watercourse Permit	pg 44
Removing or trimming protected tree	VCPD Protected Tree Permit	pg 46

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 6: Habitat Restoration on a Streambank

Habitat restoration typically involves removal of non-native plants by various means, including hand tools, mechanized equipment, herbicides and/or controlled burns. Restoration can also involve replanting of native plant communities and recontouring an area to restore natural hydrologic conditions. Habitat restoration projects, even though they aim to improve the quality of wetlands and streams, are still subject to the permitting process.

Proposed Work: Installing native plants with hand tools on a streambank. Work scheduled outside bird nesting season.

Location: Stream under USACE and CDFG jurisdiction, but work will occur above USACE ordinary high water mark; VCWPD red-line stream, but work will not involve alteration of streambanks and project is not in floodway; not in the Coastal Zone; a portion of the project is located on California State Parks land.

Biology: Biological survey found that a Least Bell's Vireo, a federally and state endangered bird, nests onsite.

Project Size: 0.5 acre

Triggers	Likely Permits/Approvals	
Altering a stream, disturbing riparian vegetation	CDFG Streambed Alteration Agreement *(may not be required; check with CDFG) (Requires CEQA)*	pg 31
Necessary when discretionary approval required	CEQA compliance	pg 33
Federally listed *(protected)* species	USFWS consultation *(to confirm no permit necessary)*	pg 39
State listed *(protected)* species	CDFG Section 2081 Permit	pg 42
California State Parks location	California State Parks approval *(call agency for approval)*	

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 7: Habitat Restoration in an Isolated Wetland

Similar to habitat restoration of streambanks, restoration of an isolated wetland typically involves removal of non-native plants by various means, such as hand tools, mechanized equipment, herbicides and/or controlled burns. Restoration of isolated wetlands can also involve recontouring to restore natural wetland hydrology and installation of native plants.

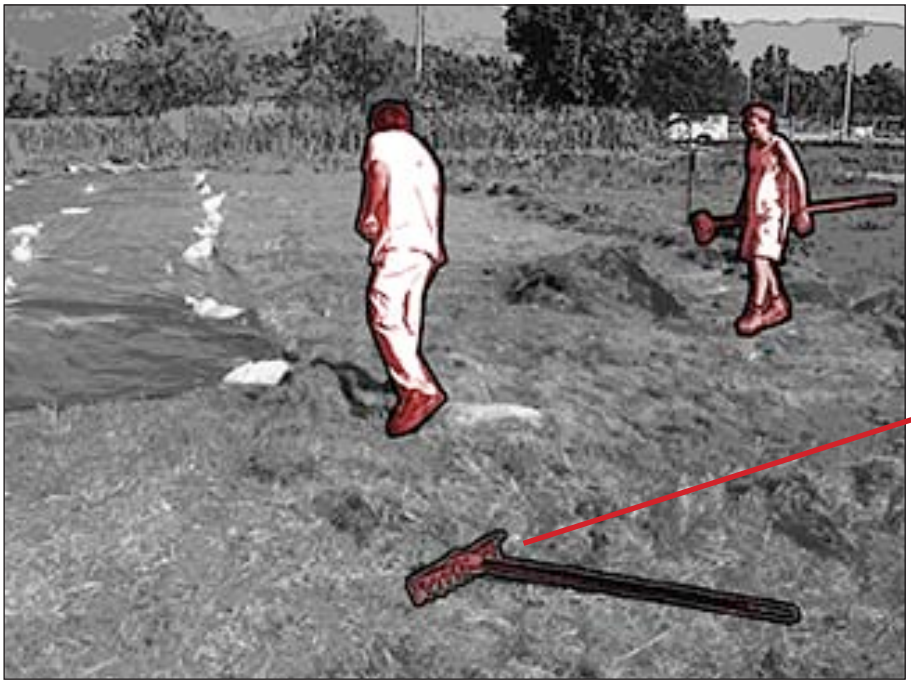
Generally, fewer permits are required for isolated wetlands because they do not have the same protections as in-stream wetlands or wetlands adjacent to streams. However, the extent of protection afforded isolated wetlands is evolving as a result of past and current litigation. An isolated wetland may have been connected historically to a stream, and therefore may be given extra review by the agencies. Sometimes the RWQCB may regulate isolated wetlands when the USACE does not. Proponents of projects that may involve isolated wetlands should always check with the USACE, CDFG and the RWQCB.

Proposed Work: Hand tools will be used to remove invasive plants and to replant with natives.

Location: Isolated wetland not under USACE or CDFG jurisdiction; not in the Coastal Zone.

Biology: A biological survey found no protected species or their habitats, and no USACE protected wetlands in the project area.

Project Size: 0.4 acre



Triggers	Likely Permits/Approvals
None in this scenario	None in this scenario

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 8: Arundo Removal in a Stream

Giant Reed (*Arundo donax*), often called "arundo," is a robust, bamboo-like grass that is invading and degrading local wetlands and streams and squeezing out native plants and animals. Extensive efforts are being made to remove this invasive plant. However, the methods used to remove invasive plants can damage wetlands and streams. These projects are therefore subject to permitting requirements.

Proposed Work: Spraying herbicide and removing dead vegetation with tractor. Minor discharge/movement of soil expected. Work will occur at a time of year when water is present, but project designed to meet USACE 404 RGP water quality requirements.

Location: Stream under USACE and CDFG jurisdiction; VCWPD red-line stream; not in the Coastal Zone.

Biology: A biological survey found that Southern Steelhead Trout, a federally endangered species and California Species of Special Concern (CSC), migrates through the project area.

Project Size: 2 acres

Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream	USACE 404 RGP 41 *(RGP 41 because removing weeds)*	pg 28
Necessary when a 404 Permit is required	RWQCB 401 Certification *(Requires CEQA)*	pg 30
Altering a stream, disturbing riparian vegetation	CDFG Streambed Alteration Agreemen *(Requires CEQA)*	pg 31
State protected species *(CSC species handled as part of CDFG Streambed Alteration Agreement)*	CDFG consultation	pg 42
Grading in a stream or wetland	VCPWA Grading Permit *(Requires CEQA)*	pg 47
Necessary when discretionary approval required	CEQA compliance	pg 33
Federally listed (protected) species	NMFS Section 7 Consultation	pg 39
Project disturbs more than 1 acre of soil	SWRCB Construction General Permit & Storm Water Pollution Prevention Plan	pg 40
Working in VCWPD red-line stream	VCWPD Encroachment and/or Watercourse Permit	pg 44

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 9: Maintaining a Farm Ditch

Many farm ditches are artificially created, unconnected to natural waterways and do not support protected habitat or important wetland functions. These ditches are generally not subject to stream and wetland regulations. However, there are cases where drainage ditches are regulated. If the ditch was originally a natural stream or drainage, or connects to one; if the ditch meets the USACE definition of wetland; if the ditch supports native vegetation; or if the ditch has any connection to the tides, maintenance activities within or next to the ditch could be subject to regulations.

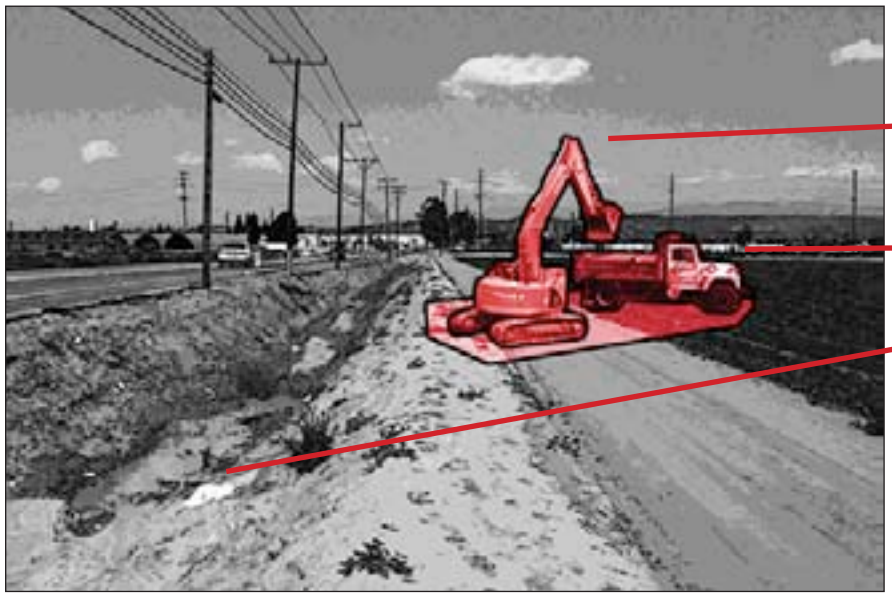
Long-term maintenance permits (up to 5 years and renewable) may be available from the regulatory agencies for this activity. Do not hesitate to ask the agencies about them.

Proposed Work: Cleaning out sediment in a highly modified stream channel by scooping (not bulldozing) and removing the sediment from the project site.

Location: A farm ditch (channelized stream) under USACE and possibly CDFG jurisdiction; not a VCWPD red-line stream; not in the Coastal Zone.

Biology: A biological survey found no protected species or their habitats.

Project Size: 0.5 acre



Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream	USACE 404 NWP *(By following recommended practices this permit may be avoided; coordinate with USACE)*	pg 28
Necessary when a 404 Permit is required	RWQCB 401 Certification *(Requires CEQA)*	pg 30
Disturbing riparian vegetation	CDFG Streambed Alteration Agreement *(May not be required if no native habitat present; coordinate with CDFG) (Requires CEQA)*	pg 31
Grading *(includes excavation)* in a stream or wetland	VCPWA Grading Permit *(May qualify for agriculture exemption) (Requires CEQA)*	pg 47
Necessary when discretionary approval required	CEQA compliance	pg 33

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Example 10: Emergency Repairs in a Stream

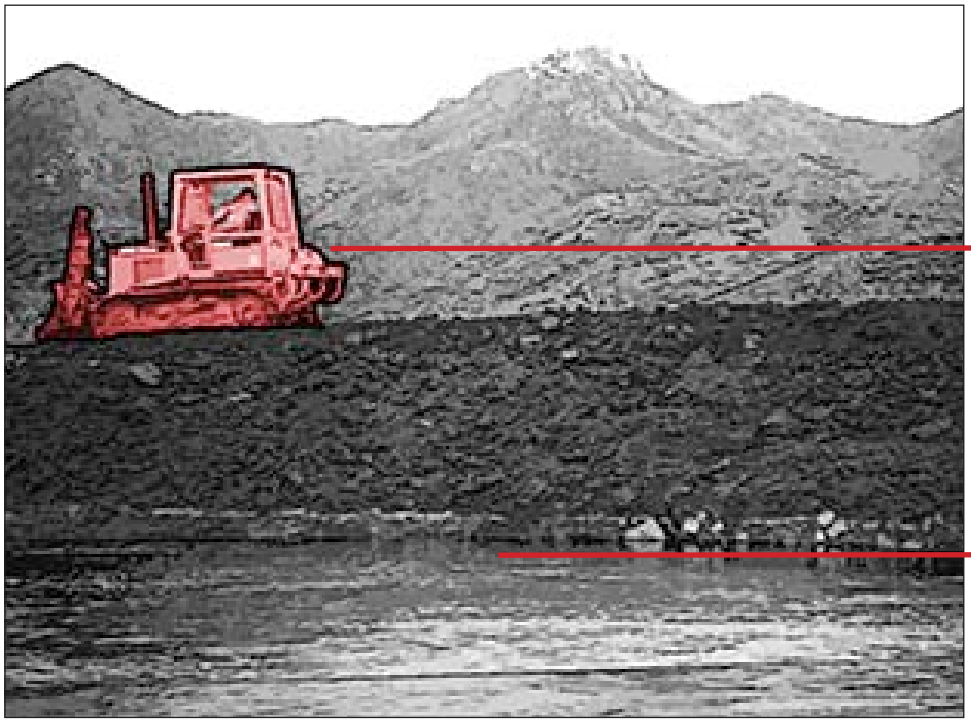
Emergency projects are generally defined as projects required to avoid the immediate or imminent loss of, or damage to, life or property. In such cases the permitting processes can be streamlined, but not dismissed. Each agency has its own guidelines for emergency situations, as discussed in the "Emergencies" section. You must contact each agency with jurisdiction over your project to confirm the steps in the permitting process and the follow-up needed. Emergency projects are exempt from CEQA compliance.

