

**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT (RGP) NUMBER 60
FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

NUMBER: RGP 60 (SPK-1997-00652)

ISSUED BY: U.S. Army Engineer District, Sacramento, Corps of Engineers, 1325 "J" Street, Sacramento, California 95814-2922

EXPIRATION: December 31, 2014

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.

After you receive written verification for your project under this RGP from this office, you are authorized to perform that work in accordance with the terms and conditions and any project-specific conditions specified below.

DESCRIPTION: This permit would allow the general public, including public agencies to conduct work in waters of the United States associated with activities necessary to repair or protect existing structures, facilities or fills where an imminent threat to life or property exists due to unforeseen events during an emergency situation. This RGP authorizes discharges of dredged or fill material and/or work or structures in waters of the United States, including wetlands, for necessary repair and protection measures associated with an emergency situation. An "emergency situation" is where there is a 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 (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).

LOCATION: Within those parts of the State of California within the boundaries of the Sacramento District Regulatory Branch, the State of Utah, and the State of Nevada.

PERMIT CONDITIONS:

1. Time Limit: The time limit for completing work authorized under this RGP is within 6 months of starting the work in accordance with condition 7 below.

2. Notification: You must notify the office identified on the attached list, in writing and as early as possible, and shall not begin the activity until notified by this office that the activity may proceed under the authority of this RGP. You should also simultaneously notify the appropriate agency identified in condition 3 below.

a. Contents of Notification: Your notification must include the following information:

- (1) The name, address, telephone number (and e-mail address, if available) of the applicant and any designated agent, including contractors; and
- (2) The location of the proposed project. This should include identification of the affected water(s) and the latitude and longitude of the site. The project boundaries should be depicted on a copy of a U.S. Geologic Survey [USGS] topographic map, or other location map with sufficient detail to clearly identify the exact location and extent of the project. Detailed directions to the project site should also be provided; and
- (3) A description of the nature of the imminent threat to life or property, and the proposed project's purpose and need; and
- (4) A description of the work proposed to rectify the situation. This should include scaled drawings with plans and sections with approximate existing and proposed contours, showing the project area and approximate acreage and/or linear feet of potential disturbance to waters relative to the ordinary high water line and/or limit of wetlands; and other construction details, including type and quantity of materials and equipment proposed to be used for the project and the approximate amount of time to complete the work.

(5) A description of existing conditions at the project site. This should include anticipated environmental impacts resulting from the proposed work, including the type and extent of vegetation and/or habitat which would be disturbed or lost due to the project, and photographs showing pre-project site conditions.

(6) A description of any mitigation (avoidance, minimization and/or compensation) proposed to offset impacts to waters of the United States, and associated habitat.

(7) Identification of any federally listed or proposed species or designated or proposed critical habitat which may be affected by or which is in the vicinity of the project. Non-federal permittees shall not begin work on the activity until notified by this office that the requirements of the Endangered Species Act (ESA) have been satisfied and the activity is authorized. You should contact this office and/or personnel at the ESA agencies listed below, including FWS and/or NMFS, concerning the potential presence of listed or proposed species, or designated or proposed critical habitat, in the project area. You should provide the name and other pertinent information for ESA personnel you contacted to this office. If the project may affect Federally listed or proposed endangered species or designated or proposed critical habitat, you should include a list of measures which would be taken to minimize harm to the species and/or habitat.

Note: If you are proposing to undertake a number of separate projects at different sites, you may optionally submit a comprehensive notification providing all of the above information for each of the separate sites.

b. Form of Notification: The standard Application for Department of the Army Permit form (ENG 4345) available in "Regulatory Permits" on our District's Website at www.spk.usace.army.mil, or a letter (including e-mail) may be used for notification, provided all of the information required in Special Condition 2.a. above is included.

3. Agency Coordination: Upon receipt of a notification, this office will immediately provide, by facsimile, e-mail, delivery, overnight mail or other expeditious manner, a copy of the notification package to the appropriate offices of the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS), the California Department of Fish and Game (CDFG) and/or the Nevada Department of Wildlife, the California State Water Resources Control Board (SWRCB) and the appropriate Regional Water Quality Control Board (RWQCB) and/or the Nevada Division of Environmental Protection (NDEP) and the Nevada Division of State Lands (NDSL), State of Utah Department of Environmental Quality (UDWQ), Utah Division of Water Resources, Utah Division of Wildlife Resources, and the appropriate State Historic Preservation Office (SHPO), as appropriate. These agencies will be requested to telephone, e-mail or facsimile this office, as expeditiously as possible, a response indicating whether or not they intend to provide substantive, site-specific comments regarding the proposed project, and if so, when the comments will be provided. If notified that comments will be provided by an agency, we will allow a short time frame, determined by this office on a case-by-case basis considering the nature of the emergency, to provide their comments before making a decision on the proposed project.

We will fully consider comments from Federal or State agencies, received within the specified time frame, concerning the proposed activity's compliance with the conditions of their authority and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. We will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by e-mail, facsimile, telephone or other expeditious means.

4. Mitigation: You must avoid and minimize discharges of dredged or fill material into Waters of the United States to the maximum extent practicable. Staging and temporary and long-term material disposal areas must be located outside of waters of the U.S., including ephemeral and intermittent drainages and wetlands and other special aquatic sites, and associated riparian and floodplain zones, to the maximum extent practicable.

Compensation for unavoidable, adverse project impacts may be required as a condition of authorization by this office. Required compensatory mitigation should be on site or within the same watershed and state.

We will consider the functions of the aquatic resource (e.g., habitat functions, aquifer recharge, sediment conveyance or retention, flood storage, beneficial uses), the permanence of the project's impacts on the resource, and the potential long-term effects of the action on remaining functions of the impacted aquatic resource, when determining the acceptability of appropriate and practicable mitigation. To be practicable, the mitigation must be available and capable of being done

considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to, reducing the size of the project, establishing wetland or upland buffer zones to protect aquatic resources, replacing lost aquatic resource functions by creating, restoring, or enhancing similar resources to offset adverse project impacts. In certain cases, you may consider purchases of mitigation bank credits, contributions to wetland trust funds, or in-lieu fees to organizations such as State, County or other governmental or non-governmental natural resource management organizations, where they would contribute to the restoration, creation, replacement, enhancement, or preservation of similar aquatic resources. To advance the national goal of no net loss of aquatic resources, replacement ratios should equal or exceed 1:1.

5. District Engineer's Decision: In reviewing the notification for the proposed activity, this office will determine whether the activity will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. The applicant may submit a proposed mitigation plan with the notification to expedite the process. This office will consider any mitigation the applicant has included in determining whether the net adverse environmental effects for the proposed work are minimal. In certain circumstances you may be required to develop and implement a final mitigation plan after the project is under way or completed.

If we determine the activity complies with the terms and conditions of this RGP and the adverse individual and cumulative effects are minimal, we will notify you of this determination and include any additional situation-specific conditions deemed necessary. If we determine the adverse effects of the proposed work are more than minimal, we will notify you the project does not qualify for authorization under this RGP and instruct you on the procedures to seek authorization under an individual permit or other general permit. In some cases we may verify the project is authorized under this RGP subject to you submitting a mitigation proposal that would reduce the adverse effects to a minimal level prior to any work in waters.

6. Minimal Impacts: Work authorized by this RGP must be the minimum necessary to alleviate the emergency and is generally limited to repair, rehabilitation or replacement of pre-existing structures or fills. The RGP may not be used to upgrade existing structures or fills or for any work which would have more than minimal adverse effects on the aquatic environment. Separate authorization may be required for those projects.

7. Start Work Date: You must initiate any project authorized under this RGP within seven (7) days of receiving authorization to proceed from this office. If the repair or rehabilitation work can be delayed beyond this immediate time frame, the situation may not be an emergency. If the project start time can be delayed for more than a week, the imminent threat is likely to have diminished in magnitude as well as immediacy. Further, this RGP does not authorize long-planned-for projects, or previously contemplated projects for which a prior application was not submitted in a timely manner. An applicant's failure to plan and obtain prior authorization for work which would have alleviated the emergency does not obligate this office to authorize work under this RGP.

8. Site Access: You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.

9. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

10. Water Quality Certification: If a conditioned Section 401 Water Quality Certification (WQC) has been issued or waived 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.

For California permittees on non-tribal land: The State Water Resources Control Board issued the attached WQC for this RGP on December 30, 2009.

For Utah permittees on non-tribal land: The Utah Department of Environmental Quality issued the attached WQC for this RGP on December 31, 2009.

For Nevada permittees on non-tribal Land: Unless the Nevada Department of Environmental Protection (NDEP) has issued or waived WQC for this RGP, applicant will be required to obtain individual WQC for any project within the State of Nevada.

For permittees on certain tribal lands in EPA Region IIX: Unless EPA Region IIX has issued or waived WQC

applicants will be required to obtain individual WQC for any project occurring on Tribal Lands within Utah.

For permittees on certain tribal lands in EPA Region IX: The EPA Region IX issued the attached waiver for this RGP and emergency work conducted under particular Nationwide Permits on December 10, 2009.

For permittees on certain tribal lands in EPA Region IX: The EPA Region IX issued the attached waiver for this RGP and emergency work conducted under particular Nationwide Permits on December 10, 2009.

11. Endangered Species: No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat as identified under the Federal Endangered Species Act (ESA). Authorization of an activity by the RGP does NOT authorize the "take" of a listed threatened or endangered species, as defined under the Federal ESA.

You shall notify this office if any listed or proposed species or designated or proposed critical habitat may be affected by or is in the vicinity of the project. You shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and the activity is authorized. You should contact this office and/or personnel at FWS and/or NMFS concerning the potential presence of listed or proposed species, or designated or proposed critical habitat, in the project area. In some cases the FWS and NMFS may be able to make a priori determinations that listed species are not present. Information on the location of listed or proposed threatened or endangered species and their designated or proposed critical habitat can be obtained directly from the FWS or NMFS or from their websites at: USFWS – <http://endangered.fws.gov/> and/or NMFS – http://www.nmfs.noaa.gov/prot_res/overview/es.html. In some circumstances programmatic biological opinions and incidental take statements may be applicable and use of this RGP is then subject to the permittee complying with all terms and conditions of those documents. Information on the presence of listed or proposed species at a specific project site may not be available. In such cases, the nature of the emergency may prevent an applicant from conducting the surveys necessary to make a reasonable determination. If suitable habitat occurs on the project site, the applicant may assume federally listed species or critical habitat are present and request the emergency provisions of Section 7 of the ESA be implemented.

12. Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act: Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. An activity authorized under this RGP does not authorize the 'take' of a migratory bird, including bald and golden eagles, as defined under the Federal Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act.

13. Historic Properties: No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized until the requirements of the National Historic Preservation Act have been satisfied. You must notify this office if the work may affect any potentially eligible historic properties and shall not begin work until notified by this office the requirements of the National Historic Preservation Act have been satisfied. Information on cultural resources may be obtained from the State Historic Preservation Offices, State Information centers and the national Register of Historic Places. Impacts to such resources must be avoided to the maximum extent practicable. If such resources are impacted because of actions related to work in waters of the United States, you shall provide a full report of the action and the impacts incurred by the resource to this office within 45 days of initiating work in waters of the United States for the action. The Corps, the SHPO and/or the Advisory Council for Historic Preservation will then jointly make a determination as to appropriate procedures and/or mitigation to be addressed. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify the Corps Regulatory Branch who 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.

14. Erosion and Siltation Controls: Every effort must be made to ensure any dredged or excavated material is not likely to be washed into any Waters of the United States, including wetlands. Appropriate erosion and siltation controls, such as sedimentation basins, and/or "certified weed free" straw bales, siltation or turbidity curtains, or other means designed to minimize turbidity in the watercourse, shall be used and maintained in effective operating condition during construction. All exposed soil and other fills, as well as any work below the ordinary high water mark or mean high tide line, must be stabilized at the earliest possible time to preclude additional damage to the project area through erosion or siltation.

15. Bank Stabilization: Any stream banks affected by the work must be stabilized and planted with appropriate native riparian vegetation, in similar densities to adjacent undisturbed streambanks, concurrently with project completion, to protect against subsequent erosion and minimize adverse effects on fish and wildlife habitat resources. Riprap may not be used as

stabilization unless you have demonstrated vegetative or bioengineering erosion control measures are not practicable. Project design and construction must allow for subsequent establishment of native riparian vegetation in any riprap areas (i.e., vegetated riprap).

16. Equipment: When feasible, heavy equipment working in wetlands must be thoroughly cleaned, free of leaks and placed on mats. The permittee must implement any other appropriate and practicable measures to minimize adverse impacts, such as compaction and vegetation disturbance, in wetlands and to minimize discharges of pollutants and soil disturbance in waters. These measures include the use of wide-treaded equipment or floatation devices.

17. Suitable Material: Only clean, non-erodible material which is free from toxic pollutants may be in waters of the United States, including wetlands. (See Section 307 of the Clean Water Act). Examples of unsuitable material, include: trash; contaminated soils, or other material pollutants; tires; vehicle bodies; farm machinery; metal junk, including barrels; appliances; wire; asphalt; biodegradable building materials (including wood debris, sheet rock and roofing); material with exposed pipe or rebar; chemically treated materials subject to leaching in an aquatic environment; or other deleterious materials. Clean broken concrete may be allowed on a case-by-case basis, provided it is free of exposed rebar and asphalt, and only where immediate stabilization is needed and natural materials are not available. Individual pieces of broken concrete must be no more than 3-feet wide and placed in a manner which will preclude them from being carried away by potential flows. Concrete may need to be removed once the emergency is alleviated. Locally native trees, tree tops, tree roots or rocks are permissible, provided they are properly anchored.

18. Wild and Scenic Rivers: No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while that river is in an official study status, unless the appropriate Federal agency with direct management responsibility for that river has determined in writing that the proposed activity would not adversely effect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., FWS, National Park Service, U.S. Forest Service, Bureau of Land Management).

19. Aquatic Life Movements: No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts may only be used if they are essential to the success of the emergency project. Culverts should be installed only on a temporary basis and must not impede expected water flows. Culverts and other temporary fills must be removed and the affected stream reach restored to pre-project conditions, using best management practices and locally native vegetation, immediately once the emergency has subsided.

20. Shellfish Production: No discharge of dredged or fill material may occur in areas of concentrated natural or commercial shellfish production, unless the discharge is directly related to a shellfish harvesting activity which has otherwise been authorized.

21. Spawning Areas: Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

22. Waterfowl Breeding Areas: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

23. Navigation: No activity may cause more than a minimal adverse effect on the course or capacity of a navigable water. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expenses to the United States. No claim shall be made against the United States on account of any such removal or alteration.

24. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

25. Obstruction of High Flows: The project must not permanently restrict or impede the passage of normal or expected high flows in the watercourse.

26. Adverse Effects from Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

27. Proper Maintenance: Any structure or fill authorized by this RGP shall be properly maintained, including maintenance to ensure public safety, unless it would contribute to other adverse conditions to private or public property. In such situations, corrective measures must be taken to rectify these adverse conditions. Such measures may include removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination with you and the appropriate Federal and State agencies.

28. Removal of Temporary Fills: All temporary structures, work and fills, including cofferdams, shall be removed in their entirety immediately after the emergency situation is alleviated. Any areas affected by temporary construction, dewatering and access work, including staging areas, must be returned to their pre-existing elevations and revegetated with appropriate native riparian or wetland vegetation common to the area, upon completion of the authorized work

29. Post-project reports: You must provide a written report to this office, to this office and the appropriate agencies listed in condition 3, as soon as practicable, and no later than 45 days of completing any activities under this RGP. Failure to provide a timely report following completion of the work may be considered a violation (33 CFR Part 326.4(d)) and subject to appropriate enforcement actions. The report must include the following:

- (a) The name, address, telephone number (and/or e-mail address) of the applicant, and any designated agent; and
- (b) The location of the proposed project, including identification of the affected water(s) and the latitude and longitude of the site. The project boundaries must be depicted on a copy of a U.S. Geologic Survey [USGS] topographic map, or other location map with sufficient detail to clearly identify the exact location and extent of the project. Detailed directions to the project site must also be provided; and
- (c) The purpose and need to retain any of the discharges, structures or other work completed in response to the emergency; and
- (d) A description of work completed, including scaled drawings with plan and cross sections, showing the project area and acreage and/or linear feet of water(s) impacted, construction details, including current contours relative to the ordinary high water line and/or limit of wetlands; quantities (in cubic yards) and types of materials used; and
- (e) A description of conditions at the project site, including photographs showing pre- and post-project site conditions, environmental impacts resulting from the work, including the type and extent of vegetation and/or habitat disturbed or lost and any mitigation proposed to offset those impacts. This must include the name, type (e.g., river, streambed, lake, reservoir, riparian area, seasonal wetland, etc.) and description of all temporary and permanent adverse impact(s) in acres and/or linear feet, compensatory mitigation in acres/cubic yards/linear feet, and any other mitigation (avoidance or minimization) implemented in project completion.
- (f) Information on the project's effects on federally listed or proposed endangered species or designated or proposed critical habitat. Where the work may affect has the (notification must be provided to FWS and/or NMFS as appropriate) including temporary/permanent adverse impacts, mitigation measures used to minimize impacts and any compensatory mitigation to minimize harm to the species and/or habitat and provide a copy of the report to the FWS and/or NMFS, as appropriate. If mitigation was determined to be appropriate for a specific project or group of projects, a mitigation proposal must be submitted to this office for review and approval. We will forward the report to the appropriate agencies for their review and comment.

****Note:** If you undertook a number of separate projects at separate sites, you may optionally submit a comprehensive report providing all of the above information for each of the sites.

30. Maintenance: 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 Condition 31 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.

31. Transfer: If you sell the property associated with this permit, you must obtain the signature of the new owner on written documentation which includes their name, address and telephone number and confirmation they understand and will abide by all conditions of this permit, and any case-specific special conditions of verification, and forward a copy of that documentation to this office to validate transfer of this authorization.

FURTHER INFORMATION:

1. Congressional Authorities: Activities conducted under this RGP are authorized pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and/or Section 404 of the Clean Water Act (33 U.S.C. 1344).

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 projects.

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.

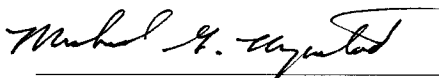
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation: This office may reevaluate its decision on this permit, or on the verification that any particular activity qualifies for this RGP, at any time 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 proves to have been false, incomplete, or inaccurate.
- 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.

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



For Michael S. Jewell, Chief,
Sacramento District Regulatory Division
(For the District Engineer)

31 Dec 2009
Date

Attachment(s):

Regulatory Office Contact list

Water Quality Certifications

Where to send Notification for RGP 60 projects:

- 1. For Alameda, Contra Costa, Sacramento, Yolo and San Joaquin County:** Chief, California Delta Branch, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-5250; fax (916) 557-6877.
- 2. For Alpine, Amador, Calaveras, El Dorado, Fresno, Kern, Kings, Madera, Mariposa, Merced, Mono, Stanislaus, Tulare and Tuolumne Counties to:** Chief, California South Branch, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-7772; fax (916) 557-5250.
- 3. For Butte, Colusa, Glenn, Nevada, Placer, Sierra, Lake and Yuba Counties to:** Chief, California North Branch, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-5250; fax (916) 557-6877.
- 5. For Lassen, Modoc, Plumas, Shasta and Tehama Counties to:** Chief, Redding Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 152 Hartnell Avenue, Redding, California 96002-1842; e-mail *regulatory-info@usace.army.mil*; (530) 223-9534; fax (530) 223-9539.
- 6. For the State of Nevada, except Nye and Lincoln Counties, to:** Chief, Reno Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, C. Clifton Young Federal Building, 300 Booth Street, Room 2103, Reno, Nevada 89509-8126; e-mail *regulatory-info@usace.army.mil*; (775) 784-5304; fax (775) 784-5306.
- 7. For Nye and Lincoln Counties in Nevada to:** Chief, St. George Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 321 North Mall Drive, Suite L-101, St. George, Utah 84790-7310; e-mail *regulatory-info@usace.army.mil*; (435) 986-3979; fax (435) 986-3981.
- 8. For State of Utah except Daggett, Garfield, Grand, Iron, Kane, San Juan, Unitah and Washington Counties:** Chief, Utah Regulatory Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 533 West 2600 South, Suite 150, Bountiful, Utah 84010-7744. e-mail *regulatory-info@usace.army.mil* Telephone (801) 295-8380. fax: 801-295-8842.
- 9. For Daggett, Grand and Unitah counties in Utah:** Chief, Colorado West Regulatory Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 400 Rood Avenue, Room 142, Grand Junction, Colorado 81501-2563. e-mail *regulatory-info@usace.army.mil* (970)243-1199. fax (970) 241-2358.
- 10. For San Juan County, in Utah:** Chief, Durango Regulatory Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 799 East 3rd Street, Unit 2, Durango, Colorado 81301-5793. e-mail *regulatory-info@usace.army.mil* Telephone: (970) 375-9452. fax (970) 375-9531.
- 11. For Garfield, Iron, Kane and Washington counties in Utah:** Chief, St. George Regulatory Field Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 321 North Mall Drive, Suite L-101, St. George, Utah 84790-7310. e-mail *regulatory-info@usace.army.mil* Telephone: 435-986-1961/3979. FAX: 435-986-3981.

