

DEPARTMENT OF THE ARMY REGIONAL PERMIT No. 11
CARMEL RIVER RESTORATION AND MAINTENANCE

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MAY 21 2004

Permittee: Monterey Peninsula Water Management District (MPWMD)

File No.: 24460S

MPWMD

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:

Authorized Work:

The following work is authorized in the Carmel River within the 17.3 mile segment of the river beginning approximately 1.3 miles upstream of the Pacific Ocean and extending to, but not including, the San Clemente Dam at River Mile 18.6 (measured from the ocean).

- Restoration of the river channel in unstable areas;
- Installation of limited erosion protection in unstable, degraded areas;
- Reestablishment of riparian vegetation along stream banks and adjacent areas;
- Limited removal of vegetation and debris from the active channel;
- Maintenance and repair of existing restoration projects, and projects completed under this permit;
- Construction of fisheries enhancement projects.

Work shall be carried out accordance with the MPWMD's "Revised Project Description, Department of the Army Regional General Permit Application No. 24460S, Carmel River Maintenance and Restorations Projects, Monterey County, California" dated July 2003.

Project Location: **Carmel River in Monterey County, California.**

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **1 November 2009**. 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. 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. For your convenience, a copy of the certification is attached if it contains such conditions.

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:

This Department of the Army permit does not authorize you to take an endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA). The enclosed US Fish and Wildlife Service and National Marine Fisheries Service Biological Opinions (BO) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the "incidental take statement" that is specified in the BOs. Your authorization under this Department of the Army permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take statement in the attached BOs. Those terms and conditions are hereby incorporated in this permit by reference. A failure to comply with the terms and conditions associated with incidental take statement in the BOs, resulting in a take of the above listed species would constitute an unauthorized take, and would also constitute noncompliance with this Department of the Army permit. The US Fish and Wildlife Service and National Marine Fisheries Service are the appropriate authorities to determine compliance with the terms and conditions of their BOs, and with the ESA.

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 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.

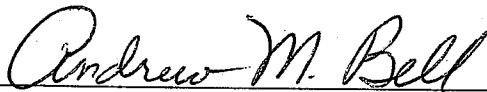
b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

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 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 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.

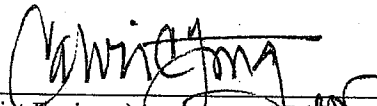


(Permittee) **Andrew M. Bell**
MPWMD District Engineer

May 25, 2004

(Date)

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



(District Engineer) **Michael McCormick**
LTC, EN

6/4/2004

(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)