Project Work: Clearing debris from a clogged channel and repairing damaged channel levee.

Location: Stream under USACE and CDFG jurisdiction; VCWPD red-line stream; not in the Coastal Zone.

Biology: An after-the-fact biological survey found that no protected species or their habitats were likely to have been affected by the project.

Project Size: 0.3 acre



Triggers	Likely Permits/Approvals	
Moving *(discharging)* materials into or within stream;	USACE coordination upon identification of emergency; after-the-fact 404 RGP 63; this permit incorporates RWQCB 401 Certification	pg 28
Altering a streambank	CDFG coordination upon identification of emergency; notify as required in CDFG Code Section 1610	pg 31
Working in VCWPD red-line stream	VCWPD coordination, after-the-fact Encroachment and/or Watercourse Permit	pg 44
Grading in a stream or wetland	VCPWA coordination upon identification of emergency; after-the-fact Grading Permit	pg 47

Because your project most likely will have different triggers, make sure you begin by consulting USACE, CDFG and RWQCB with the specifics of your project. The work you plan to do may also require permits other than those listed above.

Permits: The Agencies and the Processes

The following sections will help you navigate the permitting processes and the agencies involved. Included are agency descriptions, regulatory procedures, contacts and Internet resources.

- "The Big Four" section provides an overview of the four permits and approvals that are most often required. Anyone proposing a project should begin with an understanding of these key permits/approvals.
- The "Other Common Permits and Approvals" section summarizes other common federal, state and local permits and their triggers.
- The "Coordinating Multiple Permits" section gives an overview of issues to consider when processing several permits at the same time.
- The "Mitigation" section helps you understand requirements to reduce, or mitigate, any impacts to streams or wetlands.
- The "Emergencies" section recaps the definitions of emergency situations and the regulatory guidelines for dealing with them.

Internet addresses for agency Web sites are listed, but these links are frequently updated. You may need to research the current address.

The Big Four

Many wetland or stream projects will require four main permits or approvals. The key to your project's timely completion will be your understanding of these four regulatory requirements:

- USACE 404 Permit
- RWQCB 401 Certification
- CDFG Streambed Alteration Agreement
- CEQA compliance

Be aware permit processes can change. It is always in your best interest to check with the regulatory agencies to confirm the most up-to-date permit process and application requirements.

USACE 404 Permit

Most projects that involve streams or wetlands will require a 404 Permit from the U.S. Army Corps of Engineers (USACE). Section 404 of the federal Clean Water Act is the primary federal program regulating activities in wetlands. The Act regulates areas defined as "waters of the United States." This includes streams, wetlands in or next to streams, areas influenced by tides, navigable waters, lakes, reservoirs and other impoundments. For nontidal waters, USACE jurisdiction extends up to what is referred to as the "ordinary high water mark" as well as to the landward limits of adjacent Corps-defined wetlands, if present. The ordinary high water mark is an identifiable natural line visible on the bank of a stream or water body that shows the upper limit of typical stream flow or water level. The mark is made from the action of water on the streambank over the course of years.

Permit Triggers

A USACE 404 Permit is triggered by moving (discharging) or placing materials—such as dirt, rock, geotextiles, concrete or culverts—into or within USACE jurisdictional areas. This type of activity is also referred to as a "discharge of dredged or fill material."

U.S. Army Corps of Engineers

Ventura Field Office
(805) 585-2140

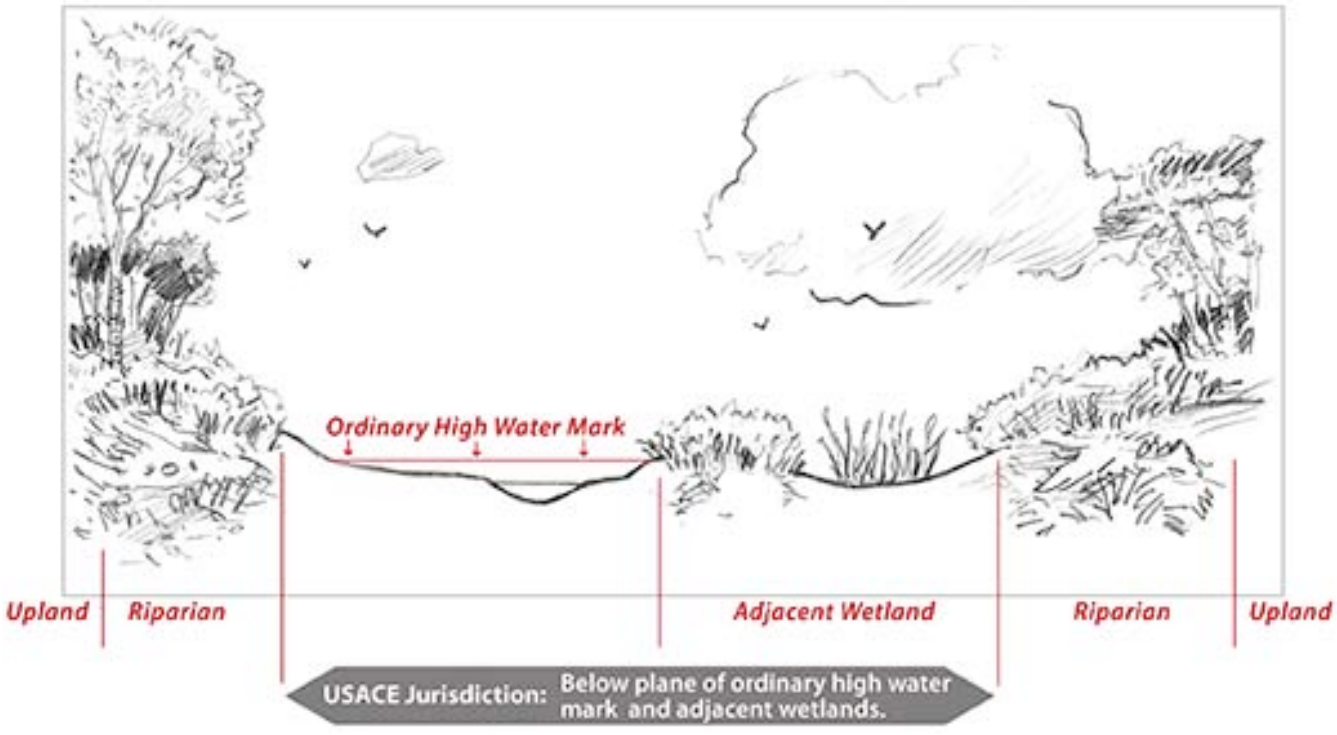
District Office
(213) 452-3333

www.sac.usace.army.mil/permits/rpp-bro.html

www.sac.usace.army.mil/permits/apply-br.html

The U.S. Army Corps of Engineers (USACE) has been regulating activities in the nation's waters since the1890s. Until the 1960s the primary purpose of the regulatory program was to protect navigation. Since then, as a result of laws and court decisions, the program has been broadened so that it now considers the full public interest for both the protection and utilization of our nation's waters. The regulatory authorities and responsibilities of the Corps of Engineers are based on the following laws: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

USACE jurisdiction extends up to the "ordinary high water mark" as well as to the landward limits of adjacent Corps-defined wetlands.



404 Permit Types

There are three types of 404 Permits, and they are listed below in order of increasing complexity and requirements. Your goal should be to design your project to use the simplest 404 Permit possible.

Regional General Permit (RGP)

Regional General Permits (RGPs) are essentially permits that have already been written, regionally, for a small number of project categories. They are the simplest and quickest permits to receive from USACE because they are issued for common, maintenance-type activities with minimal environmental impacts. Often, RGPs include pre-approval from the Regional Water Quality Control Board for a Clean Water Act Section 401 Certification and from the U.S. Fish and Wildlife Service and NOAA Fisheries Service for Endangered Species Act consultations (when necessary).

The two RGPs commonly used for local projects:

- **RGP 41–Removal of Invasive, Exotic Plants.** This permit is for expedited approval of invasive weed removal projects for the purpose of habitat restoration.
- **RGP 63–Emergency Authorizations.** This permit is for situations causing imminent threat to life and property. See "Emergency Procedures" below.

More information at www.spl.usace.army.mil/regulatory/current_RGPs.htm

Time: For projects that can use existing categories of RGPs, processing time is usually 1 month or less. New categories of RGPs can also be developed. Development of new RGPs for routine maintenance activities generally takes 6 months to 1 year.

Fees: No application fee for RGPs.

Nationwide Permit (NWP)

Most projects in USACE jurisdiction are processed as Nationwide Permits (NWPs). Projects that do not meet the criteria for a 404 RGP are usually processed as NWPs.

NWPs are essentially permits that have already been written for certain categorizies of projects, similar to RGPs but available nationwide. NWP standard categories are numbered, and include projects such as road crossings, bank stabilization, repairs to existing structures, flood control maintenance and wetland restoration for wildlife habitat. There are approximately 40 types of NWPs. NWPs generally authorize up to 0.5 acre of permanent impacts within USACE jurisdiction. If the impact exceeds 0.5 acre of USACE jurisdiction, an Individual Permit (IP) is required. More information at www.spl.usace.army.mil/regulatory/lad.htm

Time: About half of the NWPs do not have to be pre-authorized; meaning, as long as all permit conditions are met, work can commence without any permit process. For other NWPs, allow 3 to 4 months to process.

Fees: No application fee for NWPs.

Individual Permit (IP)

Individual Permits (IPs) are required for projects that have more extensive impacts to areas under USACE jurisdiction and do not fit within any of the standard NWP categories. Examples are large developments or projects that exceed 0.5 acre of impacts to USACE jurisdiction. IP projects require public review. More information at www.spk.usace.army.mil/organizations/cespk-co/regulatory/individual.html

Time: Due to the public review period and complexity of the permitting process, IPs often take 6 to 12 months or longer to process.

Fees: Fees for IPs range from $0-100 depending on the project.

Simple project redesign will often allow an NWP to be used where an IP would otherwise be required.

