

**Placer County**  
**Aquatic Resources Program (CARP)**  
**Strategy**  
January 28, 2011

*Note to readers: This draft strategy document has been provided for discussion purposes only.*

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## 1.0 INTRODUCTION

The Placer County Aquatic Resource Program (CARP) is a multidisciplinary approach for identifying, classifying, ranking, and protecting the aquatic resources of western Placer County. Broadly defined, aquatic resources are those now regulated by the U.S. Army Corps of Engineers, the Central Valley Regional Water Quality Control Board, the California Department of Fish and Game, and the City of Lincoln and Placer County General Plans.

The CARP provides a process through which the County's Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP) strategy for aquatic resources is implemented. The HCP/NCCP outlines a more comprehensive County conservation strategy, which conserves sensitive plants, wildlife, and vegetative communities in western Placer County. Together, these two programs make up the Placer County Conservation Plan (PCCP), and provide the residents of Placer County with a comprehensive regional approach to natural resource conservation and permitting (see Chapter 1 of the PCCP for details).

These two PCCP programs have different but complementary goals and objectives, and there is overlap between them. The HCP/NCCP minimizes and mitigates impacts to covered species and natural communities, including aquatic natural communities and habitat, and preserves land at a landscape-level scale. The CARP addresses aquatic resources specifically, and it addresses waters of the County at a much finer scale. The CARP also preserves some aquatic resources in smaller acreages than are required for species and natural communities in the HCP/NCCP. However, the two programs overlap in the establishment of a reserve system that will support the mitigation and conservation requirements of both programs and will provide for the comprehensive conservation and management of the preserved resources in perpetuity.

Currently, one federal and two state agencies regulate activities in waters of the County as defined in the PCCP. The U.S. Army Corps of Engineers (the Corps) regulates activities in waters of the United States pursuant to Section 404 of the federal Clean Water Act. The Regional Water Quality Control Boards (RWQCBs) provide Water Quality Certifications pursuant to Section 401 of the Clean Water Act, and they also regulate activities that impact waters of the State, which includes wetlands and waters not regulated by the Corps, pursuant to the Porter-Cologne Water Quality Act. The California Department of Fish and Game (CDFG) regulate activities that impact streams, rivers, lakes, and ponds through Section 1602 of the California Fish and Game Code. The CARP combines these overlapping permit processes into one process that can be implemented by Placer County, the City of Lincoln, and other participants under certain circumstances.

Each Resource Agency (the Corps, RWQCB, and CDFG) has a method for delegating permitting authority to another entity, under certain circumstances, or for issuing permits that cover a range of activities. The Corps can issue a Programmatic General Permit (PGP) to a local agency with a program that provides, with the necessary Corps conditions or review, the same or higher level of environmental protection as that provided by the overall Corps Regulatory Program. The RWQCB can certify that the PGP meet state requirements and standards, making it unnecessary for the RWQCB to

make certifications for each project covered under the PGP. CDFG can enter into streambed alteration agreements with local governments under which local governments can extend authorization under the agreement to numerous individual activities under certain terms and conditions.

To obtain a PGP from the Corps, the Local Agencies have developed the CARP, which includes an Aquatic Resources Ordinance. In addition, the Local Agencies will obtain a programmatic Water Quality Certification from the RWQCB and a Master Streambed Alteration Agreement from CDFG.

Under the PGP, programmatic Water Quality Certification, and Master Streambed Alteration Agreement, Placer County and the City of Lincoln will each be authorized to issue permits for certain projects within their jurisdictions that will impact less than XX (to be determined) acres of waters of the County. The ability to issue these permits will be approved through a streamlined agency approval process. The County will issue permits for SPRTA, while PCWA will ensure that they cover their aquatic impacts in accordance to the CARP (and if applicable the PCCP). These new local permits will replace, in part, the following permits:

- 404 Corps individual and nationwide permits through a programmatic general permit issued by the Corps of Engineers,
- 401 water quality certification through a programmatic water quality certification issued by the Central Valley Regional Water Quality Control Board, and
- 1602 streambed alteration agreement through a master streambed alteration agreement issued by the California Department of Fish and Game.

Table 1 shows the relationship between aquatic resources and the regulatory agency currently responsible for permitting impacts to those resources.

