



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: Mr. Carl Holm, Monterey County Resources Management Agency (MCRMA)

PERMIT NO.: 1996-19089S

ISSUING OFFICE: San Francisco District

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

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

PROJECT DESCRIPTION: The MCRMA will continue implementing the Interim Sandbar Management Plan (ISMP) for flood risk management within the Carmel Lagoon. The ISMP is designed to mimic natural, seasonal sandbar overtopping and closure. The MCRMA will also continue to develop two proposed infrastructure projects for long term flood risk management. The proposed Scenic Road Protection Structure (SRPS) project would protect public infrastructure along the north end of the beach/sandbar when lagoon outflow is directed to the north. However, the current SRPS design options do not include any work regulated by USACE and are outside of USACE jurisdiction. The proposed Ecosystem Protective Barrier project (EPB) would allow higher lagoon water levels while protecting residential properties along the north edge of the lagoon. The EPB appears to be delayed for the foreseeable future due to technical and funding challenges as well as local opposition. Therefore, the only project requiring USACE authorization at this time is the ISMP and will include the following actions:

- a) **Sand Bags.** As a first course of action before the wet season (October 15 - April 15), and before winter management of the sandbar becomes necessary, MCRMA will stockpile sand and place sand bags around homes along the north end of Carmel Lagoon (Camino Real, River Park Place, Monte Verde Street, 16th Avenue). This action is subject to receiving permission from property owners.
- b) **Public Outreach.** MCRMA will initiate public outreach to warn homeowners to take appropriate precautions to protect their property during the wet season. Public outreach will include education on the potentially adverse effects of unpermitted lagoon breaching completed by the public.
- c) **Winter Sandbar Management.** After receiving approvals from permitting agencies, MCRMA will manage the sandbar for flood protection. Any such work will be performed only when necessary - based on pre-determined river and/or tide conditions - to prevent flooding of homes and will be implemented in a manner that will minimize impacts to steelhead and their habitat.
- d) **Re-establishment/Summer Management.** If there is sufficient sand available on the beach/sandbar, MCRMA will ensure any outlet channel work performed during the winter is closed off and the sandbar restored at the conclusion of the wet season. Specific timing will be determined in coordination with regulatory agencies, but closure will occur once river inflow drops below 20 cfs, generally between April and July. The intent of the summer sandbar channel closure is to promote habitat for listed species throughout the summer months. As needed, MCRMA may also use available sand to restore beach access from the State Beach parking lot.

MCRMA will conduct winter sandbar management during high-flow periods in order to alleviate imminent flood risk. Sandbar management actions may include grading a pilot channel or notch, and will be tailored to mimic natural overtopping of the sandbar and facilitate slow, controlled lowering of lagoon water surface elevations, and reduce the risk of rapid lagoon draining. Before managing the sandbar, MCRMA will implement all measures of flood protection (e.g.,

sand bags) to reduce the flood potential to the surrounding homes and infrastructure to the greatest extent feasible. The decision to mobilize and conduct winter sandbar management will be based on the following:

- a) Lagoon Water Elevation. Mobilization will occur when the lagoon water level reaches a surface elevation of 12.77 feet (NAVD88) as measured at the staff gauge located in the north arm of the lagoon; or
- b) River Flows. When the rate of increase in water level in the lagoon, as estimated on the staff gauge, indicates less than 12 hours until the water level in the lagoon reaches a surface elevation of 12.77 feet (NAVD88), or when Carmel River flows reach or exceed approximately 200 cfs; or
- c) Ocean Influence (High Tides and/or Storm Surge). When monitoring indicates wave over-topping will begin to rapidly increase the water level of the lagoon and/or increase the sandbar elevation.

Using the parking lot at the north end of the beach as a staging area, a bulldozer or excavator will be used to grade a pilot channel or notch through the sandbar, and will result in grading/excavating/sidecasting approximately 230 cubic yards of sand. The channel will be excavated to an approximate elevation of 10 feet (NGVD29) or 12.74 feet (NAVD88), leaving a sand plug. The plug will allow for water in the lagoon to begin spilling over it into the outlet channel, and lower lagoon levels prior to flooding nearby property. If needed, lowering/removal of the plug may be completed by a crew using hand tools to avoid use of heavy equipment in water. If appropriate based on conditions and agency coordination, the outlet channel may be later backfilled with sand as needed to ensure the lagoon water level does not drop below 8.77 feet (NAVD88).