Most projects in USACE jurisdiction are processed as NWPs.

Simple project redesign will often allow an NWP to be used where an IP would otherwise be required.

Permit Process

A pre-application meeting with USACE staff is recommended. In addition, before proceeding with an RGP or NWP, confirm with the RWQCB that the selected permit applies according to their interpretation.

A biological review, including estimates of impacts to water and wetlands, may be required to complete the permit application.

Other Approvals Required First: Receipt of a RWQCB 401 Certification is required before NWP/IP issuance for most projects. A California Coastal Commission Letter of Concurrence is also needed for projects located in the Coastal Zone (see "CCC Letter of Concurrence for Coastal Zone Projects" below).

Application: The USACE "Application for Department of the Army Permit" is used and can be found at www.spl.usace.army.mil/regulatory/eng4345.pdf

The application packet must include:

- Applicant information
- Project purpose
- Project description
- Location information
- Adjacent landowner contact information
- Calculation of permanent and temporary impacts to USACE jurisdiction
- Engineering plans and grading plans (if available)
- Drawing of proposed project area

A formal USACE wetland delineation is also frequently required for wetlands outside of stream channels or to determine the lateral extent of USACE jurisdiction on site. A private biological consultant usually performs this delineation to expedite the permitting process. More information at www.spl.usace.army.mil/regulatory/list.html

CCC Letter of Concurrence for Coastal Zone Projects: If a project site lies within the Coastal Zone, the applicant needs to present the Federal Consistency Office of the California Coastal Commission with a project description and a statement certifying that the proposed activity complies with and will be conducted in a manner consistent with the state's Coastal Zone Management Act. This office will either issue a Letter of Concurrence or take no action. Concurrence is presumed 6 months after the submission date. Provide USACE your Letter of Concurrence or documentation to prove your materials were submitted to the Federal Consistency Office more than 6 months ago. The USACE will not issue a permit until this documentation is received.

For more information on Coastal Zone consistency, see page 32 of "Title 33: Navigation and Navigable Waters" at www.spl.usace.army.mil/regulatory/33cfr320-331.pdf

Emergency Procedures: An emergency is defined by the USACE as "clear, sudden, unexpected and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services." An RGP 63 permit is used to expedite emergency projects. USACE must be notified of emergency activities before work begins.

More information at www.spl.usace.army.mil/regulatory/RGP63_permit.pdf

Internet addresses for agency web sites are frequently updated. You may need to research the current web sites.

Regional Water Quality Control Board

Board representing Los Angeles County and most of Ventura County:

Los Angeles Regional Water Quality Control District
(213) 576-6600
Map: www.waterboards.ca.gov/losangeles/images/region4.jpg

Board representing northwest Ventura County (Rincon Creek watershed):

Central Coast Regional Water Quality Control District
(805) 549-3147
Map: www.waterboards.ca.gov/centralcoast/images/reg3map_001.jpg

Info: www.waterboards.ca.gov/losangeles/html/meetings/401wqc.html

www.waterboards.ca.gov/cwa401/

Responsibility for the protection of water quality in California rests with the State Water Resources Control Board and nine Regional Water Quality Control Boards (RWQCB). The state and the regional boards regulate discharges that may impact the beneficial uses of surface and ground waters. Their authority comes from the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act (California Water Code).

RWQCB 401 Certification

If your project requires a USACE 404 Permit, then you will also need a Regional Water Quality Control Board (RWQCB) 401 Certification. The federal Clean Water Act, in Section 401, specifies that states must certify that any activity subject to a permit issued by a federal agency, such as the USACE, meets all state water quality standards. In California, the state and regional water boards are responsible for certification of activities subject to USACE Section 404 Permits.

Permit Trigger

A RWQCB 401 Certification is triggered whenever a USACE 404 Permit is required, or whenever an activity could cause a discharge of dredged or fill material into waters of the U.S. or wetlands

Permit Process

A pre-application meeting with RWQCB staff is recommended. A biological review, including estimates of impacts to waters of the U.S., adjacent wetlands and receiving waters, may be required to complete the permit application.

Other Approvals Required First: None

Application: The RWQCB "Section 401 Water Quality Certification Application Form" is used and is located with directions at www.waterboards.ca.gov/losangeles/html/meetings/401wqc.html

The application must include:

- Applicant information
- Project purpose
- Project description
- Location information
- At least 4 latitude/longitude points of project boundaries (8 for linear projects)
- Name and type of receiving waters (lake, river, ocean, etc.)
- Estimate of temporary and permanent impacts to waters of the U.S. (including wetlands)
- Associated projects and cumulative impacts
- Discussion of how project avoids, minimizes and if necessary mitigates impacts. Description of proposed best management practices.
- Graphics (maps) showing project location and mitigation areas
- Other required permits
- CEQA/NEPA compliance documentation

Time: Typically 3 to 4 months

Fees: An application fee is required. More information on calculating fees can be found at www.swrcb.ca.gov/cwa401/docs/dredgefillfeecalculator.xls

Emergency Procedures: RWQCB uses the same definition of an emergency as USACE (see "USACE 404 Permit" section). RGP 63, which is used for emergency activities by the USACE, has already been certified by the SWRCB and does not require an additional 401 Certification or fees.

A copy of the report, which is required under the RGP 63, must be sent to the RWQCB. No impacts to endangered species or violations of applicable water quality standards can occur under RGP 63. It is strongly recommended that you notify RWQCB about emergency activities before you start by sending a project description and map. More emergency information can be found at www.swrcb.ca.gov/cwa401/docs/rgp63_ladist.pdf

CDFG Streambed Alteration Agreement

If your project includes alteration of the bed, banks or channel of a stream, or the adjacent riparian vegetation, then you may need a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG). The California Fish and Game Code, Sections 1600-1616, regulates activities that would alter the flow, bed, banks, channel or associated riparian areas of a river, stream or lake—all considered "waters of the state." The law requires any person, state or local governmental agency or public utility to notify CDFG before beginning an activity that will substantially modify a river, stream or lake.

Permit Triggers

A Streambed Alteration Agreement (SAA) is triggered when a project involves altering a stream or disturbing riparian vegetation, including any of the following activities:

- Substantially obstructing or diverting the natural flow of a river, stream or lake
- Using any material from these areas
- Disposing of waste where it can move into these areas

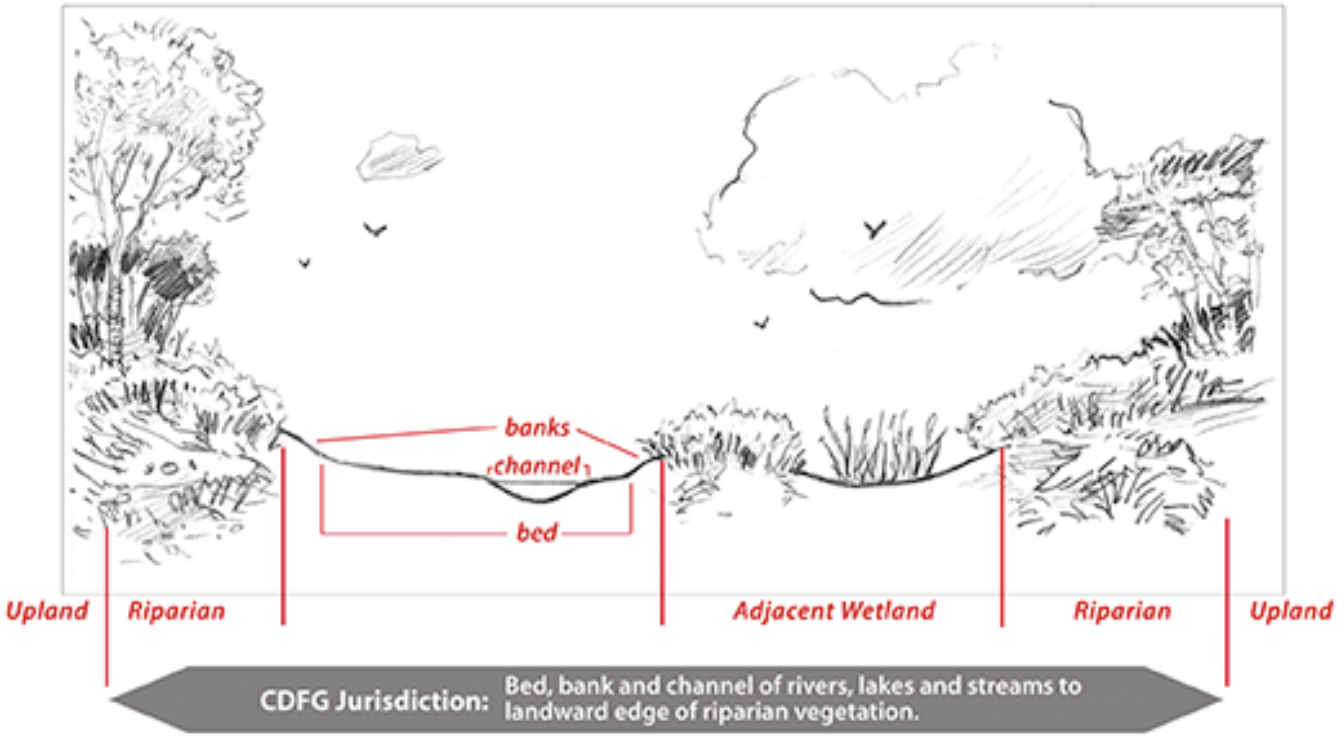
Some projects that involve routine maintenance may qualify for long-term maintenance agreements from CDFG. Discuss this option with CDFG staff.

California Department of Fish and Game

CDFG South Coast Region 5
(858) 467-4201
www.dfg.ca.gov/1600/

The mission of the California Department of Fish and Game (CDFG) is to manage California's diverse fish, wildlife and plant resources, and their habitats—not only for their ecological value but also for the public's use and enjoyment. CDFG administers the California Fish and Game Code.

CDFG jurisdiction includes the bed, banks and channel of lakes, rivers and streams and includes adjacent riparian vegetation.



Permit Process

A field meeting with CDFG staff is recommended after application submission. A biological review, including estimates of impacts to CDFG waters of the state, may be required, along with completion of the CDFG application forms and supporting documentation.

Other Approvals Required First: CEQA compliance. See the "CEQA Compliance" section. More information also at www.dfg.ca.gov/1600/qa.html#qa4

Application: Two forms are required in the SAA application packet:

- "Notification of Lake or Streambed Alteration" form (FG 2023)
- "Project Questionnaire" form (FG 2024)

These forms are available at www.dfg.ca.gov/1600/notification_pkg.html

The application packet must include:

- Applicant information
- Project description and cost
- Location information
- Name of water body and tributary information
- Analysis of biological impacts
- CEQA compliance documentation
- Copies of other permits received or applications in process

Fee: An application fee must be submitted with the completed application. This is discussed in detail at www.dfg.ca.gov/1600/fees2005.html

Time: SAAs typically take 3 to 4 months to process if CEQA compliance is complete. Upon receipt of your draft SAA, you have 30 days to review it and notify CDFG if you disagree with any measures. More information at www.dfg.ca.gov/1600/qa.html#qa2

Emergency Procedures: CDFG requires written notification within 14 days of starting work for any of following activities:

- Immediate emergency work necessary to protect life or property
- Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in an area in which the governor has proclaimed a state of emergency
- Emergency public highway projects within one year of occurrence

Although not required, coordination with CDFG is recommended before work starts to minimize impacts to biological resources associated with streams and wetlands and to develop appropriate mitigation. More emergency information at www.dfg.ca.gov/1600/qa.html#qa6

CEQA Compliance

If your project requires "discretionary approval" from any public agency, which is very common with stream and wetland projects, then you will need to comply with the California Environmental Quality Act (CEQA). The goal of CEQA, Public Resources Code Section 21000, is to maintain a high-quality environment by requiring that public agencies identify, avoid and mitigate the significant environmental effects of projects where feasible. This is accomplished by preparation of Initial Studies and CEQA documents (Negative Declarations and Environmental Impact Reports).