For application forms and other information concerning the Corps' Regulatory program and the Sacramento District visit our website: www.spk.usace.army.mil/regulatory.html



Linda S. Adams
*Secretary for
Environmental Protection*

State Water Resources Control Board

Executive Office

Charles R. Hoppin, Chairman
1001 I Street • Sacramento, California 95814 • (916) 341-5603
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

DEC 3 0 2009

Mr. Michael Jewell, Chief
Regulatory Branch
Sacramento District
U. S. Army Corps of Engineers
1325 J. Street
Sacramento, CA 95814

Dear Mr. Jewell

**CLEAN WATER ACT (CWA) SECTION 401 WATER QUALITY CERTIFICATION FOR
REGIONAL GENERAL PERMIT 60 (RGP 60) FOR REPAIR AND PROTECTION ACTIVITIES
IN EMERGENCY SITUATIONS (CORPS FILE # 199700652, SWRCB FILE # SB09012GN)**

On December 1, 2009, the United States Army Corps of Engineers (USACE) requested that the State Water Resources Control Board (State Water Board) issue a CWA Section 401 Water Quality Certification (Certification) for RGP 60 for "Repair and Protection Activities in Emergency Situations. State Water Board staff reviewed the information submitted by USACE describing the project activities and the proposed water quality protection measures.

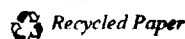
The State Water Board is responsible for permitting projects that extend into more than one Regional Water Quality Control Board. Consultations regarding the RGP 60 and this Certification were conducted with the Lahontan Regional Water Quality Control Board, Central Valley Regional Water Quality Control Board, and U.S. Army Corps of Engineers. This Certification will allow the Sacramento District (District) of the USACE to issue RGP 60 permits without separate Section 401 certifications for each project as long as those projects meet the conditions of RGP 60 and this Certification.

Pursuant to Title 23, section 3838 of the California Code of Regulations, hereby make the Certification determination described in Enclosure 1 for these projects.

The following additional information is part of this Certification:

Enclosure 1: Regional General Permit 60 Certification;
Attachment A: Applicant's Project Description
Attachment B: Project Information Sheet
Attachment C: 48-hour Notification Form
Attachment D: Final Report Form
Attachment E: Signatory Requirements

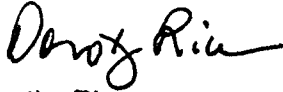
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DEC 30 2009

If you require further assistance, please contact Catherine Woody, the staff person most knowledgeable on the subject, at (916) 341-5785 (CWoody@waterboards.ca.gov). You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (borme@waterboards.ca.gov).

Sincerely,



Dorothy Rice
Executive Director

Enclosure 1: Certification Order
Attachments: (5)

cc: Ms. Angela L.D. Conn
Regulatory Branch
Sacramento District
U. S. Army Corps of Engineers
1325 J. Street
Sacramento, CA 95814

Mr. Dave Smith, Chief
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Ms. Pamela C. Creedon, Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Mr. Harold J. Singer, Executive Officer
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd
South Lake Tahoe, CA 96150

Dr. Jeffrey R. Single, Regional Manager
California Department of Fish and Game
Central Region
1234 E. Shaw Ave.
Fresno, CA 93710

cc: (See next page)

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cc: (Continuation page):

cc: Mr. Kent Smith, Regional Manager
California Department of Fish and Game
1701 Nimbus Road
Rancho Cordova, CA 95670

Mr. Gary Stacey, Regional Manager
California Department of Fish and Game
Northern Region
601 Locust Street
Redding, CA 96001

Ms. Michelle Tovar
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W2605
Sacramento, CA 95825-1846

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Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Executive Office

Charles R. Hoppin, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

**ACTION ON REQUEST FOR CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION FOR REGIONAL GENERAL PERMIT 60 FOR REPAIR
AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS
FILE NO. SB09012GN**

PROJECT: Regional General Permit 60 (RGP 60) for Repair and Protection Activities in
Emergency Situations (Corps File No. 199700652)

APPLICANT: Mr. Michael Jewell, Chief
Regulatory Branch
Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814

This Order responds to your request for Water Quality Certification for the subject project. This certification is intended to streamline the approval process for dredge and fill activities necessary to prevent an emergency.

ACTION

- | | |
|---|---|
| <input type="checkbox"/> Order for Standard Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |

STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations.
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, Title 23 of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

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3. This Certification is conditioned upon total payment of any fee required under Chapter 28, Title 23 of the California Code of Regulations and owed by the applicant.

ADDITIONAL CONDITIONS

1. Emergency Definition

This Certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) definition of an "emergency," which is defined as follows:

A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage.

[Public Resources Code, § 21060.3 (emphasis added).]

Projects must meet the above definition of "emergency" and demonstrate an imminent threat to qualify for this water quality certification. For non-emergency projects, the applicant must contact either the State Water Resources Control Board (State Water Board) or the applicable Regional Water Quality Control Board (Regional Water Board) (collectively, Water Boards) to apply for an individual water quality certification.

2. Emergency Exemption Criteria

This Certification is limited to projects that satisfy one or more of the following exemption criteria as defined by the CEQA Guidelines [California Code of Regulations., Title 14, § 15269]:

- a. Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code.
- b. Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.
- c. Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.
- d. Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

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- e. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.

3. Scope and Time Frame

This Certification is limited only to sudden, unexpected emergency situations defined in Additional Conditions 1 and 2 above that: (1) have occurred, or (2) have a high probability of occurring in the short term as a result of recently discovered factors or events not related to known or expected conditions. Additionally, the sudden, unexpected emergency situation must have the potential to result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

Emergency repairs and reconstruction must begin within seven (7) calendar days of receiving authorization to proceed and shall be completed within one year of enrollment pursuant to this water quality certification. There may be limited circumstances in which, after notice to and input by the agencies, logistical considerations necessitate an extension of between 1 and 7 days. All repairs and reconstruction shall be kept to the minimum necessary to alleviate the immediate emergency and limited to in-kind replacement or refurbishment of on-site features. Minor upgrading may be considered if the applicant uses bioremediation or other environmentally sensitive solutions. Permanent restoration work other than that performed as an associated part of the emergency operations, including any minor upgrades, shall not be performed without prior approval and authorization by the Water Boards.

4. Forty-Eight Hour Notification

The prospective permittee must notify the State Water Board and the applicable Regional Water Board at least 48 hours prior to initiating the emergency project, if feasible. Feasibility is to be determined by the State Water Board or the applicable Regional Water Board. This notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in Attachment C.

The Water Boards recognize there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed. If immediate, specific actions, as defined in the California Code of Regulations, Title 14, section 15269(c), are required by an applicant and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the applicant must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the action. As provided above, this notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in Attachment C.

Notification may be via telephone, facsimile, e-mail, delivered written notice, or other verifiable means.

- A staff directory that includes contact information for the State and Regional Water Boards is found at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf
- For State Water Board, fax to (916) 341-5584 (Attn: DWQ 401 Unit), or leave a message at (916) 341-5506 (Regulatory Office).
- For Regional Water Board map boundaries, see
<http://maps.waterboards.ca.gov/webmap/rbbound.html>

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5. Water Quality Standards Maintained

Permitted activities must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Water Quality Control Plan (Basin Plan) by a Regional Water Board or the State Water Board. The Water Boards may impose monitoring requirements in order to ensure that permitted discharges and activities comport with any applicable water quality standards and/or effluent limitations.

6. Other Permits May Be Required

This Certification does not obviate the need to obtain other permits that may be required by federal, state, or local authorities.

7. California Endangered Species Act

Permitted activities shall not result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of such a species unless the activity is authorized by the California Department of Fish and Game pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.

8. Compliance

Failure to comply with any condition of this Certification shall constitute a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Any such certification previously granted shall immediately be revoked, and any or all discharges shall cease. The permittee may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

9. Project Fees

The prospective permittee must provide to the State Water Board a fee for review and processing of the notice (Attachment C) in accordance with California Code of Regulations, Title 23, section 2200 (\$77.00 as of October, 2008; this amount is subject to change) within 48 hours of project initiation. Failure to promptly pay the correct fee amount may result in an inability to be enrolled pursuant to this water quality certification.

10. Final Report

The permittee must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the U.S. Army Corps of Engineers to satisfy the requirements of RGP 60. In addition, the permittee must fill in and submit the form provided in Attachment D. This information must be sent to the following addresses within 45 calendar days of completion of any action conducted under RGP 60:

Bill Orme, Chief
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

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CWA Section 401 WQC Program

(Address of appropriate Regional Water Board, obtained from:

http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf)

Failure to submit Attachment D within 45 calendar days of completion of any action conducted under this water quality certification may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.

STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Catherine Woody at (916) 341-5785 (CWoody@waterboards.ca.gov). You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (borme@waterboards.ca.gov).

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), if all of the conditions listed in this certification action are met. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes this certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description (Attachment A) and the enclosed Project Information Sheet (Attachment B), and (b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan.

Dorothy Rice
Dorothy Rice, Executive Director
State Water Resources Control Board

12.29.09
Date

- Attachments (5):
- A. Applicant's Project Description
 - B. Project Information Sheet
 - C. 48-hour Notification Form
 - D. Final Report Form
 - E. Signatory Requirements

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**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT (RGP) NUMBER 60
FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

NUMBER: RGP 60 (199700652)

ISSUED BY: U.S. Army Engineer District, Sacramento, Corps of Engineers, 1325 "J" Street, Sacramento, California 95814-2922

EXPIRATION: December 31, 2009

PERMITTEE: General public

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.

After you receive written verification for your project under this RGP from this office, you are authorized to perform that work in accordance with the terms and conditions and any project-specific conditions specified below.

DESCRIPTION: This RGP authorizes discharges of dredged or fill material and/or work or structures in waters of the United States, including wetlands, for necessary repair and protection measures associated with an emergency situation. An "emergency situation" is where there is a 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 (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).