Outlet channel configuration will be determined in coordination with regulatory agencies, depending on conditions at the time, but will be configured as long as possible to slow and control the rate of lagoon outflow. In recent years a southward outlet channel along the base of the southern bluff has been effective in controlling the rate of lagoon outflow, and this alignment will likely continue to be utilized in the near future. Once the SRPS is constructed, and the northern bluff, Scenic Road, and the parking lot are sufficiently protected from potential scour, a northern outlet channel alignment will likely be utilized which will further reduce the risk of rapid lagoon outflow and associated impacts to steelhead and other species.

Impacts in waters of the United States will generally include sand grading/excavation in the winter and spring, and backfilling the channel to close the lagoon by early summer. Typically, a channel will be cut from the west edge of the lagoon, in a south-westerly or northwesterly direction across the sandbar, approximately 300-600 feet in length and up to 5 feet in depth, with a 10-foot-wide bottom and 2:1 side slopes. The excavated sand will be placed above the High Tide Line (HTL) along the crest of the sandbar near the pilot channel so that it could be later used to backfill the channel as needed. For summer closure, MCRMA will use the stockpiled sand to backfill and close off the constructed outlet channel. The total excavation/grading area will be approximately 0.6 acre, but only a portion of this will extend into USACE jurisdiction below the HTL on the ocean side, or below the Ordinary High Water Mark (OHWM) on the lagoon side. The total area of site disturbance, from the staging area to the sandbar management area/lagoon outlet, will be approximately 2.1 acres.

All work shall be completed in accordance with the plans and drawings titled *Carmel Lagoon winter grading options*, in 6 sheets, dated 12/14/2017 (enclosure 1), and *Carmel Lagoon summer closure options*, in 3 sheets, dated 12/14/2017 (enclosure 2).

PROJECT LOCATION: Carmel River State Beach, Monterey County, California (36.53892°N, -121.92701°W)

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on June 30, 2025. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. For your convenience, a copy of the water quality certification or waiver is attached. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

SPECIAL CONDITIONS:

1. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed species shall be fully implemented as stipulated in the Biological Opinions from USFWS dated May 8, 2017 (enclosure 3), and from NMFS dated December 2, 2019 (enclosure 4). Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the authorization for your project. The USFWS and NMFS are, however, the authoritative federal agencies for determining compliance with the incidental take statements and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.
2. The USFWS concurred with the determination that the project is not likely to adversely affect western snowy plovers. This concurrence was premised, in part, on minimizations measures listed on page 2 of the USFWS Biological Opinion dated May 8, 2017 (enclosure 3). These measures are incorporated as special conditions to this authorization for your project to ensure unauthorized incidental take of species does not occur.
3. Prior to conducting any sandbar management action, MCRMA must notify and coordinate with USACE, NMFS, and other agencies in accordance with the *Memorandum of Understanding between County of Monterey, U.S Army Corps of Engineers, and National Marine Fisheries Service, regarding Flood Prevention and Habitat Protection at the Carmel Lagoon*, dated September 6, 2013.

4. The current 401 Certification issued by the Central Coast Regional Water Quality Control Board expires on November 13, 2020, and the current Emergency Coastal Development Permit (CDP) issued by the California Coastal Commission expires on April 15, 2020. This DA permit authorization is not valid without the required 401 Certification and Coastal Development Permit. To ensure continuing project conformance with applicable state and federal laws, MCRMA shall obtain and provide the Corps with copies of any necessary time extensions and/or renewals of these permits prior to commencing any authorized work during the remainder of the five-year DA permit authorization period. MCRMA shall not commence any Corps regulated work until the Corps has confirmed that a valid 401 Certification and Coastal Development Permit are in effect.

FURTHER INFORMATION:

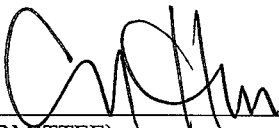
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (x) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).
2. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.

- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See Item 4 above.)
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.


Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

- 6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

 3/17/2020
 (PERMITTEE) (DATE)

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

 20 March 2020
 Katerina Galacatos (DATE)
 South Branch Chief
 Regulatory Division

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

 (TRANSFEE) (DATE)