Process Triggers

CEQA compliance is triggered by projects that require discretionary approval by a public agency and that are not exempt (see "Exemptions" on the next page). Discretionary projects are those requiring the exercise of judgment or deliberation when the public agency or body decides to approve or deny a particular project, as distinguished from ministerial projects—which are those where the public agency or body has to determine only whether a project conforms with applicable statutes, ordinances or regulations.

Common discretionary approvals for stream and wetland projects within Ventura County include VCPD Land Use/Coastal Zone Permits, VCPWA Grading Permits, CDFG Streambed Alteration Agreements and RWQCB 401 Certification.

CEQA Document Types

In order to determine which type of environmental document to prepare, the lead agency conducts an Initial Study. This is a preliminary analysis to identify the potential significant environmental effects of the proposed project.

Potential impacts to biological resources, including wetlands and streams, are identified in the Initial Study and incorporated into the following CEQA documents:

Negative Declaration (ND)

An ND is a brief written statement describing the reasons a proposed project will not have a significant adverse effect on the environment and thus does not require the preparation of an Environmental Impact Report.

Time: 180 days from the date the project application is accepted as complete by the lead agency.

Mitigated Negative Declaration (MND)

The same as an ND, but the MND requires mitigation to reduce significant adverse impacts identified in the Initial Study to less-than-significant levels. The applicant must agree in writing to the mitigation measures, otherwise an Environmental Impact Report must be prepared. The lead agency monitors MND mitigation measures to ensure implementation and compliance.

Time: 180 days from the date the project application is accepted as complete by the lead agency.

Environmental Impact Report (EIR)

This detailed report analyzes the potential significant adverse environmental effects of a project and other similar projects in the area, the feasible measures to mitigate these effects, the alternatives to the project and any growth-inducing impacts of the project. If the EIR discloses that any of the significant

California Environmental Quality Act

http://ceres.ca.gov/ceqa/

www.ventura.org/planning/ordinances_regs/ords_regs.htm

The administration of the California Environmental Quality Act (CEQA) is handled by the lead agency, which varies depending on the project.

The lead agency is the public agency that has the principal responsibility for carrying out or approving a project that may have a significant impact on the environment. If a land use permit is required, then the land use planning agency will usually be the lead agency. The lead agency must, before approving a project, certify or approve an appropriate CEQA document.

Lead Agency:
The public agency with the greatest responsibility for supervising or approving a project or the first public agency to make a discretionary decision to proceed with a proposed project. The lead agency is responsible for preparing the appropriate CEQA document and has primary responsibility for approving or carrying out the project.

Responsible Agency:
A public agency, other than the lead agency, which has responsibility for carrying out or approving a project. These agencies exercise discretionary authority to approve all or a portion of a project.

Trustee Agency:
State agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the state.

environmental impacts cannot be feasibly reduced to a less-than-significant level, then the lead agency's decision-making body must adopt a statement of overriding considerations before it can approve the project.

Time: 365 days from the date the project application is accepted as complete by the lead agency.

Exemptions

A number of projects are exempt from CEQA by law or because they fall within classes of projects that have been determined generally not to have significant effects on the environment. Exceptions occur and may nullify a project's exempt status. Check with the lead agency before proceeding with an exemption.

The following types of projects within streams and wetlands are typically exempt:

- Resource and environmental protection actions by regulatory agencies
- Wildlife habitat acquisition
- Small habitat restoration (5 acres or less)
- Maintenance activities
- Emergencies

More information on exemptions can be found at http//ceres.ca.gov/topic/env_law/ceqa/guidelines/art18.html and http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art19.html

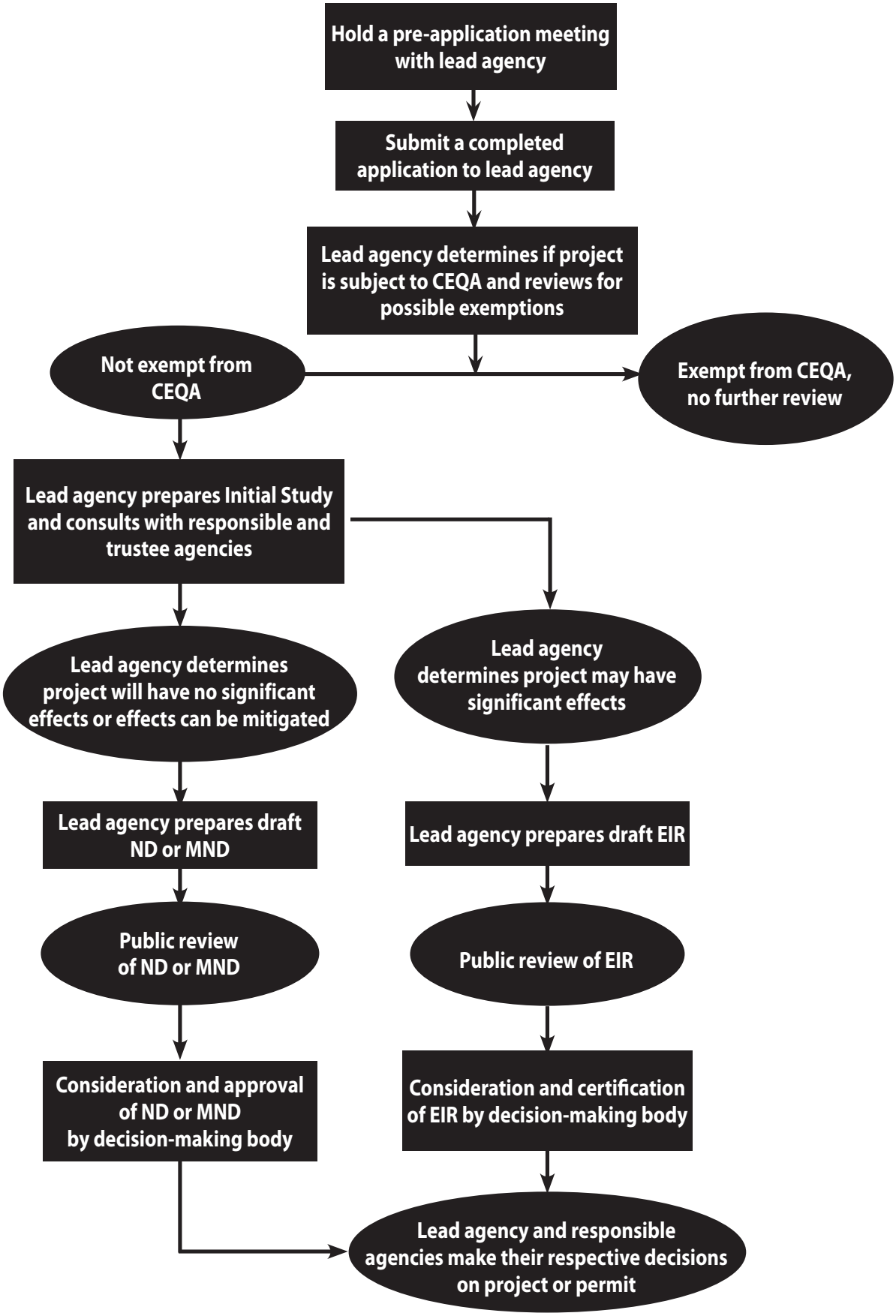
CEQA Compliance Process

Other Approvals Required First: None

Fees: The lead agency may collect reasonable fees from project proponents to recover costs associated with CEQA compliance and document preparation. Such fees also cover costs associated with programs for mitigation monitoring or reporting.

Emergency Procedures: CEQA Guidelines Section 15359 defines an emergency activity as a "sudden, unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident or sabotage." Emergencies generally are exempt under CEQA. Coordinate with the lead agency to confirm this determination.

CEQA Process Flowchart



Other Common Permits and Approvals

This section provides an overview of other common permits and approvals associated with work in streams and wetlands. Although important, they are less frequently or consistently required than those in "The Big Four" section.

This section is organized into federal, state and local permits.

Federal Permits

U.S. Army Corps of Engineers

Ventura Field Office
(805) 585-2140

Los Angeles District Office
(213) 452-3333

www.sac.usace.army.mil/permits/rpp-bro.html

www.sac.usace.army.mil/permits/apply-br.html

The U.S. Army Corps of Engineers (USACE) has been regulating activities in the nation's waters since the1890s. Until the 1960s the primary purpose of the regulatory program was to protect navigation. Since then, as a result of laws and court decisions, the program has been broadened so that it now considers the full public interest for both the protection and utilization of the nation's waters. The regulatory authorities and responsibilities of the USACE are based on Section 10 of the Rivers and Harbors Act of 1899 as well as Section 404 of the Clean Water Act.

USACE Section 10 Permit

Section 10 of the Rivers and Harbors Act prevents navigable waters of the United States from being obstructed. The only navigable waters in Ventura County are in coastal harbors.

Permit Triggers and Process

If your project is in a harbor or otherwise affects navigable waters, you will need to get a Section 10 Permit from the U.S. Army Corps of Engineers (USACE).

A USACE Section 10 Permit is triggered by:

- Any work in or over navigable waters
- Discharge of material in navigable waters
- Any work affecting the course, location, condition or capacity of navigable waters

Typical activities requiring a Section 10 Permit are:

- Construction of piers, wharves, marinas, ramps, floats, intake structures and cable or pipeline crossings
- Dredging and excavation of navigable waters

About the Process: The USACE Section 10 Permit application process is the same as for the USACE 404 Permit. See the "USACE 404 Permit" section of this guide for more information on the application process.

Time: Typically takes 3 to 4 months

A permit from the USACE is required for most activities that will impact wetlands or navigable waterways.

USFWS or NMFS Section 7 Consultation and Section 10 Incidental Take Permit

Either a Section 7 Consultation or a Section 10 Incidental Take Permit will be required if a project has the potential to positively or negatively affect listed or protected species or their habitats, either directly or indirectly. The processes for each are long and complex.

In most cases, the U.S. Fish and Wildlife Service (USFWS) is the agency that administers these permits. However, if anadromous species (species that migrate between marine and freshwater environments) are involved, the National Marine Fisheries Service (NMFS) administers the permit. In southern California, the fish species that NMFS manages is the southern California steelhead trout.

Permit Triggers and Process

The presence of federally protected plant or animal species most likely will already have been revealed in a biological survey as part of CEQA compliance (see "The Big Four" section). When species are found, coordinate with USFWS or NMFS as soon as possible to redesign your project to minimize impacts on the species.