**Table 1**  
**Resources and Regulatory Agencies Responsible for Permitting<sup>1</sup>**

<b>Resource</b>	<b>Corps 404</b>	<b>RWQCB 401</b>	<b>RWQCB Porter- Cologne</b>	<b>CDFG 1602</b>	<b>Placer County CARP</b>
Waters of the US	√	√			√
Isolated Waters (State and County Waters)			√		√
Stream Zone (including non-wetland areas above the OHWM)				√	√

<sup>1</sup> This chart does not suggest that an agency is not interested in resources that are not checked. Instead, it shows that permits issued by those agencies will become the responsibility of the County under the CARP. For example, although CDFG does not issue permits for activities in wetlands, it often provides comments and guidance on wetland impacts during the CEQA process.

The County and the City will each create an ordinance that implements the CARP for covered activities subject to their respective land use jurisdiction. In addition, all of the Permittees will ensure that covered activities that they implement will follow the CARP. The aquatic resources addressed in the CARP include waters of Placer County and the stream zone. Waters of Placer County include waters of the United States as defined by the Corps of Engineers and waters of the state as defined by the State Water Resources Control Board. Aquatic resources under the jurisdiction of the California Department of Fish and Game are also addressed in the CARP. The stream zone includes the stream below the ordinary high water mark, which is usually considered waters of the United States, and areas above the ordinary high water mark that are within the jurisdiction of the Department of Fish and Game. The County and the City will ensure that impacts to these resources resulting from covered activities are minimized and mitigated by implementing and enforcing their Aquatic Resource Ordinances. Moreover, the County and other Permittees will provide for adequate staffing levels to ensure compliance with conditions of state and federal permits issued and that the CARP can be fully implemented.

Waters of Placer County are sorted into one of three standard categories: lacustrine (reservoirs, lakes, and ponds); riverine (rivers and streams); and palustrine (wetlands). The stream zone, also an aquatic resource, occurs adjacent to lacustrine and riverine systems.

Under the combined environmental review process, impacts to waters of the county, as well as impacts to species of fish, wildlife and plants, which are caused by covered activities within the land use jurisdiction of the County or the City, will be analyzed, minimized and mitigated, and permitted. A flowchart depicting an overview of the combined environmental review process is attached. The CARP identifies the permit requirements for covered activities that will impact aquatic resources, and the HCP/NCCP identifies permit requirements that apply if the covered activities will impact species. A list of species covered by the HCP/NCCP is located in Appendix B. The PCCP's conservation strategy for these species and their habitat is explained in Chapter 5 of the PCCP, and the conditions on covered activities required to minimize and mitigate impacts to the species are explained in Chapter 6 of the PCCP. The County reserve system (see the PCCP for details) will conserve species, aquatic resources and other resources and will mitigate the impacts of development in western Placer County. Appendix C in this document provides a discussion of the PCCP reserve system and how it will protect and conserve aquatic resources.

In addition to 404 requirements, the Corps must also comply with Section 106 of the National Historic Preservation Act, which protects cultural resources that are listed or are eligible to be listed on the National Register of Historic Places, when it issues 404 permits. It must ensure that projects covered by a 404 permit address any impacts to such cultural resources. To meet the requirements of Section 106 for purposes of the PGPs issued by the permittee, the County and the City have developed a Programmatic Agreement for 106 consultations with the State Historic Preservation Office (SHPO). Furthermore, the County and the City will issue CARP permits based on the Corps Programmatic General Permit, the Programmatic 401 Water Quality Certification, and Master Streambed Alteration Agreement.

## 2.0 CARP STRATEGY

### 2.1 Introduction

The CARP's purposes are to combine three existing permit processes into a single process and to ensure that mitigation for impacts to waters of the County will be fully mitigated and consistent with the PCCP. The CARP is a process designed to implement key elements of the PCCP conservation strategy, which intends to preserve and protect aquatic resources in western Placer County. Broadly defined, aquatic resources are those now regulated by the U.S. Army Corps of Engineers (Corps), the Central Valley Regional Water Quality Control Board, the California Department of Fish and Game, and the City of Lincoln and Placer County General Plans.