LOCATION: Within those parts of the State of California within the boundaries of the Sacramento District Regulatory Branch and the State of Nevada.

PERMIT CONDITIONS:

1. Time Limit: The time limit for completing work authorized under this RGP is within 6 months of starting the work in accordance with condition 7 below.

2. Notification: You must notify the office identified on the attached list, in writing and as early as possible, and shall not begin the activity until notified by this office that the activity may proceed under the authority of this RGP. You should also simultaneously notify the appropriate agency identified in condition 3 below.

a. Contents of Notification: Your notification must include the following information:

(1) The name, address, telephone number (and e-mail address, if available) of the applicant and any designated agent, including contractors; and

(2) The location of the proposed project. This should include identification of the affected water(s) and the latitude and longitude of the site. The project boundaries should be depicted on a copy of a U.S. Geologic Survey [USGS] topographic map, or other location map with sufficient detail to clearly identify the exact location and extent of the project. Detailed directions to the project site should also be provided; and

(3) A description of the nature of the imminent threat to life or property, and the proposed project's purpose and need; and

(4) A description of the work proposed to rectify the situation. This should include scaled drawings with plans and sections with approximate existing and proposed contours, showing the project area and approximate acreage and/or linear feet of potential disturbance to waters relative to the ordinary high water line and/or limit of wetlands; and other construction details, including type and quantity of materials and equipment proposed to be used for the project and the approximate amount of time to complete the work.

(5) A description of existing conditions at the project site. This should include anticipated environmental impacts resulting from the proposed work, including the type and extent of vegetation and/or habitat which would be disturbed or lost due to the project, and photographs showing pre-project site conditions.

(6) A description of any mitigation (avoidance, minimization and/or compensation) proposed to offset impacts to waters of the United States, and associated habitat.

(7) Identification of any federally listed or proposed species or designated or proposed critical habitat which may be affected by or which is in the vicinity of the project. Non-federal permittees shall not begin work on the activity until notified by the this office that the requirements of the Endangered Species Act (ESA) have been satisfied and the activity is authorized. You should contact this office and/or personnel at the ESA agencies listed below, including FWS and/or NMFS, concerning the potential presence of listed or proposed species, or designated or proposed critical habitat, in the project area. You should provide the name and other pertinent information for ESA personnel you contacted to this office. If the project may affect Federally listed or proposed endangered species or designated or proposed critical habitat, you should include a list of measures which would be taken to minimize harm to the species and/or habitat.

Note: If you are proposing to undertake a number of separate projects at different sites, you may optionally submit a comprehensive notification providing all of the above information for each of the separate sites.

b. Form of Notification: The standard Application for Department of the Army Permit form (ENG 4345) available in "Regulatory Permits" on our District's Website at www.spk.usace.army.mil, or a letter (including e-mail) may be used for notification, provided all of the information required in Special Condition 2.a. above is included.

3. Agency Coordination: Upon receipt of a notification, this office will immediately provide, by facsimile, e-mail, delivery, overnight mail or other expeditious manner, a copy of the notification package to the appropriate offices of the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS), the California Department of Fish and Game (CDFG) and/or the Nevada Department of Wildlife, the California State Water Resources Control Board (SWRCB) and the appropriate Regional Water Quality Control Board (RWQCB) and/or the Nevada Division of Environmental Protection (NDEP) and the Nevada Division of State Lands (NDSL), and the appropriate State Historic Preservation Office (SHPO), as appropriate. These agencies will be requested to telephone, e-mail or facsimile this office, as expeditiously as possible, a response indicating whether or not they intend to provide substantive, site-specific comments regarding the proposed project, and if so, when the comments will be provided. If notified that comments will be provided by an agency, we will allow a short time frame, determined by this office on a case-by-case basis considering the nature of the emergency, to provide their comments before making a decision on the proposed project.

We will fully consider comments from Federal or State agencies, received within the specified time frame, concerning the proposed activity's compliance with the conditions of their authority and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. We will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by e-mail, facsimile, telephone or other expeditious means.

4. Mitigation: You must avoid and minimize discharges of dredged or fill material into Waters of the United States to the maximum extent practicable. Staging and temporary and long-term material disposal areas must be located outside of waters of the U.S., including ephemeral and intermittent drainages and wetlands and other special aquatic sites, and associated riparian and floodplain zones, to the maximum extent practicable.

Compensation for unavoidable, adverse project impacts may be required as a condition of authorization by this office. Required compensatory mitigation should be on site or within the same watershed and state.

We will consider the functions and values of the aquatic resource (e.g., habitat value, aquifer recharge, sediment conveyance or retention, flood storage), the permanence of the project's impacts on the resource, and the potential long-term effects of the action on remaining functions and values of the impacted aquatic resource, when determining the acceptability of appropriate and practicable mitigation. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to, reducing the size of the project, establishing wetland or upland buffer zones to protect aquatic resource values, replacing lost aquatic resource functions and values by creating, restoring, or

enhancing similar resources to offset adverse project impacts. In certain cases, you may consider purchases of mitigation bank credits, contributions to wetland trust funds, or in-lieu fees to organizations such as State, County or other governmental or non-governmental natural resource management organizations, where they would contribute to the restoration, creation, replacement, enhancement, or preservation of similar aquatic resources. To advance the national goal of no net loss of aquatic resources, replacement ratios should equal or exceed 1:1.

5. District Engineer's Decision: In reviewing the notification for the proposed activity, this office will determine whether the activity will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. The applicant may submit a proposed mitigation plan with the notification to expedite the process. This office will consider any mitigation the applicant has included in determining whether the net adverse environmental effects for the proposed work are minimal. In certain circumstances you may be required to develop and implement a final mitigation plan after the project is under way or completed.

If we determine the activity complies with the terms and conditions of this RGP and the adverse individual and cumulative effects are minimal, we will notify you of this determination and include any additional situation-specific conditions deemed necessary. If we determine the adverse effects of the proposed work are more than minimal, we will notify you the project does not qualify for authorization under this RGP and instruct you on the procedures to seek authorization under an individual permit or other general permit. In some cases we may verify the project is authorized under this RGP subject to you submitting a mitigation proposal that would reduce the adverse effects to a minimal level prior to any work in waters.

6. Minimal Impacts: Work authorized by this RGP must be the minimum necessary to alleviate the emergency and is generally limited to repair, rehabilitation or replacement of pre-existing structures or fills. The RGP may not be used to upgrade existing structures or fills or for any work which would have more than minimal adverse effects on the aquatic environment. Separate authorization may be required for those projects.

7. Start Work Date: You must initiate any project authorized under this RGP within seven (7) days of receiving authorization to proceed from this office. If the repair or rehabilitation work can be delayed beyond this immediate time frame, the situation may not be an emergency. If the project start time can be delayed for more than a week, the imminent threat is likely to have diminished in magnitude as well as immediacy. Further, this RGP does not authorize long-planned-for projects, or previously contemplated projects for which a prior application was not submitted in a timely manner. An applicant's failure to plan and obtain prior authorization for work which would have alleviated the emergency does not obligate this office to authorize work under this RGP.

8. Site Access: You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.

9. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

10. Water Quality Certification: If a conditioned Section 401 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.

For California permittees on non-tribal land: The SWRCB issued the attached water quality certification for this RGP on March 30, 2004.

For Nevada permittees on non-tribal Land: The NDEP issued the attached water quality certification for the RGP on October 12, 2004.

For permittees on certain tribal lands in EPA Region IX: The EPA issued the attached water quality certification waiver for this RGP and emergency work conducted under particular Nationwide Permits on October 19, 2004.

11. Endangered Species: No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat as identified under the Federal Endangered Species Act (ESA). Authorization of an activity by the RGP does NOT authorize the "take" of a listed threatened or endangered species, as defined under the Federal ESA.

You shall notify this office if any listed or proposed species or designated or proposed critical habitat may be affected by or is in the vicinity of the project. You shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and the activity is authorized. You should contact this office and/or personnel at FWS and/or NMFS concerning the potential presence of listed or proposed species, or designated or proposed critical habitat, in the project area. In some cases the FWS and NMFS may be able to make a priori determinations that listed species are not present.

Information on the location of listed or proposed threatened or endangered species and their designated or proposed critical habitat can be obtained directly from the FWS or NMFS or from their websites at: USFWS – <http://endangered.fws.gov/> and/or NMFS – http://www.nmfs.noaa.gov/prot_res/overview/es.html. In some circumstances programmatic biological opinions and incidental take statements may be applicable and use of this RGP is then subject to the permittee complying with all terms and conditions of those documents. Information on the presence of listed or proposed species at a specific project site may not be available. In such cases, the nature of the emergency may prevent an applicant from conducting the surveys necessary to make a reasonable determination. If suitable habitat occurs on the project site, the applicant may assume federally listed species or critical habitat are present and request the emergency provisions of Section 7 of the ESA be implemented.

12. Historic Properties: No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized until the requirements of the National Historic Preservation Act have been satisfied.

You must notify this office if the work may affect any potentially eligible historic properties and shall not begin work until notified by this office the requirements of the National Historic Preservation Act have been satisfied. Information on cultural resources may be obtained from the State Historic Preservation Offices, State Information centers and the national Register of Historic Places. Impacts to such resources must be avoided to the maximum extent practicable. If such resources are impacted because of actions related to work in waters of the United States, you shall provide a full report of the action and the impacts incurred by the resource to this office within 45 days of initiating work in waters of the United States for the action. The Corps, the SHPO and/or the Advisory Council for Historic Preservation will then jointly make a determination as to appropriate procedures and/or mitigation to be addressed. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify the Corps Regulatory Branch who 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.

13. Erosion and Siltation Controls: Every effort must be made to ensure any dredged or excavated material is not likely to be washed into any Waters of the United States, including wetlands. Appropriate erosion and siltation controls, such as sedimentation basins, and/or "certified weed free" straw bales, siltation or turbidity curtains, or other means designed to minimize turbidity in the watercourse, shall be used and maintained in effective operating condition during construction. All exposed soil and other fills, as well as any work below the ordinary high water mark or mean high tide line, must be stabilized at the earliest possible time to preclude additional damage to the project area through erosion or siltation.

14. Bank Stabilization: Any stream banks affected by the work must be stabilized and planted with appropriate native riparian vegetation, in similar densities to adjacent undisturbed streambanks, concurrently with project completion, to protect against subsequent erosion and minimize adverse effects on fish and wildlife habitat resources. Riprap may not be used as stabilization unless you have demonstrated vegetative or bioengineering erosion control measures are not practicable. Project design and construction must allow for subsequent establishment of native riparian vegetation in any riprap areas (i.e., vegetated riprap).

