

US Army Corps of Engineers Los Angeles District

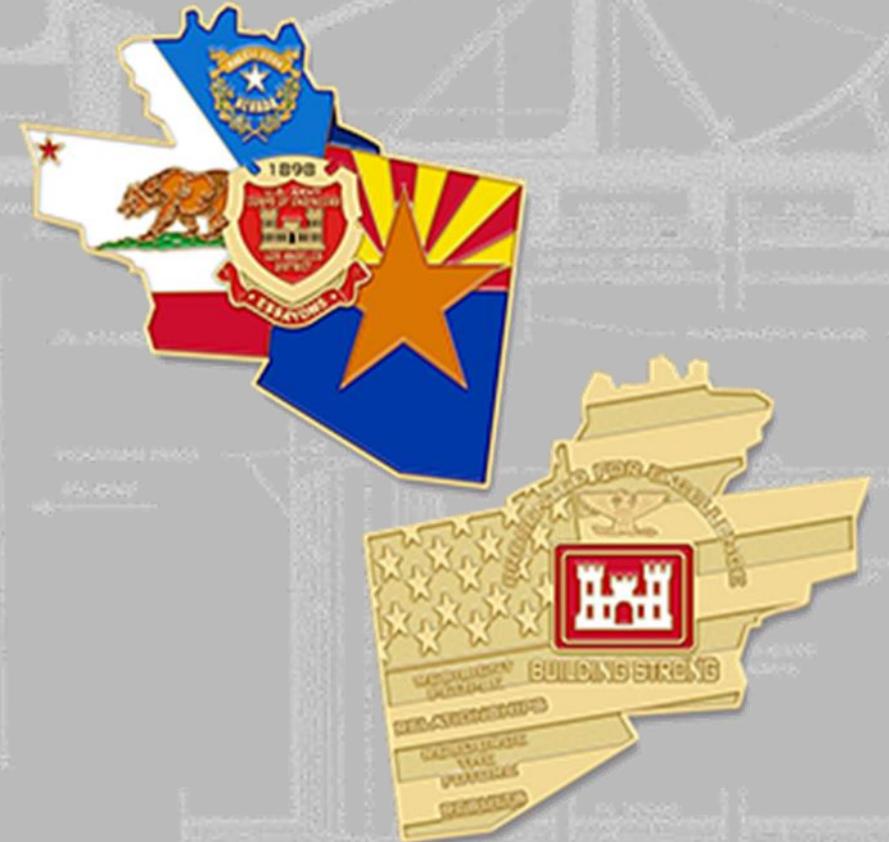
Emergency Authorizations: Thomas Fire and Santa Barbara County Case Study

December 4, 2019

Aaron O. Allen, Ph.D.
Chief, North Coast Branch
Los Angeles District



US Army Corps
of Engineers®





SECTION 404 OF THE CLEAN WATER ACT



Activities not requiring permits

Expedited NWP process (urgent vs. emergency)

RGP 63 (minimal impacts)

Emergency Procedures (imminent threat to life or property)



ACTIVITIES NOT REQUIRING PERMITS



- Mowing, rotary cutting, and chain-sawing (does not disturb the root system nor involves mechanized pushing, dragging that redeposit excavated soil material).
- Clean excavation using rubber tired vehicles or equipment operating from uplands.
- Maintenance Exemption (33 CFR 323.4 (2))
 - a) Discharge must be for maintenance or emergency reconstruction;
 - b) Structure must have prior CWA authorization or be "grandfathered" into CWA (i.e. constructed prior to 1972);
 - c) Structure must be "dikes, dams, levees,...bridge abutments;"
 - d) Structure must have "original fill design;"
 - e) Structure must be currently serviceable or serviceable immediately prior to being damaged.

“Maintenance does not include any modification that changes the character, scope, or size of the original fill”



EMERGENCY PERMITS



RGP63 Reissued November 2018 for 5 years

- Minimal Effects Statutory Requirement
- Necessary repair and protection measures associated with an emergency situation
- Clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services
- Situation potentially to result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken more quickly than normal permitting



EMERGENCY PERMITS



RGP63

- Notify Corps Regulators in advance
- If not possible (i.e., high threat and attempts to reach Corps staff is unsuccessful) ensure that prior notice of a unilateral decision to proceed is made to the Regulatory office by telephone, facsimile, e-mail, delivered written notice, or other alternative means
- Authorization issued in hours to days



EMERGENCY PERMITS



Emergency Individual Permit Procedures (OCT19 PN)

- Required if impacts > minimal
- 33 CFR 325.2(e)(4) provides for the implementation of expedited processing procedures for the review, coordination, and decision making for Corps permit applications during emergency situations
- **SPD Commander** must approve case specific expedited procedures
- Permit in a day or days based on urgency and scale of the situation
- More thorough environmental review
- After-the-fact compliance with federal environmental laws



SANTA BARBARA EMERGENCY AUTHORIZATION



Emergency Individual Permit

- Thomas Fire burned approximately 281,000 acres in December 2017/January 2018
- January 9, 2017 - Intense precipitation event in Montecito (intensities of over 0.5 inches in 5 minutes)





SANTA BARBARA EMERGENCY AUTHORIZATION





EMERGENCY AUTHORIZATION



Emergency Procedures (FEMA – Declared Disaster)

- Authorized County of Santa Barbara and FEMA to remove up to 300,000 cubic yards of sediment and debris from waters of the United States (debris basins, streams, culverts and other facilities)
- Emergency authorization completed in two days and included placement of 69,000 cy of sediment in the surf zone, but most sediment taken to upland landfills
- Temporary impacts to waters
- Low aquatic functions due to debris flows





SANTA BARBARA EMERGENCY PERMIT



Emergency Authorization

- Included permit special condition to test sediment before placing in the surf zone
- Sediment testing showed that the majority of the material in waters was sand and in all most all cases did not exceed any thresholds for chemical constituents
- Public notice (April 2018) , endangered species consultations, environmental assessment and other requirements completed after-the-fact
- Final decision document completed October 21, 2019



QUESTIONS?