The CARP will provide a process through which projects and activities covered under the PCCP can receive authorizations under Section 404 and Section 401 of the CWA and Section 1602 of the Fish & Game Code. Covered activities with relatively minor impacts to aquatic resources will be eligible for coverage under the CARP Programmatic General Permit. Based on the CARP, the Corps will issue the County, City and PCWA, a programmatic general permit for covered activities that will impact XX acres or less of Waters of the United States. The PGP will cover eligible projects carried out by the County, the City and PCQA, and it will allow the County and the City to authorize impacts to Waters of the US for certain covered activities proposed by third parties within the County's and City's jurisdiction. Currently, the Corps requires permit applicants to follow the standard permitting process if their proposed projects will result in fill to 0.5 acres or more of jurisdictional waters, or will result in more than minimal adverse effects to waters if less than 0.5 acres of impacts.

Larger PCCP covered activities, those that will impact more than XX acres of Waters of the U.S., will be eligible for coverage under the CARP Letter of Permission (LOP) procedure. Under the LOP procedure, the Corps will provide authorization under Section 404 to eligible covered activities on a project-by-project basis by issuing an LOP, rather than a standard permit. The LOP procedure will be a streamlined process based on the CARP, and it will require compliance with the CARP. The Corps and, as applicable, the County, the City and PCWA will jointly conduct the environmental review for eligible projects under the LOP procedure and will jointly determine appropriate avoidance, minimization and mitigation requirements based on the CARP.

#### 2.1.1 CARP Objectives

CARP objectives include:

- 1) Simplifying the evaluation process for both the regulatory agencies and the applicant (that is, to provide "one-stop" shopping for environmental permits for aquatic resources);
- 2) Providing equal or better environmental protection and mitigation for aquatic resources as compared to existing permitting processes;
- 3) Reducing unnecessary duplicative project evaluation;

- 4) Promoting more effective and efficient use of agency resources, including the Corps and other resource agencies; and
- 5) Providing, through the PCCP and its conservation strategy, a mechanism for establishing and implementing a regional LEDPA for activities covered by the PCCP.

## 2.2 Regional LEDPA

Under the Clean Water Act, activities resulting in the discharge of dredged or fill material generally cannot be permitted if there is a practicable alternative to the proposed discharge that would have a less adverse impact on the aquatic ecosystem, so long as the alternative does not present other significant environmental consequences [40 C.F.R. sec. 230.10(a)]. To comply with this requirement, the Corps must analyze a range of alternatives and determine that the proposed activity is the least environmentally damaging practicable alternative, or “LEDPA,” before it can grant a permit authorizing the discharges. Unless clearly demonstrated otherwise, the Corps will assume that there are practicable alternatives to discharge activities that occur in, but are not dependent upon being in or having access to, a wetland or other “special aquatic site” [40 C.F.R. sec. 230.10(a)(3)]. In addition to this alternatives analysis, the Guidelines also require the Corps to determine if the proposed discharge will result in violations of certain laws such as the ESA or other regulatory requirements, cause or contribute to significant degradation of waters, and whether it will include appropriate and practicable steps to minimize potential adverse impacts on the aquatic ecosystem [40 C.F.R. sec 230.10(b) through (d)].

The CARP is a part of, and a mechanism for implementing, the overall regional PCCP conservation strategy. The PCCP, and the PCCP's regional conservation strategy, will be evaluated along with other regional-scale alternatives in the PCCP EIR/EIS. Based on the PCCP EIR/EIS the Corps will be able to determine whether the PCCP, including the CARP and the HCP/NCCP, is, at a regional scale, the LEDPA for the activities covered by the PCCP. Establishing a regional system of large, connected conservation reserve areas under the PCCP allows the Local Partners to comply with avoidance requirements of the Federal Guidelines promulgated under CWA §404(b)(1) at a regional scale and in a way that better protects the long-term health and viability of aquatic resources than avoidance on a project-by-project basis. The regional LEDPA would view the ~221,000-acre landscape in the Plan area as the area for which a LEDPA must be formulated.

The PCCP concentrates avoidance of existing aquatic resources and endangered species habitat in the reserve acquisition area while development and associated impacts are concentrated in the potential future growth area. This mitigation and conservation framework provides avoidance and protection of thousands of acres of vernal pool grasslands, riparian forests, and oak woodlands within the conservation envelope and thousands of acres of development to meet County and City needs within the development envelope. Degraded parcels connecting priority conservation parcels are targeted for enhancement and restoration as part of the regional compensatory mitigation strategy.

