

Summary of Key Permitting Requirements Relevant to Projects along the Salinas River

Laws and Regulations	Permit	Responsible Agency	Triggers	Key Information
Federal				
Clean Water Act Section 404 and Rivers and Harbors Act Section 10	Nationwide Permit; Regional General Permit; or Individual Permit	U.S. Army Corps of Engineers	Discharge of dredged or fill material into Waters of the U.S. (Clean Water Act); The construction of any structure in or over any navigable water of the United States (Rivers and Harbors Act)	May provide a federal nexus for the Corps to initiate consultation with U.S. Fish and Wildlife Service and/or National Marine Fisheries Service under Section 7 of the Federal Endangered Species Act (for species within Corps jurisdictional waters)
Clean Water Act Section 401	Water Quality Certification	Regional Water Quality Control Board	Clean Water Act Section 404 permit	Certifies that Section 404 permits for discharges into waters of the U.S. meet State water quality standards. The federal permit cannot be issued if the State denies certification
Endangered Species Act Section 7	Biological Opinion and Incidental Take Statement	U.S. Fish and Wildlife Service and/or National Marine Fisheries Service	Likelihood that an activity may adversely affect species listed as endangered or threatened under the Endangered Species Act where a federal nexus (authorization, funding, implementation by a federal agency) exists	Ensures that any action authorized (including issuance of any federal permits), funded, or carried out is not likely to jeopardize the continued existence of any species listed as threatened or endangered, or result in the destruction or adverse modification of habitat critical to the survival of such species
Endangered Species Act Section 10	Habitat Conservation Plan and Incidental Take Permit	U.S. Fish and Wildlife Service and/or National Marine Fisheries Service	Potential “take” of species listed as threatened or endangered under the Federal Endangered Species Act where a federal nexus does not exist	Projects that take listed species and have no federal nexus must prepare a habitat conservation plan. The habitat conservation plan explains how the project proponent will mitigate take related to activities and species covered by the incidental take permit
State				
California Endangered Species Act Section 2081	Incidental Take Permit	California Department of Fish and Wildlife	Potential “take” of species listed as threatened, endangered, or candidate under the California Endangered Species Act	Ensures that any action authorized is not likely to jeopardize the continued existence of any state listed or candidate species. Cannot get take authorization for fully protected species

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California Fish and Game Code Section 1602	Lake or Streambed Alteration Agreement	California Department of Fish and Wildlife	Actions that would alter any river, stream, or lake in California, or their associated riparian or wetland habitats	Ensures that any actions within rivers, streams, or lakes in California are conditioned to conserve existing fish and wildlife resources
California Coastal Act	Coastal Development Permit	California Coastal Commission	Development actions within the coastal zone boundary	Ensures scenic and visual qualities of coastal areas are protected, as well as minimize the alteration of natural land forms and maintains existing public access
Porter-Cologne Water Quality Control Act	Waste Discharge Requirement	Regional Water Quality Control Board	Point source discharges to Waters of the State not otherwise regulated under the federal Clean Water Act	

Notes:

¹ Additional permit requirements may exist based on resources affected by specific activities. These include, but are not limited to, local ordinances (e.g., for grading), State lands leasing, Federal Emergency Management Act requirements for certain work within the 100-year floodplain, and Monterey Bay Air Resources District permits.

Definitions:

“Waters of the United States,” are generally defined as streams and wetlands that connect to navigable waterways. The Code of Federal Regulations Title 33 Part 328 (abbreviated “33 CFR 328”) defines Waters of the United States as it applies to the jurisdictional limits of the authority of the U.S. Army Corps of Engineers under the Clean Water Act. *“Navigable waters”* is a term used within the *“Waters of the United States”* definition. *“Navigable waters”* are defined in 33 CFR 329.

Under California Water Code Section 13050 (e), *“‘Waters of the state’* means any surface water or groundwater, including saline waters, within the boundaries of the state.”

Under Federal Endangered Species Act, Section 3 (19), *“the term ‘take’* means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”

Under California Fish and Game Code Section 86, *“‘take’* means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.”