15. Equipment: When feasible, heavy equipment working in wetlands must be thoroughly cleaned, free of leaks and placed on mats. The permittee must implement any other appropriate and practicable measures to minimize adverse impacts, such as compaction and vegetation disturbance, in wetlands and to minimize discharges of pollutants and soil disturbance in waters. These measures include the use of wide-treaded equipment or floatation devices.

16. Suitable Material: Only clean, non-erodible material which is free from toxic pollutants may be in waters of the United States, including wetlands. (See Section 307 of the Clean Water Act). Examples of unsuitable material, include: trash; contaminated soils, or other material pollutants; tires; vehicle bodies; farm machinery; metal junk, including barrels; appliances; wire; asphalt; biodegradable building materials (including wood debris, sheet rock and roofing); material with exposed pipe or rebar; chemically treated materials subject to leaching in an aquatic environment; or other deleterious materials. Clean broken concrete may be allowed on a case-by-case basis, provided it is free of exposed rebar and asphalt, and only where immediate stabilization is needed and natural materials are not available. Individual pieces of broken concrete must be no more than 3-feet wide and placed in a manner which will preclude them from being carried away by

potential flows. Concrete may need to be removed once the emergency is alleviated. Locally native trees, tree tops, tree roots or rocks are permissible, provided they are properly anchored.

17. Wild and Scenic Rivers: No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while that river is in an official study status, unless the appropriate Federal agency with direct management responsibility for that river has determined in writing that the proposed activity would not adversely effect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., FWS, National Park Service, U.S. Forest Service, Bureau of Land Management).

18. Aquatic Life Movements: No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts may only be used if they are essential to the success of the emergency project. Culverts should be installed only on a temporary basis and must impede expected water flows. Culverts and other temporary fills must be removed and the affected stream reach restored to pre-project conditions, using best management practices and locally native vegetation, immediately once the emergency has subsided.

19. Shellfish Production: No discharge of dredged or fill material may occur in areas of concentrated natural or commercial shellfish production, unless the discharge is directly related to a shellfish harvesting activity which has otherwise been authorized.

20. Spawning Areas: Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

21. Waterfowl Breeding Areas: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

22. Navigation: No activity may cause more than a minimal adverse effect on the course or capacity of a navigable water. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expenses to the United States. No claim shall be made against the United States on account of any such removal or alteration.

23. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

24. Obstruction of High Flows: The project must not permanently restrict or impede the passage of normal or expected high flows in the watercourse.

25. Adverse Effects from Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

26. Proper Maintenance: Any structure or fill authorized by this RGP shall be properly maintained, including maintenance to ensure public safety, unless it would contribute to other adverse conditions to private or public property. In such situations, corrective measures must be taken to rectify these adverse conditions. Such measures may include removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination with you and the appropriate Federal and State agencies.

27. Removal of Temporary Fills: All temporary structures, work and fills, including cofferdams, shall be removed in their entirety immediately after the emergency situation is alleviated. Any areas affected by temporary construction, dewatering and access work, including staging areas, must be returned to their pre-existing elevations and revegetated with appropriate native riparian or wetland vegetation common to the area, upon completion of the authorized work.

28. Post-project reports: You must provide a written report to this office, to this office and the appropriate agencies listed in condition 3, as soon as practicable and no later than 45 days of completing any activities under this RGP. Failure to provide a timely report following completion of the work may be considered a violation (33 CFR Part 326.4(d)) and subject to appropriate enforcement actions. The report must include the following:

- (a) The name, address, telephone number (and/or e-mail address) of the applicant, and any designated agent; and
- (b) The location of the proposed project, including identification of the affected water(s) and the latitude and longitude of the site. The project boundaries must be depicted on a copy of a U.S. Geologic Survey [USGS] topographic map, or other location map with sufficient detail to clearly identify the exact location and extent of the project. Detailed directions to the project site must also be provided; and
- (c) The purpose and need to retain any of the discharges, structures or other work completed in response to the emergency; and
- (d) A description of work completed, including scaled drawings with plan and cross sections, showing the project area and acreage and/or linear feet of water(s) impacted, construction details, including current contours relative to the ordinary high water line and/or limit of wetlands; quantities (in cubic yards) and types of materials used; and
- (e) A description of conditions at the project site, including photographs showing pre- and post-project site conditions, environmental impacts resulting from the work, including the type and extent of vegetation and/or habitat disturbed or lost and any mitigation proposed to offset those impacts. This must include the name, type (e.g., river, streambed, lake, reservoir, riparian area, seasonal wetland, etc.) and description of all temporary and permanent adverse impact(s) in acres and/or linear feet, compensatory mitigation in acres/cubic yards/linear feet, and any other mitigation (avoidance or minimization) implemented in project completion.
- (f) Information on the project's effects on federally listed or proposed endangered species or designated or proposed critical habitat. Where the work may affect has the (notification must be provided to FWS and/or NMFS as appropriate) including temporary/permanent adverse impacts, mitigation measures used to minimize impacts and any compensatory mitigation to minimize harm to the species and/or habitat and provide a copy of the report to the FWS and/or NMFS, as appropriate. If mitigation was determined to be appropriate for a specific project or group of projects, a mitigation proposal must be submitted to this office for review and approval. We will forward the report to the appropriate agencies for their review and comment.

****Note: If you undertook a number of separate projects at separate sites, you may optionally submit a comprehensive report providing all of the above information for each of the sites.**

29. Maintenance: 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 Condition 30 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.

30. Transfer: If you sell the property associated with this permit, you must obtain the signature of the new owner on written documentation which includes their name, address and telephone number and confirmation they understand and will abide by all conditions of this permit, and any case-specific special conditions of verification, and forward a copy of that documentation to this office to validate transfer of this authorization.

FURTHER INFORMATION:

1. Congressional Authorities: Activities conducted under this RGP are authorized pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and/or Section 404 of the Clean Water Act (33 U.S.C. 1344).

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 projects.

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:** This office may reevaluate its decision on this permit, or on the verification that any particular activity qualifies for this RGP, at any time 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 proves to have been false, incomplete, or inaccurate.
- 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.

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

/s/

Andrew J. Rosenau, Chief,
Sacramento District Regulatory Branch
(For the District Engineer)
23 December 2004

Attachment(s):

Regulatory Office Contact list

Water Quality Certifications

Where to send Notification for RGP 60 projects:

1. For Alameda, Contra Costa, Lake, Yolo and San Joaquin County: Chief, Delta Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-5324; fax (916) 557-6877.

2. For Alpine, Amador, Calaveras, El Dorado, Fresno, Kern, Kings, Madera, Mariposa, Merced, Mono, Stanislaus, Tulare and Tuolumne Counties to: Chief, San Joaquin Valley Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-7772; fax (916) 557-6877.

3. For Butte, Colusa, Glenn, Nevada, Placer, Sierra and Yuba Counties to: Chief, Sacramento Valley Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-5261; fax (916) 557-6877.

4. For Sacramento County to: Chief, Sacramento Valley Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; (916) 557-5268; fax (916) 557-6877.

5. For Lassen, Modoc, Plumas, Shasta and Tehama Counties to: Chief, Redding Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, 152 Hartnell Avenue, Redding, California 96002-1842; e-mail *regulatory-info@usace.army.mil*; (530) 223-9534; fax (530) 223-9539.

6. For the State of Nevada, except Nye and Lincoln Counties, to: Chief, Reno Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, C. Clifton Young Federal Building, 300 Booth Street, Room 2103, Reno, Nevada 89509-8126; e-mail *regulatory-info@usace.army.mil*; (775) 784-5304; fax (775) 784-5306.

7. For Nye and Lincoln Counties in Nevada to: Chief, St. George Office, Sacramento District Regulatory Branch, U.S. Army Corps of Engineers, 321 North Mall Drive, Suite L-101, St. George, Utah 84790-7310; e-mail *regulatory-info@usace.army.mil*; (435) 986-3979; fax (435) 986-3981.

For application forms and other information concerning the Corps' Regulatory program and the Sacramento District visit our website: www.spk.usace.army.mil/regulatory.html

Updated January 20, 2005

PROJECT INFORMATION SHEET Attachment B
**Reauthorization of Regional General Permit 60 (RGP 60) for Repair and
Protection Activities in Emergency Situations**

1.	Applicant & Agent	<p>U.S. Army Corps of Engineers (USACE) (Applicant), Sacramento District 1325 J Street Sacramento, CA 95814</p> <p>Angela Conn, Project Manager (Agent) Email: Angela.L.Conn@usace.army.mil (Same address as above)</p>
2.	Project Name and Purpose	<p>RGP 60 authorizes discharges of dredged or fill material into waters of the United States, including wetlands, and/or work or structures in navigable waters of the United States for necessary repair and protection measures associated with an emergency situation. An "emergency situation" is present where there is a 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 (i.e., a life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).</p> <p>The last RGP 60 was issued on March 30, 2004 and expired on December 31, 2009.</p> <p>Since its reauthorization, RGP 60 has been utilized to authorize approximately four actions per year determined to meet the terms and conditions of the permit. USACE is now reissuing the permit with the following substantive changes: the addition of the term "emergency," as stated in Public Resource Code, § 21060.3.</p>
3.	Receiving Water(s); Hydrologic Unit(s); Latitude/Longitude; Water Body Type(s) & Area of Filled/Excavated Waters (Acres); Dredge Volume (CY)	<p>RGP 60 can authorize discharges in all waters within the jurisdiction of the USACE Sacramento District. Project-specific information will be included in the post-project reports, which will be provided to the USACE, appropriate Regional Water Quality Control Board, and State Water Resources Control Board.</p>
4.	Federal Permit	RGP 60
5.	Mitigation Considerations	<p>Discharges of dredged or fill material into Waters of the United States must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Factors that the State Water Board and/or appropriate Regional Water Quality Control Board will consider when determining the acceptability of</p>

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PROJECT INFORMATION SHEET Attachment B
**Reauthorization of Regional General Permit 60 (RGP 60) for Repair and
Protection Activities in Emergency Situations**

		<p>appropriate and practicable mitigation will include, but are not limited to:</p> <p>(1) The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, etc.;</p> <p>(2) The permanence of the project's impacts on the resource; and</p> <p>(3) The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource.</p> <p>Examples of mitigation that may be appropriate and practicable include, but are not limited to reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource values by creating, restoring, or enhancing similar functions and values; or using bioremediation techniques in conjunction with other methods to offset project impacts.</p>
6.	Compensatory Mitigation	Project-specific compensation may be required in consideration of the value of impacted resources, permanence of impact, and potential long-term effects on remaining functions and values.
7.	Optional Additional Information: CEQA Compliance	Water Quality Certification for the activities authorized under RGP 60 is statutorily exempt from the requirements of CEQA pursuant to Public Resources Code sections 21080[b](2)-(4).

