

Appendix 5. Permits needed to conduct artificial breaching of bar-built estuaries in California

Agency/Entity	Permit	Description
Federal		
U.S. Army Corps of Engineers	Permit under Clean Water Act Section 404 and Rivers and Harbors Act Section 10	WA Section 404 permits are needed for anticipated discharge of dredged or fill material into waters of the U.S., including wetlands (e.g., filling, grading, mechanized land clearing, ditching, other excavation activity, and piling installation, etc.). RHA Section 10 permits are needed for the placement/removal of structures, work involving dredging, disposal of dredged material, filling, excavation, or any other disturbance of soils/sediments or modification of a navigable waterway of the U.S. An emergency permit can occur if criteria are met. Must comply with National Environmental Policy Act (NEPA).
NOAA-National Marine Fisheries Service	<ul style="list-style-type: none"> Endangered Species Act (ESA) consultation Magnuson-Stevens Fishery Conservation and Management Act (MSA) Essential Fish Habitat (EFH) consultation 	<ul style="list-style-type: none"> The Army Corps, under the Endangered Species Act, must consult with NMFS on any project that may affect NMFS-listed species or critical habitat. In short, if NMFS determines that take of listed species may occur, then an Incidental Take Statement in a Biological Opinion is issued with terms and conditions to minimize take. If a project may affect EFH (estuaries, eelgrass beds, kelp forests, etc.), then under the MSA, federal agencies must consult with NMFS. If NMFS determines that EFH would be adversely affected, then NMFS must provide conservation recommendations to avoid or minimize adverse effects.
U.S. Fish and Wildlife Service	Endangered Species Act (ESA) consultation	The Army Corps, under the Endangered Species Act, must consult with USFWS on any project that may affect USFWS-listed species or critical habitat. In short, if USFWS determines that take of listed species may occur, then an Incidental Take Statement in a Biological Opinion is issued with terms and conditions to minimize take.
National Marine Sanctuaries	National Marine Sanctuary permit	Permit is required if project/person discharges, deposits, drills, alters, etc. into or from the waters and/or submerged lands within sanctuary boundaries. Sanctuary boundaries do not extend higher than mean high tide line.
State		
Regional Water Quality Control Boards	401 Certification to the Corps Permit	Regulates discharge of fill and dredged material under the Clean Water Act Section 401 and the Porter-Cologne Water Quality Control Act. The Corps 404 permit is certified or denied by the Regional Boards. Must comply with California Environmental Quality Act (CEQA).
California Coastal Commission	Coastal Development Permit (CDP)	Generally, any “development” activity in the Coastal Zone requires a Coastal Development Permit from the Coastal Commission. An Emergency CDP can be issued if emergency criteria are met, and the

		applicant must obtain a follow-up CDP post-emergency. Must comply with CEQA.
California Department of Fish and Wildlife	Lake or Streambed Alteration Agreement	If a project may substantially adversely affect fish and wildlife resources, Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. CDFW may suggest ways to modify the project that would eliminate or reduce harmful impacts. Before issuing an LSA Agreement, CDFW must comply with the California Environmental Quality Act (CEQA).
California State Parks	Right-of-way	If CA State Parks property, then the local agency that is conducting the activity (typically City or County) must apply to State Parks for right-of-way access.
State Lands Commission	lease	Lease needed if SLC owns tidelands. Must comply with CEQA.