Avoidance within the potential future growth area is limited to a stream system setback area, wetlands within this area, and Low Impact Development Strategies (LIDS)

incorporated into project design (see Chapter 6 of the PCCP). These avoidance strategies are focused on mitigating negative impacts to water quality and surface water runoff that occur with watershed development.

The function of the LIDS is to minimize the direct, secondary, and cumulative impacts of on-site development, and, where practicable, to improve upon pre-construction environmental conditions (thereby halting historical environmental damage and degradation). The LIDS should be designed to produce post-construction environmental conditions that represent an improvement in ecological health and function. This methodology allows for filling some on-site jurisdictional waters as long as the lost functions and values can be re-created and amplified elsewhere.

Together, the LIDS and the stream system setbacks will minimize adverse impacts from the introduction of new impervious surfaces, installation of storm drains, construction of wastewater treatment facilities and transportation infrastructure, landscaping, and other human activities. Along with the regional compensatory mitigation strategy, the LIDS and the stream system setbacks are key components of the PCCP for purposes of determining whether the PCCP is the regional LEDPA and meets with the avoidance and minimization requirements of the Federal Guidelines.

Perhaps the most important consequence for applicants if the PCCP is determined to be the regional LEDPA is the “streamlining” of requirements for on-site avoidance, minimization, and mitigation. The implementation of a scientifically-based conservation strategy through the regional approach to avoidance, LIDS, mandatory stream system setbacks, and comprehensive habitat preservation and mitigation strategies will replace the standard wetland permitting process which requires applicants to: (1) prepare an “alternatives analysis” for each project examining alternative off-site locations and alternative on-site development/avoidance configurations; (2) prove their proposed project is the LEDPA by examining the potential direct, secondary, and cumulative impacts of several alternatives; and (3) rebut the presumption that there are practicable alternatives to the proposed project’s development footprint that result in less damage to the aquatic ecosystem. Without the CARP, this standard process would continue on a project-by-project basis for all projects that would impact Waters of the United States in western Placer County.

If the PCCP is determined to be the LEDPA, projects proposed within the PCCP Plan area that incorporate the on-site avoidance strategies, including stream system setbacks and LIDS, will not be required to: (1) provide a separate off-site alternatives analysis; (2) provide separate proof that their project location meets LEDPA requirements, or (3) presume that on-site avoidance is the best means of protecting waters of the US in its on-site alternatives analysis. Projects proposed within the development envelope will instead be presumed to be located in the most suitable places to develop and at the least environmentally damaging location because the PCCP identifies the appropriate location for project impacts based on an analysis of numerous factors, including regional, long-term development patterns and conservation areas, and the PCCP provides for a regional network of conservation reserve areas established, in part, by lands provided as mitigation for covered activities. Covered activities that implement the on-site LIDS and establish stream setbacks and meet other PCCP requirements will be able to fill the jurisdictional waters within the development envelope as long as they

are outside the boundaries of stream setbacks. These projects would be allowed to provide simpler, less extensive, on-site alternatives analysis information that is limited to evaluating alternative ways of incorporating PCCP requirements (e.g., to evaluate alternative LIDS).

The on-site jurisdictional waters in question are principally: (1) vernal pools; (2) swales and seasonal wetlands other than “classic” vernal pools; and (3) un-named tributaries to prominent creeks and rivers. Under the CARP, (including LIDS and stream setbacks) applicants are required to avoid and protect the jurisdictional waters referenced in the previous paragraph if they occur within stream setbacks measuring from 100-300 feet outward from the edge of each bank (i.e., the total width of the setback would range from 200 to 600 feet plus the width of the stream channel), or the width of the 100-year FEMA floodplain boundary, whichever is greater.