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**48-HOUR NOTIFICATION FORM FOR TECHNICALLY-CONDITIONED WATER QUALITY
CERTIFICATION REGIONAL GENERAL PERMIT 60 FOR REPAIR AND PROTECTION
ACTIVITIES IN EMERGENCY SITUATIONS (RGP 60)**

Instructions for Attachment C

The prospective permittee must notify the State Water Board and the applicable Regional Water Board at least 48 hours prior to initiating the emergency project, if feasible. Feasibility is to be determined by the State Water Board or the applicable Regional Water Board. This notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in **Attachment C**.

The Water Boards recognize there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed. If immediate, specific actions, as defined in the California Code of Regulations, Title 14, section 15269(c), are required by an applicant and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the applicant must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the action. As provided above, this notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in **Attachment C**.

Notification may be via telephone, facsimile, e-mail, delivered written notice, or other verifiable means.

- A staff directory that includes contact information for the State and Regional Water Boards is found at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf
- For State Water Board, fax to (916) 341-5584 (Atten: DWQ 401 Unit), or leave a message at (916) 341-5506 (Regulatory Office).
- For Regional Water Board map boundaries, see
<http://maps.waterboards.ca.gov/webmap/rbbound.html>

I. Owner of the Land

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

II. Discharger (if different from owner of the land)

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

III. Site Location

Street (including address, if any)	
Nearest cross street(s)	
County	Approximate size of site (acres)
Map attached? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Photos attached? Yes <input type="checkbox"/> No <input type="checkbox"/>	

IV. Discharge Information

Subject	Notes
Name(s) and type(s) of receiving waters	Receiving water types are: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland
Project description	Description of emergency
	Proposed solution to emergency
Description of how Emergency Definition is satisfied. (i.e., unexpected; potential loss of life or property)	

Attachment C

Exemption Criteria	Which of these criteria does the project satisfy? (Circle one or more)	<ul style="list-style-type: none"> a. Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code. b. Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare. c. Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term. d. Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide. e. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.
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Fill and Excavation Discharges: For each water body type listed below indicate in ACRES the area of the estimated discharge to waters of the state, and identify the impact(s) as permanent and/or temporary. For linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment, and channelization projects, ALSO specify the length of the proposed discharge to waters of the state IN FEET. For dredging activity, indicate total amount of dredged material for the project in cubic yards under permanent impacts.					
Water Body Type	Permanent Impact			Temporary Impact	
	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet
Wetland					
Streambed					
Lake/Reservoir					
Ocean/Estuary/Bay					
Riparian					

V. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of these General WDRs will be complied with."	
Signature of Discharger	Title
Printed or Typed Name	Date

**FINAL REPORT FORM FOR TECHNICALLY-CONDITIONED WATER QUALITY
CERTIFICATION REGIONAL GENERAL PERMIT 60 FOR REPAIR AND PROTECTION
ACTIVITIES IN EMERGENCY SITUATIONS (RGP 60)**

Instructions for Attachment D

Attachment D must be sent to the following addresses within 45 days of completion of any emergency action conducted under RGP 60:

Bill Orme, Chief
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

CWA Section 401 WQC Program
(Address of appropriate Regional Water Board, obtained from
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf)

I. Owner of the Land

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person		Email		

II. Billing Address

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person		Email		

III. Discharger (if different from owner of the land)

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person		Email		

IV. Site Location

Street (including address, if any)	
Nearest cross street(s)	
County:	Total size of site (acres):
Latitude/Longitude (Center of Discharge Area) in degrees/minutes/seconds (DMS) to the nearest ½ second or decimal degrees (DD) to four decimals (0.0001 degree)	
DMS: N. Latitude Deg. _____ Min. _____ Sec. _____ W. Longitude Deg. _____ Min. _____ Sec. _____	
DD: N. Latitude _____ W. Longitude _____	
Attach a map of at least 1:24000 (1" = 2000') detail of the discharge site (e.g., USGS 7.5 minute topographic map).	

V. Discharge Information

Subject	Notes
Name(s) and type(s) of receiving waters:	Receiving water types are: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland
Identify all regulatory agencies having jurisdiction over this project.	For example: Dept. of Fish and Game Streambed Alteration Agreement, Coastal Commission permit
Project start date:	Project completion date:
Project description:	For example: Discharge of riprap; discharge of fill; excavation for a utility line
Purpose of the entire activity:	For example: Stream-bank erosion control. Maintain, repair, or restore damaged property
Map attached? Yes <input type="checkbox"/> No <input type="checkbox"/>	

Photographs attached? Yes <input type="checkbox"/> No <input type="checkbox"/>					
Erosion protection measures employed					
Pollution prevention measures employed					
Was compensatory mitigation required? Yes <input type="checkbox"/> No <input type="checkbox"/>					
Compensatory Mitigation for Impacts during Emergency Project (Include area/volume and linear feet)					
Fill and Excavation Discharges: For each water body type listed below indicate in ACRES the area of the discharge to waters of the state, and identify the impact(s) as permanent and/or temporary. For linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment, and channelization projects, ALSO specify the length of the proposed discharge to waters of the state IN FEET. For dredging activity, indicate total amount of dredged material for project in cubic yards under permanent impacts.					
Water Body Type	Permanent Impact			Temporary Impact	
	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet
Wetland					
Streambed					
Lake/Reservoir					
Ocean/Estuary/Bay					
Riparian					

VI. CERTIFICATION

<p>“I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of these General WDRs will be complied with.”</p>	
<p>Signature of Discharger</p>	<p>Title</p>
<p>Printed or Typed Name</p>	<p>Date</p>

SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the State Water Resources Control Board (State Water Board) must be signed and certified as follows:
 - (a) For a corporation, by a responsible corporate officer of at least the level of vice- president.
 - (b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - (c) For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in Items 1.a through 1.c above may sign documents if:
 - (a) The authorization is made in writing by a person described in Items 1.a through 1.c above.
 - (b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - (c) The written authorization is submitted to the State Water Board Executive Director.
3. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."



State of Utah

GARY R. HERBERT
Governor

Department of
Environmental Quality

Amanda Smith
Acting Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

December 31, 2009

Angela L. D. Conn, Senior Project Manager
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1480
Sacramento, California 95814-2922

Dear Ms. Conn:

Subject: 401 Water Quality Certification
Public Notice SPK-1997-00652

Applicant: U.S. Army Corps of Engineers (Corps), Sacramento District
1325 J Street, Room 1480
Sacramento, California 95814-2922

Location: Within the State of Nevada and parts of the State of California, within the Sacramento District's regulatory boundaries. In addition, the Corps is proposing to expand the Regional General Permit 60 (199700652) to include the entire State of Utah.

Purpose: The U.S. Army Corps of Engineers, Sacramento District (Corps), is proposing to extend Regional General Permit 60 for an additional five (5) years.

The Utah Division of Water Quality staff has reviewed the referenced Regional General Permit 60 (RGP). This RGP authorizes discharges or dredged or fill material and/or work or structures in waters of the United States, including wetlands, for necessary repair and protection measures associated with an emergency situation. The Corps has defined an "emergency situation" as where there is a 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, i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately.

Any permittee repair activity authorized by this RGP must comply with the general terms and conditions listed within and the following special conditions of the 401 Certification when conducting activities within the State of Utah.

- I. Simultaneous with submittal to Corps, the permittee shall transmit an electronic and hard copy of the (a) Corps Notification required by RGP 60 Permit Condition No. 2 (Notification), and (b) Corps "Post-Project Reports required by RGP 60 Condition No. 28 to the DWQ, addressed as:

Executive Secretary
Utah Division of Water Quality
P.O. Box 144870
Salt Lake City, Utah
84114-4870
wbaker@utah.gov

2. Permitted activities shall not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters of the state, as adopted by the Utah Water Quality Board in Title R317-2.
3. **Backfill:** No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters of the state or riparian areas beyond the footprint of the impacts depicted in the Contents of Notifications required by RGP 60 Permit Condition No. 2, including incidental impacts.
4. **Turbidity:** All practical Best Management Practices (BMPs) on disturbed banks and within waters of the state shall be implemented to minimize turbidity during in-water work.
5. **Standard Erosion and Sediment Control Practices:** Prior to commencing work in any waters of the state, appropriate BMPs must be properly installed and maintained throughout the project repair activity until all disturbed areas are stabilized. Vegetated filter strips are the preferred water quality treatment measures for the impact analysis area. BMPs for the control of surface runoff shall be developed, implemented and maintained for the control of storm water runoff.
6. **Fill Material:** All temporary and permanently placed fill material must be clean material, free of contaminants that may be toxic to aquatic life. For example, the permittee shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) into the receiving waters of the state. Measures must be taken to fresh or wet concrete from coming in contact with waters of the state until concrete has hardened.
7. **Dewatering:** Discharge must meet a Total Suspended Solids (TSS) of total daily maximum 70 mg/L and have a pH of 6.5 to 9.0. The concentration of Oil & Grease shall be minimized to the maximum extent practicable. All point source discharges will insure non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected, e.g. no deleterious effects or significant changes in the hydrological regime in the receiving water.
8. **Habitat:** Permittee shall protect any potentially affected fish spawning areas. All emergency work must be coordinated with appropriate state agencies including the Utah Dept. of Natural Resources, Division of Wildlife Resources to lessen impacts on aquatic species of concern, habitat and wildlife.
9. **Water Utilities:** Any unforeseen repairs that were not outlined in the Corps' Contents of Notification: 1) in and around public drinking water supplies requires written approval from the Executive Secretary of the Utah Drinking Water Board and 2) in and around any wastewater infrastructure requires written approval from the Executive Secretary of the Utah Water Quality Board.
10. **Stream Alteration:** The permittee must contact Utah Dept. of Natural Resources, Division of Water Rights, State Engineer's office on all stream alteration matters in order to protect the natural resource value of the state's streams and protect the water rights and recreational opportunities

associated with them. Section 73-3-29 of the Utah Code requires any person, governmental agency, or other organization wishing to alter the bed or banks of a natural stream to obtain written authorization from the State Engineer prior to beginning work.


