

DEPARTMENT OF THE ARMY PERMIT

Permittee:

County of Sacramento Department of Water Resources
827 7th Street, Room 301
Sacramento, California 95814-2406

Permit Number: 200300245

Issuing Office: U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 "J" Street
Sacramento, California 95814-2922

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:

To place fill in 3.943 acres of wetlands, including vernal pools, and 0.845 acres of a man-made stock pond, and temporarily impact 11.539 acres of creeks to provide flood protection and water quality treatment for the North Vineyard Station Specific Plan Area. The work involves construction of five stormwater detention basins and realigning, deepening and widening Elder Creek and Gerber Creek within the Plan Area. A total of 24.180 acres of on-site compensation will be created, including 1.590 acres of riparian/wetland benches within the high flow channel, 17.530 acres of channel bottom/wetlands, and 5.060 acres of low flow channel. A multi-use trail will be located in the buffer areas of the creeks, located at least 50 feet away from the ordinary high water mark wherever possible.

All work is to be completed in accordance with the attached plan(s).

Project Location:

North of Gerber Road, west of Bradshaw Road, south of Florin Road and east of Elk Grove Florin Road, in portions of Sections 4, 5 and 6 of Township 7 North, Range 6 East, Sacramento County, California.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on January 31, 2019. 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. The Central Valley Regional Water Quality Control Board has issued a conditioned water quality certification for your project. You must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached.
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.

Special Conditions:

1. This Corps permit does not authorize you to take a listed species, in particular, the vernal pool fairy shrimp, vernal pool tadpole shrimp, or designated critical habitat. The attached U.S. Fish and Wildlife Service Biological Opinion (Number 1-1-96-F-0001, dated February 9, 2006, with a final amendment dated January 7, 2009, clarified by email dated January 30, 2009) contains mandatory "Vernal Pools Conservation Measures" and "On and Off-site Conservation Options". Your authorization under this Corps permit is conditioned upon your compliance with

the attached Biological Opinion, which terms and conditions are incorporated by reference into this permit. Failure to comply with the terms and conditions associated with the Biological Opinion, where a take of a listed species occurs, would constitute an unauthorized take and also non-compliance with your Corps permit. The Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of the Biological Opinion and with the Endangered Species Act. You must comply with all conditions of this Biological Opinion, including those ascribed to the Corps .

2. To mitigate for 11.539 acres of temporary impacts associated with the realignment, deepening and widening of Gerber and Elder Creeks and the loss of a 0.84 acre stock pond, you must establish and maintain a 98 acre on-site preserve containing approximately 24.180 acres of jurisdictional waters on-site as compensatory mitigation, including 5.060 acres of low flow channel, 17.530 acres of channel bottom/wetlands and 1.590 acres of wetland/riparian benches within the 98 acre open space preserve. The Open Space preserve is part of a 168 acre Open Space corridor system that includes water quality/detention basins. Creation shall be in accordance with the "Open Space Preserve Operations and Management Plan for the North Vineyard Station Drainage Master Plan – Elder Creek and Gerber Creek" (including all figures and attachments), dated January 30, 2008 and the April 18, 2008 "On-Site Wetland Restoration and Monitoring Plan for North Vineyard Station Drainage Master Plan" and errata sheets dated April 23, 2009 (attached; collectively known as the 'Restoration and Monitoring Plan'), which you must implement as each phase of the project is constructed.

3. The preserve must include upland buffers, approximately 100 feet in width on both sides of the creek, measured from the channel bottom, except where noted on the attached figures and figures included in the "Open Space Preserve Operations and Management Plan for the North Vineyard Station Drainage Master Plan – Elder Creek and Gerber Creek", dated January 30, 2008 and errata sheets dated April 23, 2009.

4. You must submit for the Corps' review and approval, a final on-site habitat mitigation and monitoring plan for each phase of the project, prior to commencement of fill activities for that phase. Each plan must include final and intermediate success criteria monitoring and a long-term management plan consistent with the format of the most current version of the Sacramento District's Habitat Mitigation and Monitoring Proposal Guidelines. No construction can begin until you receive written approval from the Corps.

5. To protect the integrity of the preserve and avoid unanticipated impacts, no roads, utility lines, equipment or fuel storage, grading, disking, grazing, burning, or structures can occur or be constructed within the preserve area without specific advance written approval from the Corps. Deviations from the extent of firebreak mowing, planting and pesticide use described in the 'Restoration and Monitoring Plan' also require specific advance written approval from the Corps.

6. To prevent unauthorized access and disturbance, you must install appropriate fencing and signage around the perimeter of each preserve segment within one month of completion of

construction. All fencing surrounding the preserve must allow unrestricted visibility into the preserve to discourage vandalism and trash and debris disposal. Examples of this type of fence include post and cable and wrought iron.