Compliance with the Guidelines is required for programmatic permits as well as for individual permits. 33 C.F.R. sec. 320.1(a)(1). Accordingly, the Corps will need to conduct an alternatives analysis and ensure compliance with NEPA before it can determine whether to grant the County and City a programmatic permit, as contemplated in the CARP. However, the Corps need not prepare two separate alternatives analyses to satisfy both the Guidelines and NEPA if the NEPA alternatives analysis meets the standards set forth in the Guidelines. (See e.g., 40 C.F.R. sec. 230.10(a)(4).) Here, the County anticipates that the CARP and the PCCP will be analyzed in the same environmental impact statement (EIS), with the FWS as the lead agency and the Corps as a cooperating agency, and that the EIS’s alternatives analysis will be sufficiently complete that it will satisfy the Corps’s alternative analysis obligations under the Guidelines as well as NEPA.

Moreover, the Corps can rely on and tier from the alternatives analysis in an existing EIS, such as the PCCP EIS/EIR, in reviewing subsequent individual permit applications. The Corps can therefore tier from the PCCP EIS/EIR for covered projects that fall within the PCCP and the CARP’s parameters. In fact, the Guidelines require the Corps to consider such existing EIS analyses. 40 C.F.R. sec. 230.10(a)(5) (“To the extent that practicable alternatives have been identified and evaluated under a Coastal Zone Management Plan . . . or other planning process, such evaluation shall be considered by the permitting authority as part of the consideration of alternatives under the Guidelines.”) This will likely eliminate the need in most, if not all, cases for additional off-site alternatives analysis and even project-level EISs as part of the standard permitting process for such projects, which will significantly reduce processing times for standard permit applications. As described below, the Corps and the County and City can further streamline permitting for larger projects by developing joint procedures that will ensure that the substantive requirements of the CWA individual permitting process are fulfilled while avoiding duplicative public notice and comment procedures and the like.

## **3.0 PERMIT TYPES**

PCCP covered activities may receive Section 404 permits or authorizations through one of two distinct permitting processes: (1) by receiving coverage under a Corps' programmatic general permit issued to the Permittees based on the CARP (CARP PGP) or (2) using a letter of permission procedure issued by the Corps based on the PCCP (LOP Procedure). The CARP PGP will cover projects with minimal individual and cumulative environmental consequences (projects with XX acres of impact or less to Waters of the County and linear impacts to streams and wetlands of 250 feet or less), and the LOP procedures will cover all other PCCP covered activities that will have impacts to Waters of the County. The two processes are discussed in the following sections.

### **3.1 Section 404 Letters of Permission Issued Through the LOP Process**

PCCP covered activities that exceed the threshold for coverage under the CARP PGP can obtain authorization under Section 404 using the PCCP LOP Procedure. Under the LOP Procedure, the application package prepared for the project for the purpose of obtaining take authorization under the PCCP and submitted to the County or City would be supplemented with information required under the LOP Procedure developed pursuant to 33 C.F.R. section 325.2(e) and the LOP application would be sent to the Corps for review. If the application meets the requirements of the LOP Procedure, the Corps will issue a Letter of Permission for the project. The Corps' review will occur concurrent with the County or City's review of the project for purposes of compliance with the PCCP, which will occur during environmental review of the project under CEQA, either at the program level (e.g., comprehensive plan or specific plan level) or at the project level (e.g., tentative map or final map level).

#### **3.1.1 LOP Procedure**

The following briefly outlines the expected LOP Procedure to be issued by the Corps:

- Applicant completes the PCCP EIAQ and submits it to the applicable permittee.
- Permittee determines whether the applicant is eligible for coverage under the CARP PGP.
- If not, the permittee requests any additional information needed to fulfill LOP Procedure application requirements, including information regarding measures needed to comply with PCCP/CARP avoidance, minimization and mitigation requirements, and schedules a pre-application meeting with the applicant and Corps. DFG is included if coverage under master streambed alteration agreement is requested for project. The pre-application meeting may also include the regional water quality control board, the USFWS and NMFS.
- Applicant revises the project or proposed mitigation as needed to address Permittee, Corps and, if applicable, DFG concerns during the pre-application meeting.

- Applicant completes the application and provides the permittee and the Corps with all supporting documents, after coordination with Federal and State agencies.
- If application meets LOP Procedure requirements, Corps issues letter of permission for project roughly concurrent with the time that the permittee extends take authorization under the PCCP and related endangered species permits and master streambed alteration agreement.
- The Central Valley Regional Water Quality Control Board issues certification of the letter of permission shortly after Corps issues letter of permission.