11. **Public Lands Policy Coordination:** The permittee must contact the Office of the Governor's Public Lands Policy Coordination office. The State of Utah, through the Public Lands Policy Coordination Office (PLPCO) makes use of the Resource Development Coordinating Committee (RDCC) for state agency review of activities affecting state and public lands throughout Utah. The RDCC includes representatives from the state agencies that are generally involved or impacted by public lands management. Utah Code (63J-4-501 *et seq.*) instructs the RDCC to coordinate the review of technical and policy actions that may affect the physical resources of the state and facilitate the exchange of information on those actions among federal, state, and local government agencies.

Any special condition in this certification which the applicant believes cannot be met requires written concurrence from the Executive Secretary of the Utah Water Quality Board.

Exemption: Emergency projects exempt from these special conditions are projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a "State of Emergency" or "Major Declaration" has been proclaimed by the Governor of Utah pursuant of the 1. Emergency Management Act of 1981, Utah Code 53-2, 63-5., 2. Disaster Response Recovery Act, 63-5A and 3. Title 44, CFR, Federal Emergency Management Agency Regulations, as amended.

Pursuant to Section 401(a)(1) of the Federal Water Pollution Control Act, as amended in 1987 and commonly known as the Clean Water Act, it is hereby certified that any discharge resulting from the project will comply with applicable state water quality standards and, based on available information, will comply with applicable provisions of said Act. Please contact Mr. Bill Damery at (801) 538-6032, wdamery@utah.gov, with any questions you may have concerning this 401 Certification.

Sincerely,
Utah Water Quality Board



Walter L. Baker, P.E.
Executive Secretary

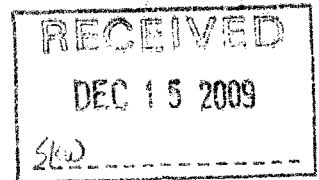
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cc: Ken Bousfiled, DEQ DDW; James Kapowitz, DNR Wildlife Resources; Kent L. Jones, DNR Water Rights; John Harja PLPCO

File: Draft unsigned SPK -1997-00652
wdamery\RDCC\401 Certs New



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901



DEC 10 2009

Colonel Thomas C. Chapman
District Engineer, Sacramento District
U.S. Army Corps of Engineers
1325 J Street, 14th floor
Sacramento CA, 95814-2922

Subject: Public Notice (PN) SPK-1997-00652 for the proposed extension of Regional General Permit 60 and Waiver of Water Quality Certifications under Clean Water Act

Dear Colonel Chapman:

We have reviewed the subject PN dated December 1, 2009, for the proposed extension of Regional General Permit 60. We are writing to waive water quality certification under the Clean Water Act Section 401 associated with repair and protection activities taking place on tribal lands in emergency situations.

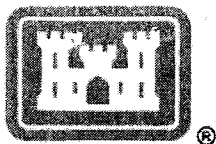
Our waiver is dependent on the adherence of the prospective applicants to the terms and conditions detailed in your *Regional General Permit for Repair and Protection Activities in Emergency Situations*.

Thank you for considering our concerns and recommendations. If you wish to discuss this matter, please contact me at (415) 972-3470.

Sincerely,

Paul Jones, Acting Supervisor
Wetlands Office

cc:
U.S. Fish and Wildlife Service
RWQCB, Central Valley Region
CA Department of Fish and Game



Public Notice

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG

Public Notice of Permit Application

Action ID: SPK-1997-00652

Comments Period: December 1, 2009 – December 16, 2009

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District (Corps), is proposing to extend Regional General Permit 60 (RGP) for an additional five (5) years. This permit authorizes fill and excavation activities in waters of the United States for necessary repair and protection measures associated with an emergency situation. An “emergency situation” is where there is a 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 (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately). This notice is to inform interested parties of the proposed extension and to solicit comments. A copy of the current permit, set to expire on December 31, 2009, is attached and available at <http://www.spk.usace.army.mil//organizations/cespk-co/regulatory/gp/GP60.pdf>. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

LOCATION: Within the State of Nevada and parts of the State of California, within the Sacramento District’s regulatory boundaries. In addition, the Corps is proposing to expand the RGP to include the entire State of Utah.

ADDITIONAL INFORMATION:

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-1997-00652 must be submitted to the office listed below on or before December 16, 2009.

Angela L. D. Conn, Senior Project Manager
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1480, Sacramento, California 95814-2922
Email: Angela.L.Conn@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Angela Conn, 916-557-6782, *Angela.L.Conn@usace.army.mil*.

Attachments: Regional General Permit 60 as issued on December 23, 2004



Terry Tamminen
Secretary for
Environmental
Protection

State Water Resources Control Board

Executive Office

Arthur G. Baggett Jr., Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.swrcb.ca.gov>



Arnold Schwarzenegger
Governor

MAR 30 2004

APR - 5 2004

Mr. Andrew J. Rosenau
Chief, Regulatory Branch
Department of the Army
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Dear Mr. Rosenau:

**ORDER FOR TECHNICALLY-CONDITIONED WATER QUALITY CERTIFICATION:
REGIONAL GENERAL PERMIT 60 FOR REPAIR AND PROTECTION ACTIVITIES IN
EMERGENCY SITUATIONS (RGP 60) (CORPS FILE NUMBER 19970052)**

This Order responds to your February 23, 2004 request for Clean Water Act section 401 Water Quality Certification for the U.S. Army Corps of Engineers (USCOE), Sacramento District re-issuance of RGP 60 (Enclosure 1). This certification is intended to streamline the approval process for dredge and fill activities necessary to prevent or mitigate an emergency.

ACTION

- | | |
|---|---|
| <input type="checkbox"/> Order for Standard Certification | |
| <input checked="" type="checkbox"/> Order for Technically-Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |
| <input type="checkbox"/> Order for Denial of Certification | |

STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

California Environmental Protection Agency



3. This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23, and owed by the applicant.

ADDITIONAL CONDITIONS:

1. This certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) definition of "emergency" and are exempt from CEQA requirements. Under CEQA, California Public Resources Code, Division 13, section 21060.3, an "emergency" is defined to be:

A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

2. Emergency projects exempt from the requirements of CEQA are defined by CCR, Title 14 (CEQA Guidelines), section 15269 as:
 - (a) *Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant of the California Emergency Services Act, commencing with section 8550 of the Government Code.*
 - (b) *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.*
 - (c) *Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.*
 - (d) *Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the projects is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highway designated as official State scenic highways, nor any project undertaken, carried out, or approved by public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.*
 - (e) *Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.*

3. Permitted activities shall not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in the Water Quality Control Plan (Basin Plan) of a Regional Water Quality Control Board (RWQCB) or in a Statewide Plan adopted by the State Water Resources Control Board (SWRCB).
4. Simultaneous with submittal to USCOE, permittees shall transmit copies of (a) the "Construction Notification" required by RGP 60 General Condition No. 1 (Notification), and (b) the "Post-Project Construction Final Report" required by Condition No. 28 (Post-Project Reports) to the SWRCB and the appropriate RWQCB(s), addressed as:

Program Manager
401 Water Quality Certification Program
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento CA 95812-0100

Program Manager
401 Water Quality Certification Program
(Address of appropriate RWQCB(s))

The applicant shall provide a fee of \$60 for review and processing of the notice in accordance with CCR Title 23, section 2200. If the applicant is not contacted by the RWQCB within 30 days of the postmarked date of the "Construction Notification," the applicant may assume that the project meets the conditions of this certification order and may proceed with the project.

5. Permitted activities shall not result in the taking of any State endangered species, threatened species, or candidate species or the habitat of such a species unless the activity is authorized by the Department of Fish and Game (DFG) pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.

WATER QUALITY CERTIFICATION:

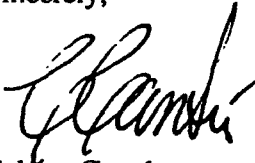
I hereby issue an order certifying that any discharge from activities authorized by RGP 60 will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements (GWDR) for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this Water Quality Certification. This GWDR can be accessed at <http://www.swrcb.ca.gov/cwa401/index.html>.

MAR 30 2004

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in compliance with the applicants' project description (Enclosure 2) and the enclosed Project Information Sheet (Enclosure 3).

If you have any questions, please contact Ruben A. Guieb, Environmental Scientist, at (916) 341-5464 or email: guier@swrcb.ca.gov. You may also call Oscar Balaguer, Chief of the Water Quality Certification Unit, at (916) 341-5485 or balao@dwq.swrcb.ca.gov.

Sincerely,



Celeste Cantú
Executive Director

Enclosures (3)

cc: Mr. Glen Gentry
Nevada Division of Environmental Protection
Bureau of Water Quality Planning
333 West Nye Lane, Suite 138
Carson City, Nevada 89706-0851

Mr. Tim Vendlinski
Wetlands Regulatory Office (WTR-8)
U.S. Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

Administrator - Acting
Jolaine Johnson and Leo Drozdoff

(775) 687-4670

Administration
Facsimile 687-5856

Water Quality Planning
Water Pollution Control
Facsimile 687-4684

Mining Regulations and
Reclamation
Facsimile 684-5259

State of Nevada
KENNY C. GUINN
Governor



ALLEN BIAGGI, Director

Air Pollution Control
Air Quality Planning
Facsimile 687-6396

Waste Management
Federal Facilities

Corrective Actions
Facsimile 687-8335

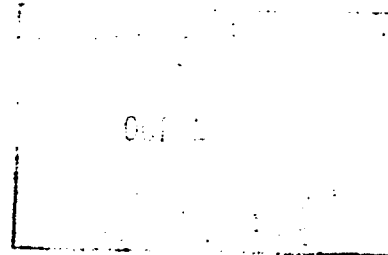
ndep.nv.gov

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
Carson City, Nevada 89706

October 12, 2004

Andrew J. Rosenau, Chief
Regulatory Branch
U.S. Army Corps of Engineers
Sacramento District
1325 J Street, Room 1480
Sacramento, CA 95814-2922



Dear Mr. Rosenau:

Nevada Division of Environmental Protection (NDEP) issues 401 Certification for the Regional General Permit 60 (PN 199700652) for Repair and Protection Activities in Emergency Situations with the following conditions.