7. Prior to the start of construction of each phase of the project, you must execute or ensure the execution of a Corps-approved permanent conservation easement over the area associated with that phase of the project, including buffer areas, which will remain as an open space preserve in perpetuity. You must provide copies of the recorded documents to the Corps no later than 30 days prior to the start of each phase of construction. You must designate an appropriate conservation-oriented third party to function as preserve manager and to hold the required conservation easement.

8. You must construct each phase of the required compensatory mitigation in advance of, or concurrently with construction of the permitted activity.

9. To ensure that mitigation is completed as required, you must notify the Corps of the start date and completion date of each phase of the project, in writing, no later than ten calendar days after each date.

10. To ensure adequate funding for long-term management of the Project area, you must submit funding documentation for the implementation of long-term maintenance and management of the preserve for Corps' review and approval. You cannot commence work until an approved funding agreement is in place.

11. You must design and construct all crossings of waters of the U.S. to retain a natural substrate and to accommodate expected high flows and debris, such that maintenance requirements are minimal. 12. To provide a permanent record of the completed mitigation, you must provide two complete sets of as-built plans of each completed phase of the project to the Corps no later than 60 days after completion of each mitigation segment. The as-builts must indicate changes made from the original plans in indelible red ink. Note that this condition applies to both on-site and off-site preserve areas.

13. To mitigate for the loss of 0.437 acres of vernal pools, 3.186 acres of seasonal wetlands, and 0.320 acres of seasonal swale, you must, prior to undertaking activities authorized by this permit::

- Purchase 3.506 wetted acres of seasonal wetlands at the Elsie Gridley Mitigation bank or other Corps approved bank/site
- Construct and preserve in perpetuity 0.546 wetted acre of vernal pools at the Gill Ranch Mitigation Site or other Corps approved bank/site
- Purchase 1.815 wetted acres of vernal pools at the Klotz property or other Corps approved bank/site at Corps and Service approved ratios.

The purchases may occur in advance of any impacts, or may be phased. You may not

undertake any work authorized by this permit until you receive written notification from the Corps that off-site mitigation, in total, or by phase, is approved

14. To ensure success and long-term viability of constructed mitigation at the off-site mitigation area, prior to commencement of fill activities, you must:

- Submit for the Corps' review and approval, a final mitigation and monitoring plan for off-site compensatory mitigation at the Gill Ranch site, or other Corps approved bank/site. The plan must include final and interim success criteria, monitoring and long-term management guidelines consistent with the format of the most current version of the Sacramento District's Habitat Mitigation and Monitoring Proposal Guidelines.
- Submit to the Corps for review and approval a final Operations and Management Plan/Long Term Management Plan for the off-site mitigation area. Corps' approval of the plan must be in writing. The plan must be consistent with the format of the most current version of the Sacramento District's Operations and Management template.
- Submit for the Corps' review and approval funding documentation for maintenance and long-term monitoring of the off-site compensatory mitigation area. Corps' approval must be in writing. No construction shall occur until a final funding agreement is in place.
- Provide for the Corps' review and approval, permanent conservation easement(s) covering the off-site compensatory mitigation area, maintaining the mitigation area as habitat and open space in perpetuity. Easement(s) shall be recorded no later than 30 days after Corps' approval, with recorded copies submitted to the Corps within 30 days of recordation.
- Notify the Corps of the start date and the completion date of the off-site mitigation construction, in writing and no later than ten calendar days after each date.
- Provide the Corps with two complete sets of as-built plans of each phase of the off-site mitigation area no later than 60 days after the completion of construction. The as-builts must indicate changes made from the original plans in indelible red ink.

15. For construction adjacent to the on-site preserve area, you must provide or require a biologist who is familiar with riparian and wetland habitats to monitor all construction activities within 250 feet of the preserve boundary. The monitor shall ensure that no unauthorized activities occur within the preserve during such construction.

16. You must provide evidence that maintenance and monitoring of the on-site preserve is fully funded. Although another entity, such as the North Vineyard Station Community Facilities District may fund the maintenance and monitoring, you retain ultimate responsibility for ensuring that maintenance and monitoring of the preserve areas is adequately funded in perpetuity.

17. You must allow representatives from the Corps to inspect the authorized activity to ensure that work is being or has been accomplished in accordance with the terms and conditions of this permit.

Further Information:

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

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

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 projects.

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.

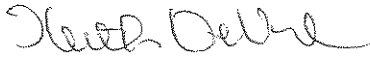
Circumstances that could require a reevaluation include, but are not limited to, the following:

- 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 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your 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 CFR 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.



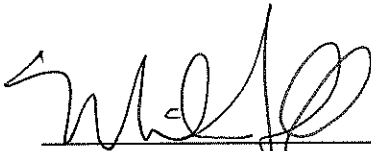
May 26, 2009

Permittee

County of Sacramento
Director of Water Resources
Keith DeVore

Date

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



Michael Jewell, Chief,
Sacramento Regulatory Division
(For the District Engineer)

5/28/09

Date

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.

Transferee

Date