To proceed with your project, you will need one of the following:

- A Section 7 Consultation is triggered when the project has a "federal nexus," usually in the form of another federal permit or federal funding, at some stage of the project and with any federal agency. The type of consultation will be either informal or formal, depending on whether your project affects listed or protected species.
- A Section 10 Permit is triggered when the project has no federal nexus (USFWS or NMFS is the only federal connection to the project).

The main triggers for a NMFS formal Section 7 Consultation for a project where steelhead trout are present include:

- Working in or near a stream channel between Dec. 1 and June 15
- Diverting water in a stream channel
- Catching and relocating steelhead
- Grouting rip-rap

Time: A Section 7 Consultation must be processed in a maximum of 135 days. A Section 10 Permit has no mandated time limit and may take1½ years or longer. Both the Section 7 and 10 processes are very complex and involve multiple steps.

Projects can often be redesigned to avoid adverse affects to listed species and thus the time and expense of a formal section 7 consultation.

U.S. Fish and Wildlife Service

Ventura Field Office
(805) 644-1766
www.fws.gov/ventura/

The mission of the U.S. Fish and Wildlife Service (USFWS) is to protect, conserve and enhance fish, wildlife, plants and their habitats. The USFWS is responsible for species listed as threatened or endangered under the federal Endangered Species Act, as well as their critical habitats.

National Marine Fisheries Service

Southwest Regional Office
(562) 980-4020
http://swr.nmfs.noaa.gov/

The National Marine Fisheries Service (NMFS), a division of NOAA, is dedicated to the stewardship of living marine resources through science-based conservation and management, and the promotion of healthy ecosystems.

State Permits

SWRCB Construction General Permit and Storm Water Pollution Prevention Plan

The State Water Resources Control Board (SWRCB) administers a statewide general permit, called a Construction General Permit, to cover a variety of construction activities that could result in wastewater discharges. Development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) is required as part of the permit.

Permit Triggers and Process

If your project disturbs more than an acre of land, you may need a Construction General Permit (sometimes called a Section 402 Permit) and associated SWPPP from the SWRCB.

A SWRCB Construction General Permit is triggered by construction activities:

- That will result in land disturbance of 1 acre or more
- That will result in land disturbance of less than 1 acre if part of a larger common plan of development or sale

Typical activities requiring a SWRCB Construction General Permit are:

Clearing, grading, excavation, stockpiling and reconstruction of existing facilities involving removal and replacement. (Construction activity does not include routine maintenance.)

About the Process: The SWRCB Construction General Permit process involves notification of the wastewater discharges by a Notice of Intent (NOI) to the SWRCB; development and implementation of a SWPPP; and implementation of specific monitoring efforts. The SWPPP document and a copy of the SWRCB Construction General Permit must be on site and up-to-date during construction. A Notice of Termination (NOT) is required on project completion. Annual updates for multi-year projects may also be required.

The SWPPP is a document that outlines construction methods to avoid and minimize movement of sediment and pollutants into water.

Time: Prepare SWPPP and NOI 1 month before construction. Submit NOI and required documentation 2 weeks before construction to receive a Waste Discharger Identification (WDID) number. The permit is considered valid upon receipt of complete NOI.

Additional Information: Wastewater discharge associated with construction can sometimes be covered by the SWRCB Construction General Permit and SWPPP, eliminating the need for an additional WDR or NPDES. Discuss this possibility with your RWQCB representative.

State Water Resources Control Board

CALIFORNIA Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

(916) 341-5536
stormwater@dwq.swrcb.ca.gov

Permit info:

www.swrcb.ca.gov/stormwtr/construction.html

www.swrcb.ca.gov/stormwtr/constfaq.html

Responsibility for the protection of water quality in California rests with the State Water Resources Control Board (SWRCB) and nine Regional Water Quality Control Boards. The state and the regional boards regulate discharges that may impact the beneficial uses of surface and ground waters. Their authority comes from the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act (California Water Code).

RWQCB Waste Discharge Requirements and National Pollution Discharge Elimination System Permits

All wastewater discharges in the state, whether to land or water (including groundwater), are subject to regulation under the California Water Code through issuance of Waste Discharge Requirements (WDRs) by the Regional Water Quality Control Board (RWQCB). In addition, because state and regional boards also implement portions of the Clean Water Act, including the National Pollution Discharge Elimination System (NPDES) program, WDRs for discharges to surface waters from point sources also serve as NPDES Permits.

Permit Triggers and Process

If your project involves moving water or releases of wastewater, you may need a permit from RWQCB.

The need for RWQCB WDRs or a joint NPDES/WDRs Permit is triggered by the discharge (release) of wastewater or by other activities that may impact beneficial uses of surface or ground waters. Permits specify effluent limitations or other requirements to protect receiving waters.

The wastewater-discharge permits and their triggers are:

- WDRs: When the discharge is to surface or ground waters or to land
- Joint NPDES/WDRs: When the discharge is from a point source to surface waters

Typical activities requiring wastewater-discharge permits:

- Rerouting water to allow work in a stream
- Dewatering activities
- Any type of pumping and release of water

About the Process: Most WDRs and joint NPDES/WDRs Permits are tailored to specific situations; these are Individual Permits. Some discharges can be regulated under General Permits, which are less complicated to issue if the discharge meets certain conditions. In rare instances, waivers from WDRs only may be granted (no waivers are allowed from NPDES Permits). Contact your local RWQCB representative to determine which permit applies to your project.

Time: General Permit, about 1 month; Individual Permit, 6 to 8 months.

Additional Information: Water sampling and monitoring may be required during construction. The SWRCB Construction General Permit and SWPPP may cover construction wastewater discharge, precluding the need for additional permits; however, approval from RWQCB is needed for this approach.

Using cement and rip-rap in streams is now strongly discouraged. The RWQCB will encourage project proponents to use more natural approaches, such as using vegetation to stabilize streambanks or giving streams more room to meander.

Regional Water Quality Control Board

Board representing Los Angeles County and most of Ventura County:

Los Angeles Regional Water Quality Control District
(213) 576-6600
Map: www.waterboards.ca.gov/losangeles/images/region4.jpg

Board representing northwest Ventura County (Rincon Creek watershed):

Central Coast Regional Water Quality Control District
(805) 549-3147
Map: www.waterboards.ca.gov/centralcoast/images/reg3map_001.jpg

Info: www.swrcb.ca.gov/rwqcb7/Permits.htm

Responsibility for the protection of water quality in California rests with the State Water Resources Control Board and nine Regional Water Quality Control Boards (RWQCB). The state and the regional boards regulate discharges that may impact the beneficial uses of surface and ground waters. Their authority comes from the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act (California Water Code).

California Department of Fish and Game

CDFG South Coast Region 5
(858) 467-4201

www.dfg.ca.gov/hcpb/ceqacesa/cesa/cesa.shtml

The mission of the California Department of Fish and Game (CDFG) is to manage California's diverse fish, wildlife and plant resources and their habitats—not only for their ecological value but also for the public's use and enjoyment. CDFG administers the California Fish and Game Code, which includes the California Endangered Species Act.

CDFG Section 2081 Incidental Take Permit

The California Department of Fish and Game (CDFG) will require a Section 2081 Incidental Take Permit if a project has the potential to negatively affect state-protected plant or animal species or their habitats, either directly or indirectly. Protected species include those "listed" by the state as endangered or threatened.

Besides listed species, there are other categories of species protection, including "fully protected" and California Species of Special Concern (CSC). Adverse impacts to species that have the "fully protected" designation are prohibited. See the "Consultation" section below for further information on CSC protection.

Permit Triggers and Process

If your project involves state-protected plant or animal species, they most likely will already have been revealed in a biological survey as part of CEQA compliance (see "The Big 4" section) or the CDFG Streambed Alteration Agreement process. If such species are found, coordinate with CDFG staff as early as possible to redesign your project to minimize or avoid impacts to the species.

About the Process: The 2081 permit process is initiated by contacting the appropriate regional CDFG office.

Consultation: If a CDFG Streambed Alteration Agreement is required for a project, then CSC species protection is often handled as part of that process. A consultation with agency staff is advised, but a separate permit is not required.

Species with the CSC designation are not listed under the federal Endangered Species Act or the California Endangered Species Act, but are being monitored because their populations are declining. By considering these species' needs during project design, protection can be achieved without a costly "listing" process. The CSC designation also aids in collection of information on the biology, distribution and status of at-risk species.

Time: 6 to 8 months

CCC Coastal Zone Development Permit

The California Coastal Act (CCA) directs coastal cities and counties to prepare local coastal plans, which incorporate and implement CCA policies at the local level. These local coastal plans are implemented through the land use permitting process of the city or county.

For most projects in the Coastal Zone, local Land Use Permits simultaneously serve as Coastal Zone Development Permits. However, the California Coastal Commission (CCC) directly handles some Coastal Zone Development Permits, including those for projects in areas subject to tidal influence (such as lagoons, estuaries and harbors) and public trust lands. In addition, some Coastal Zone Development Permits issued by the local land use planning agency may be appealed to the CCC.

Permit Trigger and Process

The Coastal Zone Development Permit is triggered when the project is in the Coastal Zone and is a regulated land use or activity.

The California Coastal Act provides for extra protection of "environmentally sensitive habitat areas" (ESHAs). ESHA is defined as "an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities." ESHA includes most streams and wetlands.

About the Process: Contact your local land use permitting agency to find out if your project is in the Coastal Zone, can be appealed to the CCC or requires a Coastal Zone Development Permit issued directly by the CCC. Most projects will be handled by the land use planning agency and will not require direct coordination with the CCC.

Time: Generally the same as for a Land Use Permit. From 6 to 8 months for small projects with limited environmental effects; several years for larger developments in sensitive areas.

California Coastal Commission

South Central Coast District Office
(805) 585-1800

www.coastal.ca.gov/cdp/cdp-forms.html

The California Coastal Commission (CCC) oversees implementation of the California Coastal Act and the Federal Coastal Zone Management Act. The Coastal Zone is generally defined as the distance from the ocean shoreline to 1,000 yards inland, or more in some locations. In the Santa Monica Mountains area of Ventura County, the Coastal Zone extends up to 26,000 feet inland.

The California Coastal Act applies a broader definition of what constitutes a "wetland" than does the USACE.

Local Permits

Many of the regulations discussed in this section apply only to the unincorporated areas of Ventura County. However, these regulations are likely to be similar to those in local cities and other jurisdictions. Contact information is provided for Ventura County cities and for Los Angeles County agencies involved with the Santa Clara River.

VCWPD Encroachment and Watercourse Permits

The Ventura County Watershed Protection District (VCWPD) has jurisdiction over red-line streams in the county. VCWPD issues two types of permits for flood control purposes: an Encroachment Permit and a Watercourse Permit.

Permit Triggers and Process

If your project is in a VCWPD red-line stream and will alter the bed, bank or channel of the stream or is located within the floodway, you may need one of the following permits:

- A VCPWD Encroachment Permit applies to red-line stream projects that are in a VCWPD right-of-way or facility.
- A VCPWD Watercourse Permit applies to red-line stream projects that are not in a VCWPD right-of-way or facility.