### **3.1.2 Environmental Review under CEQA and NEPA**

Because the LOP Procedure will generally apply to PCCP covered activities with more than minimal individual and cumulative environmental consequences, environmental review under CEQA will be required in most if not all cases. PCCP covered activities eligible to receive a letter of permission from the Corps are generally covered under a NEPA categorical exclusion specifically for such projects. Therefore PCCP covered activities that receive Section 404 authorizations based on the LOP Procedure will not require review under NEPA, except under extraordinary circumstances. In other words, the Corps' issuance of a letter of permission under the LOP Procedure for PCCP covered activities will not be subject to NEPA requirements, absent extraordinary circumstances.

Environmental review under CEQA for PCCP covered activities seeking Section 404 authorization under the LOP Procedure will be carried out in essentially the same way that it would be carried out without the PCCP and the CARP. The County and City will each be the CEQA lead agency for projects within their jurisdiction and will analyze the environmental impacts of their own proposed projects, as well as private projects that require local discretionary approvals. However, for PCCP Covered Activities, including activities that receive Section 404 authorizations based on the CARP, the environmental analysis will "tier" from the PCCP EIR/EIS. CEQA environmental review for individual PCCP covered activities can use and rely on relevant environmental analysis from the PCCP EIR/EIS. This should strengthen and simplify environmental analysis of individual PCCP covered activities, especially with regard to impacts to biological and aquatic resources.

In cases where the specific environmental conditions or impacts associated with a PCCP covered activity give rise to "extraordinary circumstances" that prevent the use of the NEPA categorical exclusion for projects eligible to receive a letter of permission from the Corps, environmental review under NEPA will be required. Such review can result in the determination that NEPA requirements for the authorization of a project under the LOP Procedure can be fulfilled with an environmental assessment and "finding of no significant impact" or, in some cases, an EIS. For such projects, the scope of the environmental review would be defined by the Corps' jurisdiction over the project and would not necessarily encompass the entire project as defined and analyzed for purposes of CEQA. For example, where impacts to Waters of the U.S. are limited to a portion of a proposed project's site, the environmental analysis under NEPA would likely be limited to the effects of only that portion of the project. The Corps' NEPA analysis is in most cases limited to the effects that are more directly and physically

caused by activities within jurisdictional waters and are essentially products of the Corps permit action as opposed to those effects that are merely generated “but for” the grant of the federal permit (Memorandum for the Director of Civil Works, *National Environmental Policy Act Scope of Analysis in Corps Permitting Action In the Ninth Circuit – A Legal Analysis*, U.S. Army Corps of Engineers, July 9, 2007.)

### **3.1.2.1 NEPA/CEQA MOU**

Where environmental review under NEPA is required, it will, whenever possible, be integrated with environmental review under CEQA. For projects seeking coverage under the LOP Procedure that do not fall within a NEPA categorical exclusion, the Corps will meet NEPA requirements using an integrated NEPA/CEQA process that will be established in a memorandum of understanding among the Corps, the County and the City (MOU). The integrated environmental review process will:

- Tier from the PCCP EIR/EIS;
- Minimize redundancy and inefficiency in the environmental review and ensure expeditious completion of the review;
- Result in more timely decision-making;
- Result in better informed decisions;
- Ensure greater consistency in decisions; and
- Ensure consistency in avoidance, minimization, and mitigation requirements under NEPA, CEQA, Section 404, the federal Endangered Species Act ("ESA") and the state Natural Community and Conservation Planning Act ("NCCPA").

A draft of the MOU will be completed before the PCCP EIR/EIS is distributed for public review. The MOU will include:

- Procedures integrating Section 404 permitting with the issuance of take authorizations under the PCCP
- Procedures integrating NEPA and CEQA review for PCCP covered activities, including a process with checkpoints and agreed upon timeframes that can be used to coordinate the preparation of joint EIS/EIRs, if necessary; and
- Dispute resolution procedures.