Prior to beginning any activity authorized by this Regional General Permit, this office must receive notification which shall fully describe the project and its location, purpose and need, and the immediate project area. The notification shall also include the name, address and telephone numbers of the permittee and the authorized agent's name, address and phone number if different than the permittee. The address and phone number for submittal of this information is:

Nevada Division of Environmental Protection
Bureau of Water Quality Planning
Attn: Glen Gentry
333 W. Nye Lane, Room 138
Carson City, Nevada 89706-0851
Phone (775) 687-9448
Fax (775) 687-5856
email gentry@ndep.nv.gov

The permitted activity shall not cause a violation of any applicable water quality standards as defined in the Nevada Administrative Code (NAC) 445A.119 - 445A.225

Prior to commencing work in any waterbody or waterway, appropriate Best Management Practices (BMP) must be properly installed and maintained throughout the project construction period until all disturbed areas are stabilized. If straw bales are selected as BMPs they should be certified as weed free.

Cleared areas shall be revegetated with native plants and seed as soon as possible. Work areas shall be restored to maintain the stability of upstream and downstream segments of the waterway to control erosion and sedimentation.

The permittee shall use a designated area for chemical and petroleum storage, solid waste containment, and equipment washing. This designated area shall be located outside of waters of the state and drainages which could allow the material to enter any waters of the state.

The permittee is responsible for ensuring construction material and/or fill, placed within the ordinary high water mark, be free from substances that can cause or contribute to pollution of a surface water.

Any modifications to the original project submittal must be reviewed and approved by this office prior to implementation.

If the project requires a Temporary Permit for Working in Waterways, all conditions of NDEPs Temporary Authorization Permit (Construction/Dewatering) or any other permit issued by NDEP for the project must be followed.

This Section 401 Water Quality Certification is subject to the acquisition of all necessary local, regional, state and federal permits and approvals as required by law. Failure to meet any conditions of this 401 Water Quality Certification or the Temporary Authorization Permit (Construction/Dewatering Permit) or any other permit issued by NDEP for this project or any violation of NAC 445A may result in the revocation of this 401 Water Quality Certification.

If you have any question please give me a call.

Sincerely yours,



Glen Gentry
Monitoring Branch Supervisor
Bureau Water Quality Planning

Cc: Richard Gebhart, USACOE Reno Field Office
Icyl Mulligan, NDEP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

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OCT 19 2004

Andrew J. Rosenau, Chief
Regulatory Branch
U.S. Army Corps of Engineers
Sacramento District
1325 J Street, Room 1480
Sacramento, CA 95814-2922



Subject: Waiver of Water Quality Certification under CWA§401 Involving Emergency
Repair and Protection Activities on Tribal Lands Authorized by RGP #60
(199700652)

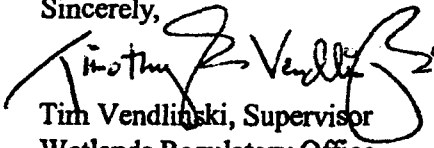
Dear Mr. Rosenau:

We are writing to waive water quality certification under Clean Water Act (CWA) Section 401 associated with repair and protection activities taking place on tribal lands in emergency situations. Our waiver is dependant on the adherence of the prospective applicants to the terms and conditions detailed in your *Regional General Permit #60 for Repair and Protection Activities in Emergency Situations*.

As you know, under CWA§401, most states and some eligible tribes have the authority to condition, deny, approve, or waive certification of any federal license or permit resulting in discharges to their waters. In cases where the states or tribes do not have the authority to issue such certifications, EPA has the authority to do so under CWA§401(a). On 15 March 2002, EPA denied water quality certification for twelve (12) nationwide permits (NWP) as they apply to tribal lands corresponding with the boundaries of our Southwest Pacific Region (attached). This means that EPA serves as the permit-writing agency for water quality certifications as they apply to these particular NWPs. The waiver we are offering in this letter applies even to these NWPs during emergency situations deemed legitimate by the Sacramento Corps District.

Thank you for considering our concerns and recommendations. If you wish to discuss this matter further, please call me at (415) 972-3464.

Sincerely,


Tim Vendlinski, Supervisor
Wetlands Regulatory Office

attachment: EPA's denial of water quality certification for twelve (12) NWPs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

MAR 7 5 2002

General Robert L. Davis
U.S. Army Corps of Engineers
South Pacific Division
333 Market Street
San Francisco, California 94105-2197

Attn: Mr. Wade Eakle

Subject: EPA's Denial of Water Quality Certification for Twelve Nationwide Permits on Tribal Lands

Dear General Davis:

As you know, under the Clean Water Act (CWA) Section 401, most states and some eligible tribes have the authority to condition, deny, approve, or waive certification of any federal license or permit that may result in discharges to their waters. In cases where the state or tribe does not have authority to issue such certifications, EPA has the authority to do so under CWA §401(a). Currently, we have the authority to issue certifications on tribal lands coinciding with the boundaries of your Division's District Offices based in Los Angeles, Sacramento, and San Francisco, as well as the Navajo Tribal Lands in New Mexico. Both the Hoopa Tribe and the White Mountain Apache Tribe have become authorized to condition, deny, approve, or waive certification for Nationwide Permits (NWP).

As you are also aware, several of the old permits (including some for which we previously denied water quality certification) expired on 11 February 2002, and reissuance for these permits will not be effective until all of the new NWPs take effect 18 March 2002. As a supplement to our letter of 24 September 2001 (attached), we are responding to the Federal Register Notice published by the Corps on 15 January 2002 regarding the reissuance of the NWPs for discharge of dredge or fill materials into waters of the United States.

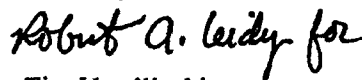
In the interim between the expiration and reissuance dates, we are reaffirming our denial of §401 certification on the eleven Nationwide Permits outlined in our letter of 24 September 2001, and deny water quality certification for Nationwide 21: Surface Coal Mining Activities. Coal mining can affect significant expanses of landscape and impact waters of the United States through myriad means, and the language authorizing activities under Nationwide 21 is too broad to warrant generic water quality certification from EPA. Therefore, by way of summary, the

following list of twelve Nationwide Permits are denied §401 certification on tribal lands within EPA Region IX:

- NWP 3 Maintenance
- NWP 7 Outfall Structures and Maintenance
- NWP 12 Utility Line Activities
- NWP 14 Linear Transportation Projects
- **NWP 21 Surface Coal Mining Activities**
- NWP 31 Maintenance of Existing Flood Control Facilities
- NWP 39 Residential, Commercial and Institutional Developments
- NWP 40 Agricultural Activities
- NWP 41 Reshaping Existing Drainage Ditches
- NWP 42 Recreational Facilities
- NWP 43 Stormwater Management Facilities
- NWP 44 Mining

On 8 January 2002, Corps Districts based in San Francisco, Los Angeles, and Sacramento afforded us the opportunity to discuss the NWP program, the proposed Regulatory Guidance Letter on mitigation policy, and the need for NWP regional conditions. As regional conditions are developed and finalized, we hope to reduce the list of activities where water quality certification is denied.

Sincerely,



Tim Vendlinski
Supervisor
Wetlands Regulatory Office

attachment: EPA letter to the Corps (9/24/01)

cc: Sacramento Corps District
San Francisco Corps District
Los Angeles Corps District
Albuquerque Corps District
Applicable Tribal Governments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3001**

SEP 24 2001

Colonel (P) Robert L. Davis
U.S. Army Corps of Engineers
South Pacific Division
333 Market Street
San Francisco, California 94105-2197
Attn: Mr. Wade Eakle

Subject: Clean Water Act Section 401 Certification for Nationwide Permits on Tribal Lands

Dear Colonel Davis:

We are writing in response to the Federal Register Notice published by the Corps on 9 August 2001 regarding the intent to modify and reissue the nationwide permits (NWP) designed to permit those discharges of fill material into waters of the United States that result in minimal impacts. These permits are scheduled to become effective by 11 February 2002.

As you know, under Clean Water Act (CWA) Section 401, most states and some eligible tribes have the authority to condition, deny, approve, or waive certification of any federal license or permit that may result discharges to their waters. In cases where the state or tribe does not have authority to issue such certifications, USEPA has the authority to do so under CWA §401(a). Currently, we have the authority to issue certifications on tribal lands coinciding with the boundaries of your Division's District Offices based in Los Angeles, Sacramento, and San Francisco, as well as the Navajo Tribal Lands in New Mexico. The only exceptions involve the Hoopa Reservation and the White Mountain Apache Reservation – both of these tribes have the authority to condition, deny, approve, or waive certification.

Of the forty-four NWP being proposed in the Federal Register, we are concerned that implementation of the following eleven permits might result in adverse impacts to waters of the United States that are greater than the threshold for minimal impacts. Our concerns with most of these NWP date back to their formulation to replace NWP 26. Within the boundaries of USEPA Region IX, tribal lands extend from the Oregon border to the deserts of New Mexico. The proposed NWP would involve a broad spectrum of activities affecting a vast array of ecological and hydrological conditions. Thus, developing regional conditions to control adverse impacts to water quality remains a great challenge for our agencies. Therefore, until we can devise regional conditions to strengthen the proposed permits, we hereby deny certification for the use of the following eleven NWP on tribal lands within the South Pacific Division except where stated above:

- NWP 3 Maintenance
- NWP 7 Outfall Structures and Maintenance
- NWP 12 Utility Line Activities
- NWP 14 Linear Transportation Projects
- NWP 31 Maintenance of Existing Flood Control Facilities
- NWP 39 Residential, Commercial and Institutional Developments
- NWP 40 Agricultural Activities
- NWP 41 Reshaping Existing Drainage Ditches
- NWP 42 Recreational Facilities
- NWP 43 Stormwater Management Facilities
- NWP 44 Mining

On 14 September 2001, I received a letter from Art Champ at the Sacramento Corps District regarding the CWA§401 certifications on tribal lands within California and Nevada. In the letter, he requested a meeting on behalf of the Corps Districts in Los Angeles, Sacramento, and San Francisco to discuss issues of concern, and to identify ways to address these concerns, e.g., regional conditions, scope of waters, activities, and notification. We accept the Corps' invitation and suggest that your staff call Tim Vendlinski from our Wetlands Regulatory Office to arrange such a meeting (415.744.2276). If you wish to discuss this matter with me, please don't hesitate to call me at 415.744.1860.

Sincerely,



Alexis Strauss
Director
Water Division

cc: Sacramento Corps District
San Francisco Corps District
Los Angeles Corps District
Albuquerque Corps District
Applicable Tribal Governments