About the Process: Contact the VCWPD to determine which permit is required. You will need to provide a project description, including any vegetation planting or landscaping required by other agencies as mitigation. Sufficient information must be provided to show that the activity does not negatively impact the conveyance capacity of the red-line stream.

Time: About 1 month.

Ventura County Watershed Protection District

Jurisdiction: The VCWPD issues permits for all areas of Ventura County—within the unincorporated areas and the 10 cities.

(805) 650-4060

The mission of the Ventura County Watershed Protection District (VCWPD) is to protect life, property, watercourses, watersheds and public infrastructure from the dangers and damages associated with flood and storm waters. Ventura County Ordinance FC-18, relating to the protection and regulation of flood control facilities and watercourses, gives the VCWPD authority to regulate activities in certain local water channels, called red-line streams.

For Encroachment Permit info in Los Angeles County:

Los Angeles Public Works Department, Construction Division, Permit Section

(626) 458-3129

VCPD Land Use/Coastal Zone Permit

Land use regulations direct the way land is developed, from determining the appropriate lot size for homes in a subdivision to placing restrictions on the types of development that can occur in certain areas. Regulated land uses are called out in zoning ordinances (which have been adopted by every city and county).

The Ventura County Planning Division (VCPD) issues Land Use Permits when a project involves a regulated land use in unincorporated Ventura County.

If a Land Use Permit is required, then the VCPD will usually be the lead agency under CEQA.

Ventura County's Coastal Area Plan and Coastal Zoning Ordinance together constitute the Local Coastal Program (LCP) for the unincorporated portions of Ventura County's Coastal Zone. The LCP incorporates and implements at the local level the provisions and polices of the California Coastal Act.

VCPD Land Use Permits issued for projects in the Coastal Zone simultaneously serve as Coastal Zone Permits, also called Coastal Zone Development Permits.

Permit Triggers and Process

If your project is in unincorporated Ventura County and involves a regulated land use, you may need a VCPD Land Use Permit. Many of the projects within streams and wetlands do not require a VCPD Land Use Permit. Contact the VCPD to determine if your project requires a permit.

Here are the common triggers for VCPD Land Use Permits:

- If work within a stream or wetland is part of a larger development project, such as construction of a housing subdivision or commercial development.
- Most activities in the Coastal Zone.

Time: From 6 to 8 months for small projects with limited environmental effects; several years for larger developments in sensitive areas.

Ventura County Planning Division

Jurisdiction: The unincorporated areas of Ventura County
(805) 654-2488

www.ventura.org/planning/permits/permits.htm

www.ventura.org/planning/pdf/discret_permit.pdf

The VCPD regulates land uses according to the county's General Plan, Coastal Plan and Coastal and Non-coastal Zoning Ordinances. These policy documents outline regulations for land uses in unincorporated areas of Ventura County.

For Land Use Permit info in other jurisdictions:

Camarillo: Planning & Community Development (805) 388-5360

Fillmore: City Hall (805) 524-1500 ext. 113

Moorpark: Department of Community Development (805) 517-6224

Ojai: Planning Department (805) 640-2555

Oxnard: Planning & Environmental Services (805) 385-7858

Port Hueneme: Community Development (805) 986-6553

Santa Paula: Planning Department (805) 933-4214

Simi Valley: Dept. of Environmental Services (805) 583-6769

Thousand Oaks: Planning Dept. (805) 449-2323

Ventura (City): Community Development Dept. (805) 654-7725

Los Angeles County: Dept. of Regional Planning, Land Development Coordinating Center (213) 974-6411

Santa Clarita: Planning Division (661) 255-4330

Coastal Zone questions:

California Coastal Commission: South Central Coast District Office (805) 585-1800

Ventura County Planning Division

Jurisdiction: The unincorporated areas of Ventura County
(805) 654-2488

For tree protection info in other jurisdictions:
Check with the land use planning agency in your area (see page 45).

The VCPD regulates land uses according to the county's General Plan, Coastal Plan and Coastal and Non-coastal Zoning Ordinances.

Sections 8107-25 of the Ventura County Non-coastal Zoning Ordinance identifies tree species that are protected from damage or removal (in unincorporated, non-coastal areas) due to their local or state importance.

VCPD Protected Tree Permit

The Ventura County Planning Division (VCPD) issues Protected Tree Permits for projects in unincorporated areas of the county outside the Coastal Zone. Protected trees include:

- Most large native trees associated with streams and wetlands
- Because of their large size, many other species are also protected under the "Heritage Tree" designation

Permit Triggers and Process

A VCPD Protected Tree Permit is triggered when a project involves pruning, trimming, removal or disturbance:

- Within the drip line (canopy perimeter) of protected trees
- That exceeds the allowed minimums of trunk or branch circumference as well as other measures

Protected Trees	
Heritage Tree	All species
Alder *(Alnus)*	All species
Ash *(Fraxinus)*	All species
Bay *(Umbellularia californica)*	This species only
Cottonwood *(Populus)*	All species
Elderberry *(Sambucus)*	All species
Big Cone Douglas Fir *(Pseudotsuga macrocarpa)*	This species only
White Fir (*Abies concolor)*	This species only
Juniper (*Juniperus californica)*	This species only
Maple (*Acer macrophyllum)*	This species only
Oak (*Quercus)*	All species
Pine *(Pinus)*	All species
Sycamore (*Platanus*)	All species
Walnut (*Juglans)*	All species
Historical Tree	Any species

About the Process: Contact the VCPD to initiate the permit process. Trimming or removal of protected trees can require not only a permit but also tree replacement or other mitigation. Completion of a tree survey by a qualified arborist or biologist is also typically required.

Time: Ministerial permits may be issued in 1 day. Discretionary permits take a minimum of 3 months, but may take much longer based on the nature and size of the project.

VCPWA Grading Permit

The Ventura County Public Works Agency (VCPWA) issues Grading Permits for all types of projects involving moving earth.

Although the county's Building Code considers many Grading Permits ministerial, an exception that triggers CEQA compliance is a site "where the proposed grading is to occur within a waterway or wetland; within an area officially designated by the county as a Sensitive Ecological, Archaeological, Scenic or Biologically Sensitive Area; or within a recognized severe geologically hazardous area."

Permit Triggers and Process

If your project involves moving earth around—especially in or near a stream or wetland—you will need to get a VCPWA Grading Permit. Always discuss your project with VCPWA staff to confirm Grading Permit requirements. Common triggers include:

- Excavation greater than 2 feet in depth
- Excavations that cut a slope greater than 5 feet in height and steeper than 1.5 feet horizontal to 1 foot vertical (1.5:1 or 67 percent)
- Fill that is greater than 1 foot in depth and is on slopes that are greater than 5:1, or 20 percent
- Fill that is greater than 3 feet in depth and exceeds 50 cubic yards/lot

Note that grading in excess of 50 cubic yards is not allowed in the Coastal Zone between Nov. 15 and April 15.

Time: About 1 month for ministerial permits. Discretionary permits require CEQA compliance, which can take 6 to 8 months or longer.

Ventura County Public Works Agency Water Resources & Development Division, Development & Inspection Services

Jurisdiction: The unincorporated areas of Ventura County
(805) 654-2030

VCPWA issues Grading Permits for projects according to grading regulations in the Ventura County Building Code, Section 3306.

For Grading Permit info in other jurisdictions:

Camarillo: Public Works Department
(805) 388-5380

Fillmore: Public Works Department
(805) 524-1500 ext. 234

Moorpark: Public Works Department
(805) 517-6270

Ojai: Public Works Department
(805) 640-2560

Oxnard: Public Works Department
(805) 385-7821

Port Hueneme: Public Works Dept.
(805) 986-6507

Santa Paula: Public Works Dept.
(805) 933-4212

Simi Valley: Public Works Dept.
(805) 583-6786

Thousand Oaks: Public Works Dept.
(805) 449-2400

Ventura (City): Public Works Dept.
(805) 654-7808

Los Angeles County: Public Works Dept.
(626) 458-6390

Santa Clarita: Engineering Division
(661) 255-4942

Ventura County Fire Protection District

Jurisdiction: **The unincorporated areas of Ventura County and the cities of Thousand Oaks, Port Hueneme, Ojai and Simi Valley**

(805) 389-9710

Ventura County Fire Protection District (VCFPD) Ordinance 24 gives the VCFPD authority to require brush clearance around structures for fire prevention purposes.

For Brush Clearence info in other jurisdictions contact:

Oxnard Fire Department
(805) 385-7722

Ventura Fire Department
(805) 339-4300

Santa Paula Fire Department
(805) 933-4254

Fillmore Fire Department
(805) 384-1500

Los Angeles County Fire Department (also serving Santa Clarita)
(323) 890-4132

VCFPD Brush Clearance Requirement

If your project involves construction of any structures, removal of vegetation within 100 feet around those structures will be required in Ventura County.

Triggers

The brush clearance requirement applies to all structures in Ventura County. Although not a separate permit, the requirement for brush clearance sometimes interferes with habitat protection goals, and should not be ignored in any stream or wetland-related project. This conflict can most simply be avoided by not locating structures close to streams or wetlands in such a way that such an area will have to be cleared.

If the structures already exist and clearing is required, the Ventura County Fire Protection District (VCFPD) may allow selective removal of flammable vegetation as an alternative to 100 percent clearing of every single plant. Careful spacing of a few plants in a riparian zone where the VCFPD has required clearing can minimize the adverse impacts on the resource. Also, certain varieties of less-flammable vegetation may be allowed to be planted in brush clearance areas, many of which are California native plants that could be substituted for removed vegetation in a riparian zone. VCFPD can provide a list of such vegetation types.

Although not a separate permit, the requirement for brush clearance sometimes interferes with habitat protection goals, and should not be ignored in any stream or wetland related project.

Summary of Permit Approval Timelines

The Big Four Permits		
Agency	**Permit**	**Time Required**
U.S. Army Corps of Engineers	Section 404 Permit	RGP, 1 month or less NWP, 3-4 months IP, 6-12 months or longer
Regional Water Quality Control Board	401 Certification	3-4 months; processed in conjunction with USACE Section 404/10 permits
California Dept. of Fish and Game	Streambed Alteration Agreement	3-4 months (if CEQA compliance complete)
Lead Agency (varies)	CEQA compliance	Negative Declaration, 6 months EIR, 12 months or longer
Other Permits and Approvals		
Agency	**Permit**	**Time Required**
Federal		
U.S. Army Corps of Engineers	Section 10 Permit	Same as for 404 Permits
U.S. Fish and Wildlife Service or National Marine Fisheries Service	Section 7 Consultation	4.5 months (135 days)
	Section 10 Incidental Take Permit	18 months or longer
State		
State Water Resources Control Board	Construction General Permit & Storm Water Pollution Prevention Plan	Submit NOI 2 weeks before construction Permit valid on receipt of complete NOI
Regional Water Quality Control Board	Waste Discharge Requirements and NPDES Permit	General Order, less than1 month Individual Permit, 6-8 months
California Department of Fish & Game	Section 2081 Incidental Take Permit	Small projects, 6-8 months or more Large projects, can take years
California Coastal Commission	Coastal Zone Development Permit	6-8 months
Local		
Ventura County Watershed Protection District	Encroachment or Watercourse Permit	Less than 1 month
Ventura County Planning Division	Land Use/Coastal Zone Permit	Small projects, 6-8 months or more Large projects, can take years
	Protected Tree Permit	Ministerial projects, 1 day Discretionary projects, 3 months or more
Ventura County Public Works Agency	Grading Permit	Ministerial projects, less than 1 month Discretionary projects, 6-8 months or more

Coordinating Multiple Permits

Obtaining permits and project approvals takes time. Construction cannot start until all required permits and approvals are received. Often one type of permit or approval must be issued before another.