## **3.2 Coverage under the CARP PGP**

The Corps can transfer the authority to issue Section 404 permits to other permitting authorities (OPAs) by issuing a general permit to the OPAs. Though it was not finalized, the Corps' Proposed Regulatory Guidance Letter on Programmatic General Permits (Federal Register 61(82):18575-18578, April 26, 1996) provides a useful overview of Section 404 general permits. The Permittees will apply for a programmatic general permit based on the CARP (the CARP PGP). The CARP PGP will be implemented in part through wetland protection ordinances adopted by the County and the City. The wetland protection ordinances will set forth the terms and conditions under which the County and City will extend coverage under the CARP PGP for impacts to Waters of the

County (which includes Waters of the U.S.) from private projects (CARP Permits) using two permit categories based on the scale of impacts to waters of Placer County.

### **3.2.1 Category Summary**

The CARP provides two permit categories for impacts to aquatic resources from projects and activities eligible for coverage under the CARP PGP. The categories are defined in part by thresholds discussed in the following sections. Those categories are as follows:

**Category 1 – Projects with small aquatic resource impacts only; not a PCCP covered activity requiring no wetland delineation.**

**Category 2 – Projects with small aquatic resource impacts only; not a PCCP covered activity requiring wetland delineation.**

**Category 3 – Projects with more than small impacts; a PCCP covered activity requiring wetland delineation.**

To be eligible for coverage under the CARP PGP, a project must fall within the identified Category thresholds, must meet agency permitting standards, and be a single and complete project. All applications must be deemed complete before the timing for permit is started.

### **3.2.2 Category 1 Permits**

Category 1 permits are for relatively minor impacts for activities that are discretionary pursuant to local wetland regulatory ordinances. This category cannot be used for activities that would affect threatened or endangered species or cultural resources.

Category 1 permits are primarily for projects having minor impacts to specific waters of the County. If the project falls under the thresholds, the County will issue a Category 1 permit. Mitigation for impacts to these wetland types is usually better done off-site as part of a larger mitigation program.

#### **3.2.2.1 Category 1 thresholds**

- Less than 4,300 square feet of aquatic resource impacts.
- Less than 40 linear feet of stream zone impact (intermittent or ephemeral).

#### **3.2.2.2 Category 1 time frames**

Wetland delineations may not be required for this permit category if the County biologist determines they are unnecessary. The County will review existing GIS information, including topographic maps and aerial photographs, and will charge a processing fee for Category 1 permits if information review or site visits are required.

To obtain a Category 1 permit, applicants will need to review the CARP application package and determine whether they have aquatic resources on their property. If aquatic resources are present, applicants will need to show the location, size, and potential impacts on project maps. If the proposed project meets the thresholds described, the Permittees will issue a Category 1 permit for the project. SPRTA and PCWA will implement all requirements according the Category 1 requirements.

If project impacts fall below the thresholds given, and affect only aquatic resources approved for this category, the County will issue a permit within 10 days of the completed analysis.

### **3.2.2.3 Category 1 mitigation**

See Section 5.

### **3.2.2.4 Category 1 fees:**

Fees are based on the fee schedule in effect at the time the permit is issued.

## **3.2.3 Category 2 Permits**

Category 2 permits are for relatively minor impacts for activities that are discretionary pursuant to local wetland regulatory ordinances. This category cannot be used for activities that would affect threatened or endangered species or cultural resources.

Category 2 permits are primarily for projects having minor impacts to specific waters of the County. If the project falls under the thresholds, the County will issue a Category 1 permit. Mitigation for impacts to these wetland types is usually better done off-site as part of a larger mitigation program.

### **3.2.3.1 Category 2 thresholds**

- More than 4,300 square feet and less than 43,000 square feet of aquatic resource impacts.
- Less than 41 to 100 linear feet of stream zone impact.

### **3.2.3.2 Category 2 time frames**

Wetland delineations are required for this permit category. The County will review existing GIS information, including topographic maps and aerial photographs, and will charge a processing fee for Category 2 permits if information review or site visits are required.

To obtain a Category 2 permit, applicants will need to review the CARP application package and determine whether they have aquatic resources on their property. If aquatic resources are present, applicants will need to show the location, size, and potential impacts on project maps. If the proposed project meets the thresholds described, the Permittees will issue a Category 2 permit for the project. SPRTA and PCWA will implement all requirements according to the Category 2 requirements.

If project impacts fall below the thresholds given, and affect only aquatic resources approved for this category, the County will issue a permit within 10 days of the completed analysis.

