



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

December 11, 2023

Regulatory Division

Subject: File Number SPN-2023-00173S

Mr. Michael Zeller
Transportation Agency for Monterey County
55-B Plaza Circle
Salinas, California 93901
mike@tamcmonterey.org

Dear Mr. Zeller:

This correspondence is in reference to your submittal of April 17, 2023, concerning Department of the Army (DA) authorization for the Fort Ord Regional Trail and Greenway (FORTAG) Canyon Del Rey/State Route 218 Segment Project located in the City of Del Rey Oaks, Monterey County, California, with a starting location at Latitude 36.597768°, Longitude -121.849549° and a terminus at Latitude 36.597078°, Longitude -121.841134°. The proposed 1.5-mile trail will extend from Canyon Del Rey Boulevard and Fremont Boulevard through Work Memorial Park and Del Rey Park, with a tunnel under Canyon Del Rey Boulevard into the Frog Pond Wetland Preserve where it follows Carlton Drive and Plumas Avenue to its end at Noche Buena Street.

The trail will be a paved multi-use recreational pathway varying in width from 8 to 12 feet, with 2-foot shoulders on each side. At all locations, the trail will be constructed by clearing and grubbing vegetation, excavating the footprint of the trail, grading the footprint of the trail, and constructing the trail using fill material and aggregate base. Trail construction will include installing two 24-inch culverts at the crossing of two ephemeral drainages in Work Memorial Park; replacing a storm drain outfall and rock apron in Canyon Del Rey Creek on the western side of State Route 218; and replacing an existing wooden footbridge, realigning two ephemeral drainages, and installing a culvert and rock apron at the Frog Pond Wetland Preserve.

Work within U.S. Army Corps of Engineers (Corps) jurisdiction near the Frog Pond Wetland Preserve will include the permanent placement of 6.2 cubic yards of rip rap fill within 0.007-acre of Canyon Del Rey Creek, the permanent placement of 17.3 cubic yards fill within 57 linear feet of Ephemeral Drainage 2 to realign it into Ephemeral Drainage 3, the permanent placement of 5.6 cubic yards of fill to culvert and armor 34 linear feet of Ephemeral Drainage 3, and the permanent placement of 2.2 cubic yards of fill into Wetland 2. At Work Memorial Park, project activities requiring Corps verification include the permanent placement of 213.5 cubic yards of fill into 0.14-acre of wetland 1. Temporary impacts to Wetland 2, Wetland 1, and Ephemeral Drainage 1 would occur from construction access and to install stormwater BMPs. Total impacts to waters of the U.S. include the placement of 244.8 cubic yards of fill into 0.16-acre of jurisdictional

waters and wetlands. All work shall be completed in accordance with the plans and drawings titled: "USACE File #SPN-2023-00173S, Fort Ord Regional Trail and Greenway (FORTAG) Canyon Del Rey/State Route 218 Segment Project, Del Rey Oaks, Monterey County, CA, August 2022, Sheet 1 of 117", provided as enclosure 1.

Section 404 of the Clean Water Act (CWA) generally regulates the discharge of dredged or fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these waters. Section 10 of the Rivers and Harbors Act (RHA) generally regulates construction of structures and work, including excavation, dredging, and discharges of dredged or fill material occurring below the plane of mean high water in tidal waters of the United States; in former diked baylands currently below mean high water; outside the limits of mean high water but affecting the navigable capacity of tidal waters; or below the plane of ordinary high water in non-tidal waters designated as navigable waters of the United States. Navigable waters of the United States generally include all waters subject to the ebb and flow of the tide; and/or all waters presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce.

Based on a review of the information in your submittal, the project qualifies for authorization under Department of the Army Nationwide Permit (NWP) 14 for Linear Transportation Projects (86 Fed. Reg. 73522, December 11, 2021), pursuant to Section 404 of the CWA of 1972, as amended (33 U.S.C. § 1344 et seq.). The project must be in compliance with the terms of the NWP, the general conditions of the Nationwide Permit Program, and the San Francisco District regional conditions cited on our website (www.spn.usace.army.mil/Missions/Regulatory/Permitting/Nationwide/). You must also be in compliance with any special conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any term or condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This NWP authorization does not obviate the need to obtain other State or local approvals required by law.

This verification will remain valid until March 14, 2026, unless the NWP authorization is modified, suspended, or revoked. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within 12 months of the date of a NWP expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 C.F.R. § 330.4(e) and 33 C.F.R. § 330.5(c) or (d). This verification will remain valid if, during the time period between now and March 14, 2026, the activity complies with any subsequent modification of the NWP authorization. The Chief of Engineers will periodically review NWPs and their conditions and will decide to modify,

reissue, or revoke the permits. If a NWP is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. It is incumbent upon you to remain informed of any changes to the NWPs. Changes to the NWPs would be announced by Public Notice posted on our website (www.spn.usace.army.mil/Missions/Regulatory/Public-Notices.aspx). Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, enclosure 2, verifying that you have complied with the terms and conditions of the permit.

You shall comply with all terms and conditions set forth by the “*Water Quality Certification No. 32723WQ11 for the Fort Ord Regional Trail and Greenway (FORTAG) Canyon Del Rey/State Route 218 Segment Project, Monterey County*,” issued by the Central Coast Regional Water Quality Control Board on December 8, 2023 (enclosure 3). You shall consider such conditions to be an integral part of the NWP authorization for your project.

In order to ensure compliance with this NWP authorization, the following special conditions shall be implemented:

1. Compensatory mitigation for impacts to wetlands of the United States and other waters of the United States (including creation of 0.24-acre of new wetlands in existing upland areas of Work Memorial Park) shall be completed in accordance with the October 2023 *Fort Ord Regional Trail and Greenway – Canyon Del Rey/SR 218 Segment Project Habitat Mitigation and Monitoring Plan* (enclosure 4). Mitigation wetlands and surrounding upland buffer shall be constructed within the deed restricted property known as Work Memorial Park. Long term site protection (deed restriction) and financial assurances (Measure X) for the mitigation site shall be documented in the Final Mitigation and Monitoring Plan in accordance with the 2008 Final Compensatory Mitigation Rule (33 C.F.R. § 332).
2. Prior to the discharge of dredged or fill material into waters of the U.S. associated with the project, the Transportation Agency for Monterey County shall submit and receive written approval of a Final Mitigation and Monitoring Plan. Annual mitigation monitoring reports shall be submitted to the Corps by January 31 of the subsequent year. The Transportation Agency for Monterey County’s responsibility to complete the required compensatory mitigation shall not be considered fulfilled until the Transportation Agency for Monterey County has demonstrated “mitigation success” as specified in the October 2023 *Fort Ord Regional Trail and Greenway – Canyon Del Rey/SR 218 Segment Project Habitat Mitigation*

and Monitoring Plan (enclosure 4) and has received written verification from the Corps.

3. A post construction report shall be submitted 45 days after the conclusion of construction activities. The report shall document construction activities and contain before and after photos.

You may refer any questions on this matter to Caroline Frentzen by telephone at 415-503-6779 or by e-mail at Caroline.A.Frentzen@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. The Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website: www.spn.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,



Stephen Ryan
Project Manager, Regulatory Division

Enclosures

cc:

Rincon Consultants, Inc., Monterey, California (Attn: Alex Hunt,
ahunt@rinconconsultants.com)

CA RWQCB, San Luis Obispo, CA (Attn: Kim Sanders,
Kim.Sanders@waterboards.ca.gov)