This section provides a step-by-step checklist for coordinating key tasks and timeframes during development of your project plan.

Step 1: Carefully Select the Project Site

- ❑ Carefully study the environmental constraints and surrounding land uses of the site you have chosen.
- ❑ Coordinate with the city or county where the site is located to determine if your project is in an area with special considerations. This can include public lands, the Coastal Zone, resource protection areas or overlay zones.
- ❑ Consider retaining a consultant specializing in CEQA compliance and wetland permitting to save time and money.

Step 2: Develop a Draft Project Description and Site Map

- ❑ Consider professional assistance with your written project description and site map, which will need to identify the size and extent of temporary and permanent impacts and access, as well as the anticipated construction period, equipment to be used, how the equipment will get to the site and where it will be staged.
- ❑ Draft your proposal to include options for avoiding or minimizing potential impacts to wetlands and streams. For example, schedule work in the driest parts of the year (late spring to early fall) and limit the size of your work area to cause the least impact on the surrounding environment.

Step 3: Complete a Biological Assessment

- ❑ You will need to redesign your project if the biological assessment finds a protected species or other important biological resource on site. Thoughtful redesign can help you avoid a significant increase in time and money to receive approvals.

Step 4: Identify the Potential Permits/Approvals Needed and Contact the Agencies

- ❑ Identify which permits/approval processes you may need and contact those agencies to confirm. Consider the schedule and processes outlined in this guide. Most projects need "The Big Four" permits and processes.
- ❑ Identify "deal killers" at this stage. An experienced consultant can help you with deal killers—project design components that agencies view as either not consistent with the regulations or that may cost more time or money than you have available.

Step 5: Get CEQA Started

- ❑ Keep in mind that some regulatory agencies require proof of CEQA compliance before they will issue permits—and CEQA is one of the longest approval processes.
- ❑ Be sure your project is approved by the lead agency so that you can provide the approved project description to other permitting agencies.

Step 6: Conduct a Joint Agency Site Visit

- ❑ Conduct an agency staff visit to your project site. This will help you avoid misunderstandings that could lead to excessive permit conditions or development constraints. While on site, discuss project alternatives, "deal killers" and mitigation options.
- ❑ Follow up with a letter confirming what was discussed and agreed to and the next steps.

Step 7: Refine the Project Description

- ❑ Incorporate agency input in refining your project description.
- ❑ Make sure you don't leave anything out. It is usually easier to do a scaled-down version of the project than have to go back for a permit revision later.

Early redesign, if required, saves money, time and headaches.

Step 8: Continue Respectful Communication

- ❑ Keep up agency communication to avoid significant project delays. Communicate respectfully and frequently, and be prepared for negotiation and compromise.
- ❑ Back up all verbal discussions in writing. Verbal agreements may be forgotten or misunderstood by one party or another.

Step 9: Complete the CEQA Process Before Submitting Permit Applications

- ❑ Keep in mind that most permit applications require a complete and final project description.
- ❑ Wait to submit most permit applications until at least the public review phase of your CEQA document is under way. This time allows the resource agencies to comment on the project design and process your permits concurrently.

Step 10: Complete CEQA Documentation and Receive Lead Agency Project Approval

- ❑ Use your approved project description for all other permit packages once you are in the CEQA public review phase or receive lead agency approval of your project.

Step 11: Prepare Permit Applications

- ❑ Use the information in the CEQA document to prepare and submit an application, or hire a qualified consultant who prepares permit applications and mitigation plans to assist you.
- ❑ Understand the timeframes involved.
- ❑ Contact the agencies with questions as needed.
- ❑ Keep signed copies of all materials submitted to the agencies and a record of all submission dates.

Step 12: Review Draft Permits

- ❑ Request copies of your draft permits. Review them immediately to confirm the description is accurate and that you understand and agree to the conditions required therein.
- ❑ Make sure you are comfortable with the permit expiration date and that you have the option for renewal if needed.
- ❑ Look for conflicts among the various permits. Coordinate with the resource agencies to resolve any problems.
- ❑ Be aware of embedded approvals and additional agency submission requirements.

Step 13: Receive All Permits Before Starting Construction

- ❑ Make sure that you and your contractor(s) have received and understand all required permits before construction starts—or risk civil or criminal penalties.

Step 14: Implement Mitigation, Monitoring and Reporting Identified in Permits

- ❑ Implement required mitigation measures in the manner and timeframe identified in the permits. If field revisions seem warranted based on unanticipated site conditions, coordination with the agencies can often identify suitable alternatives that are consistent with the permit.
- ❑ Consider hiring a consultant to help you implement the permit and its associated mitigation, monitoring and reporting requirements.

The time and cost of permitting and implementing mitigation needs to be factored into your project budget and schedule.

These factors are typically underestimated by project applicants, especially for larger projects.

see the "Mitigation" section in this guide for more information.

Regulatory agencies can send a project back to the drawing board even after years and hundreds of thousands of dollars have been spent in project planning if the project fails to use appropriate mitigation measures.

Mitigation

Mitigation includes feasible actions designed to offset or reduce the impacts of a project. This includes measures that avoid, minimize or compensate for adverse impacts. Mitigation includes, in order of priority:

1. *Avoiding* the impact altogether by not taking a certain action or parts of an action.
2. *Minimizing* impacts by limiting the degree or magnitude of the action and its implementation.
3. *Rectifying* the impact by repairing, rehabilitating or restoring the impacted environment.
4. *Reducing* or eliminating the impact over time by preservation and maintenance operations during the life of the action.
5. *Compensating* for the impact by replacing or providing substitute resources or environments.

Mitigation can substantially increase your project costs if not considered early in your planning process.

In general, it is often in your best interest, and the best interest of the resources, to avoid or minimize impacts. This approach facilitates project approvals and decreases the mitigation requirements.

Following are some common mitigation measures required of projects involving streams or wetlands.

Preconstruction

Avoidance: Flag the protected areas, as indicated in the project plans, and ensure that all workers stay out of these areas during construction.

Surveys: Preconstruction surveys for protected plants and animals are required if initial surveys were not adequate, were made at the wrong time of year or are outdated. The timing or location of construction can also require preconstruction surveys (example: during the bird-breeding season) and avoidance (example: of active bird nests).

Construction

BMPs: Use of Best Management Practices (BMPs) is typically required during construction to limit project impacts to water quality. Examples of BMPs that may apply to your project can be found at **www.dot.ca.gov/hq/construc/stormwater/CSBMPM_303_Final.pdf**

Monitoring: On-site monitoring by a qualified biologist can range from daily to monthly depending on the sensitivity of the resources and the permit requirements.

Post-construction

Habitat Restoration: This mitigation method usually involves on-site replacement ratios of 2:1 (2 acres replaced for every 1 acre affected) to 5:1. Mitigation or restoration areas typically require maintenance, monitoring and reporting for 5 years.

Payment into In-Lieu Fee Programs: This mitigation method involves paying into a fund to compensate for impacts, with the revenue being used by another agency or nonprofit organization for habitat restoration. This method is typically used only when on-site resources are not available for mitigation

and only when in-lieu fee programs are available within the same watershed. Few such programs are currently available locally. Agency approval for use of these programs is required. Recent costs have been at least $125,000 per acre impacted. The price is high because it must cover the costs of acquiring and restoring land of the same habitat type within the same watershed. Check with the USACE and/or CDFG to find out if an in-lieu fee program is available and allowed in your project area. Do not assume that you will qualify.

Reporting: Most agencies require annual reporting during the restoration period. The purpose of mitigation reports is to document compliance with permit conditions and to address any shortcomings of the methods required by the permits. The report components are included in the permits.

You can lower mitigation costs by advance coordination with the agencies to avoid or minimize impacts to protected resources.

Restoration efforts usually involve at least 5 years of follow-up activities!

Emergencies

Regulatory agencies sometimes have specific definitions for "emergency," but an emergency is generally defined as a sudden, unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services. Emergencies include fire, flood, earthquake, other soil or geologic movements, riot, accident or sabotage.

Emergency projects demand immediate action to avoid or mitigate loss of life and property. Long-term projects that are undertaken to avoid potential emergencies that have a low probability in the short term do NOT meet the definition of emergency.

The permitting processes can be streamlined, but not dismissed, for emergency projects.

Each agency has its own guidelines for emergency situations. These can be found in the "Permits: The Agencies and the Processes" section of this guide. Notification of the agencies is required. Contact the relevant agencies before the action to the extent possible (required by many agencies). This will reduce the potential for civil or criminal penalties once the emergency condition subsides.

Be aware that follow-up documentation and after-the-fact permitting are typically required for emergency projects. When advance notification (and implementation of any feasible resource-protection measures) does not occur, there may be less flexibility in negotiating mitigation options available to you.

Be advised that regulatory agencies pay close attention to whether the proposed repair action is an actual emergency, and will not authorize deferred maintenance with an emergency permit.

Glossary

Banks:
The side slopes of a stream or channel between which the flow of water is normally confined.

Bed (or Streambed):
The bottom of a stream or channel bounded by banks.

Best Management Practices (BMPs):
Any programs, technologies, processes, operational methods or measures, or engineered systems that are the most effective known available practices for achieving a desired goal, in this case protecting water quality and stream habitat.

Biological Resources:
Plants, wildlife, habitats, migration corridors, streams, lakes, the ocean, wetlands and sensitive or protected areas.

California Environmental Quality Act (CEQA):
A state law passed in 1970 that requires public disclosure of the potential environmental impacts of projects in California. The basic goal of CEQA is to maintain a high-quality environment. The specific goals of CEQA are for California's public agencies to identify the significant environmental effects of their actions and either avoid those effects, where feasible, or mitigate them, where feasible.

California Species of Special Concern (CSC):
Those species of animals (and sometimes plants) that have declining populations, limited ranges and/or continuing threats that have made them vulnerable to extinction. They may soon reach the point where they meet criteria for listing as threatened or endangered under the California Endangered Species Act. No special legal protections are associated with this designation alone; however, the CDFG may require mitigation of impacts to CSC species as part of CEQA compliance.

Channel:
The low-flow part of the streambed, or the part where water is flowing at some portion of the year. The channel may cover the entire bed or be just a portion of the bed. Many local streams have "braided channels" within the streambed.

Channelized Stream:
A stream that has been manipulated to direct or confine water flow. Manipulation may include deepening, widening, straightening, armoring or other activities that change the stream channel geometry.

Coastal Zone:
The Coastal Zone is generally defined as the distance from the ocean shoreline to 1,000 yards inland, or more in some locations. In the Santa Monica Mountains area of Ventura County, the Coastal Zone extends up to 26,000 feet inland. Projects in the Coastal Zone often require additional regulatory review.