### **3.2.3.3 Category 2 mitigation**

See Section 5.

### **3.2.3.4 Category 2 fees:**

Fees are based on the fee schedule in effect at the time the permit is issued.

### **3.2.4 Category 3 Permits**

Category 3 permits are for projects that exceed Category 2 thresholds or that have impacts to threatened and endangered species. Category 3 permits will be subject to the PCCP conservation measures for threatened or endangered species.

#### **3.2.4.1 Category 3 thresholds**

- Up to XX acres of aquatic resource impacts
- Greater than 100 linear feet up to 250 linear feet of stream zone impacts
- Will have impacts to threatened or endangered species

#### **3.2.4.2 Category 3 time frames**

Wetland delineations are required and must meet the minimum standards set by the County. All delineations will be submitted to the County for review and will be sent to the Corps for verification once they are approved by the County. Wetland delineations will be verified within 60 days of its submission to the County. (NOTE: The County is currently working with the Corps to develop delineation guidelines that have been complicated by recent Supreme Court decisions.)

The time frames for Category 3 permits are dependent, in part, on the extent of other environmental impacts and the type of CEQA document that will be required for the project.

#### **3.2.4.3 Category 3 mitigation**

See Section 5.

#### **3.2.4.4 Category 3 fees**

Fees are based on the fee schedule in effect at the time the permit is issued.

### **3.2.5 Environmental Review**

Projects eligible for coverage under the CARP PGP under Category 1 will usually fall within a CEQA Categorical Exemption. All other permit categories will likely require some form of environmental review under CEQA, and the extent of that review will depend, in part, on the extent of impacts to the environment other than aquatic resources. The CARP permitting process and the CEQA environmental review are separate but parallel processes, so that CARP permits can be issued when the CEQA process is completed, either at the program or project-specific level. Where environmental review under CEQA or NEPA has been completed for a project before the PGP is issued, the PGP permitting process would have to be conducted separately.

## 4.0 CARP APPLICATION

The preparation of the CARP application is in progress, and will be integrated with the existing EIAQ and PCCP permit applications. When completed, the CARP application will require of applicants the same information currently required by 404, 401, and 1602 applications. It will require documents to support the types of resources present and potential impacts to those resources. For example, it will require a Biological Resources Assessment to document biological resources, and this document may be amended, if covered species are present, to comply with PCCP requirements. Wetland delineations will be required and must comply with current Corps delineation protocols and must use standardized names described in the CARP. The complete CARP application will also require a cultural report meeting Corps standards for Section 106 consultations. The permittee will determine whether the CARP application is complete, and, if it is not, will return it to the applicant with a description of what is needed to make it complete.

Timeframes for processing CARP permits will not begin until the permittee deems the application complete. For the LOP process, the application package will not be submitted to the Corps until the permittee deems it complete.

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## 5.0 MITIGATION

Impacts to Aquatic Resources can be mitigated by avoiding (and preserving), minimizing, and/or compensating for impacts to these resources. Chapter 6 of the PCCP discusses methods of reducing impacts to covered resources, including aquatic resources.

Impact mitigation will depend on the size of the impact, the habitat impacted, and whether PCCP covered species are present. The permittees will be able to use several forms of compensation, including:

- The County in-lieu fee program,
- Approved mitigation banks,
- Approved land dedication,

### 5.1 PCCP In-Lieu Fee Program

The PCCP will include an in-lieu fee program to provide compensatory mitigation for impacts to Waters of the County that meets Corps' regulatory requirements for in-lieu fee programs. (40 CFR §§230.91-230.98.) The PCCP in-lieu fee program for impacts to Waters of the County will be integrated with the PCCP's fee-based mitigation program for impacts to covered species. Like the fee-based mitigation program for covered species, the in-lieu fee program for impacts to Waters of the County will be implemented by the Placer Conservation Authority and will adhere to the requirements of the PCCP.

Under the in-lieu fee program PCCP covered activities that receive Section 404 authorization under the CARP (the CARP PGP or the LOP Procedure) will generally be able to pay a fee to fulfill some or all compensatory mitigation requirements for impacts to Waters of the County.

# PCCP/CARP Permitting Process for Private Projects