Cumulative Impacts:
Pursuant to CEQA, "two or more individual effects which, when taken together, are considerable." Cumulative impacts may "result from individually minor but collectively significant projects taking place over a period of time."

Dewatering:
The temporary diversion of water away from a construction site to protect water quality and allow progression of work. Diversion is accomplished with dams, pipes, pumps or other means.

Discharge:
The federal Clean Water Act (CWA) uses the term "discharge" to refer to release of pollutants into waters of the U.S. The California Water Code views discharges as encompassing any activity that results in the potential for a water body's beneficial uses to be impacted. Under Section 404 of the CWA, "discharge" includes the placement of imported fill or substantial redistribution of native (streambed) fill.

Discharge of Dredged Material:

Pursuant to the Clean Water Act and USACE regulations, pollutants that enter water through the use of earth-moving equipment to conduct land clearing, ditching, channelization, in-stream mining or other earth-moving activity.

Discretionary Project:

A discretionary project is permitted through a process that requires the exercise of judgment on the part of the regulatory agency. Discretionary projects trigger the need for CEQA compliance.

Dredged Material:

Material that is excavated or dredged from waters.

Dripline:

The area created by extending a vertical line from the outermost portion of the tree limb canopy to the ground.

Emergency:

The official definition of "emergency" varies by agency. Generally an emergency is defined by regulators as a sudden, unexpected occurrence involving a clear and imminent danger demanding *immediate* action to prevent or mitigate loss of or damage to life, health, property or essential public services. Emergencies include such occurrences as fire, flood, earthquake, other soil or geologic movements, riot, accident or sabotage.

Endangered Species:

Any species that is in danger of extinction throughout all or a significant portion of its range; an official designation of the California and federal Endangered Species Acts.

Environmental Impact Report:

A detailed document prepared under CEQA that describes and analyzes the significant environmental effects of a proposed project and discusses ways to mitigate or avoid the effects.

Ephemeral Stream:

A stream that flows for only a short time during and after rainfall.

Exempt:

Not subject to, as in not subject to a given regulation.

Federal Nexus:

When the federal government is connected to a project either by owning land within the project limits, providing project funding or by requiring a federal permit, approval, license or concurrence.

Fill Material:

Pursuant to the federal Clean Water Act, material such as rock, sand, soil, clay, plastics, construction debris or wood chips placed in waters where the material has the effect of either replacing any portion of the water with dry land or changing the bottom elevation the water body.

Floodplain:

The land area adjacent to a river, stream, watercourse, ocean, bay or lake that is likely to be flooded.

Frac-out:

The accidental release of drilling muds (fluids used in drilling) during drilling activities.

Fully Protected Species:

The classification of Fully Protected was California's initial effort in the 1960s to identify and provide additional protection to animals that were rare or faced extinction. Lists were created for fish, amphibians, reptiles, birds and mammals. Fully Protected species may not be "taken" under any circumstances.

Geotextiles:

A fabric or synthetic material, which is sometimes woven like a fabric, placed between the soil and a pipe, gabion or retaining wall to enhance water movement and retard soil movement, and to add reinforcement and separation. Geotextiles are used to prevent erosion and stabilize stream banks.

Grading:
The excavation and/or filling of land to a desired shape or elevation.

Habitat:
The area or environment where a plant or animal or ecological community naturally or normally lives and grows.

Heritage Tree:
Pursuant to the Ventura County Non-coastal Zoning Ordinance, any species of tree with a single trunk of 90 or more inches in girth or with multiple trunks, two of which collectively measure 72 inches in girth or more. In addition, species with naturally thin trunks when full grown (such as Washington palms), species with naturally large trunks at an early age (such as some date palms) or trees with unnaturally enlarged trunks due to injury or disease (e.g., burls and galls) must be at least 60 feet tall or 75 years old to be considered a heritage tree.

Impoundments:
Areas where water is collected behind impermeable structures (e.g., reservoirs).

Individual Permit:
A USACE Section 404 Permit that is required for project impacts to wetlands/streams that are greater than 0.5 acre.

Initial Study:
Pursuant to CEQA, a preliminary analysis prepared by the lead agency to determine whether an environmental impact report or a negative declaration must be prepared.

Intermittent Stream:
A stream that flows seasonally and when groundwater provides water for stream flow. During summer months and droughts, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Isolated Wetlands:
Wetlands that are not adjacent or connected to waters of the U.S.

Jurisdiction:
The area or resource regulated by an agency.

Jurisdictional Waters:
Drainages subject to the jurisdiction of USACE and RWQCB as waters of the U.S. or CDFG as waters of the State.

Lead Agency:
Pursuant to CEQA, the lead agency is the public agency that has the principal responsibility for carrying out or approving a project that may have a significant effect on the environment. For public projects, a public agency is the lead agency for its own projects. On private projects, the lead agency is usually the agency that acts first or the agency with the most authority over the project.

Listed Species:
A species that is protected because it has been identified as endangered or threatened under the California or federal Endangered Species Acts.

Mean High Water Mark:
Mean high water is the average of high tides over a defined period. This elevation can be obtained from standard references, including the USACE Tidal Flood Profile charts.

Ministerial Projects:
Ministerial projects are permitted merely by applying the law to the facts, without using discretion, or judgment, in reaching a decision. Ministerial projects are not considered "projects" under CEQA.

Mitigated Negative Declaration:
Pursuant to CEQA, a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans would avoid the effects or mitigate the effects to a point that clearly no significant effect on the environment would occur, and (2) there is no substantial evidence that the project, as revised, may have a significant effect on the environment.

Mitigation:

Mitigation includes feasible actions designed to offset or reduce the impacts of a project. This includes measures that avoid, minimize or compensate for adverse impacts.

Nationwide Permit:

The most typical type of USACE Section 404 Permit; issued for specific and routine activities.

Navigable Waters:

Pursuant to the federal Clean Water Act, those waters that are subject to the ebb and flow of the tide and/or are currently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the water body, and is not changed by later actions or events that impede or destroy navigable capacity.

Negative Declaration:

Pursuant to CEQA, a written statement by the lead agency that briefly describes the reasons that a proposed project will not have a significant effect on the environment and therefore does not require the preparation of an environmental impact report.

Ordinary High Water Mark:

The ordinary high water mark is an identifiable natural line visible on the bank of a stream or water body that shows the upper limit of typical stream flow or water level. The mark is made by the action of water on the streambank over the course of years.

Overlay Zone:

An area identified in city or county zoning ordinances that has special conditions or development standards.

Perennial Stream:

A stream that flows continuously for all or most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water.

Point Sources:

Sources of pollution coming from discrete conveyances or points such as a discharge pipe from a factory or a sewage treatment plant. Point source discharges are subject to the federal Clean Water Act's NPDES permit program.

Project:

Pursuant to CEQA, a project is the whole of an action that has the potential to result in either a direct physical change or a reasonably foreseeable indirect physical change in the environment; and the activity involves a discretionary approval; and the activity is either directly undertaken by a public agency or supported by a public agency or involves public agency issuance of a lease, permit, certificate, license or other entitlement.

Receiving Waters:

Water bodies that receive runoff or wastewater discharges, such as streams, rivers, ponds, lakes, the ocean and estuaries.

Red-line Streams:

Streams within the jurisdiction of the Ventura County Watershed Protection District for flood control purposes.

Regional General Permit:

The simplest and quickest type of USACE Section 404 Permit issued for a few common, maintenance-type activities with minimal environmental impacts.

Regulatory Agency:

A federal, state or local agency or department with jurisdiction and approval authority over a project.

Responsible Agency:

Pursuant to CEQA, a public agency, other than the lead agency, which has responsibility for carrying out or approving a project. These agencies exercise discretionary authority to approve all or a portion of a project.

Riparian:
Adjacent to a river, stream, lake or other body of water. Riparian habitats are transitional zones between wetland and upland habitats.

Rip-rap:
A layer of heavy rock or other material placed to protect a structure or embankment from erosion.

Stream:
A body of water that flows through a bed or channel having banks.

Streambed Alteration Agreement:
A permit issued by CDFG for project activities that have the potential to impact the bed, bank or channel of a stream.

Take:
In reference to listed plant or animal species, take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct (as defined by the federal Endangered Species Act); to hunt, pursue, catch, capture or kill, or to attempt to do any of these things (as defined by the California Endangered Species Act).

Threatened Species:
Any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range; an official designation under the California and/or federal Endangered Species Acts.

Trustee Agency:
Pursuant to CEQA, a state agency having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the state.

Unincorporated Area:
The areas of a county not within city boundaries.

Up-gradient:
Upstream or upslope.

Upland:
Any land area that does not qualify as a stream, wetland or riparian habitat.

Watershed:
A geographic area of land that drains water to a common destination (e.g., stream, lake, ocean). Also called a drainage basin.

Waters of the State:
Any surface or groundwater, including saline waters, within the boundaries of California. Waters of the State include natural streams, irrigation ditches or canals, ponds and waters in privately operated channels.

Waters of the U.S.:
A federal designation that includes waters that extend: a) up to the ordinary high water mark; b) beyond the ordinary high water mark to the limit of the adjacent wetlands, when present; c) to the limit of the wetland when only wetlands exist.

Wetland:
Different agencies define "wetland" differently, but all variations involve these three elements: 1) Wetland hydrology: The presence of water at or above the soil surface for a sufficient period of the year to significantly influence the plant types and soil chemistry, 2) Hydric soil: Soil that is wet long enough during the growing season to develop low-oxygen conditions, 3) Hydrophytic plants: Plants adapted to saturated soil conditions.

Wetland Delineation:
The process by which the boundaries of a particular wetland are defined and mapped. A federal wetland delineation adheres to the guidelines of, and has been approved by, the USACE.

Wetland Soils:
Soils associated with wetlands that develop under saturated conditions and are low in oxygen.

Acronyms

BMPs Best Management Practices
CCA California Coastal Act
CCC California Coastal Commission
CDFG California Department of Fish and Game
CE Categorically Exempt
CSC California Species of Special Concern
CEQA California Environmental Quality Act
CWA Clean Water Act
EIR Environmental Impact Report
ESHA Environmentally Sensitive Habitat Area
IP Individual Permit
LAPWD Los Angeles Public Works Department
LCP Local Coastal Plan
MND Mitigated Negative Declaration
ND Negative Declaration
NMFS National Marine Fisheries Service
NPDES National Pollutant Discharge Elimination System
NOAA National Oceanic and Atmospheric Administration
NOI Notice of Intent
NOT Notice of Termination
NWP Nationwide Permit
RGP Regional General Permit
RWQCB Regional Water Quality Control Board
SAA Streambed Alteration Agreement
SWPPP Storm Water Pollution Prevention Plan
SWRCB State Water Resources Control Board
USACE U.S. Army Corps of Engineers
USFWS U.S. Fish and Wildlife Service
VCFPD Ventura County Fire Protection District
VCPD Ventura County Planning Division
VCPWA Ventura County Public Works Agency
VCWPD Ventura County Watershed Protection District
WDID Waste Discharger Identification Number
WDR Waste Discharge Requirements