

From: [William Carlon](#)
To: [FOIA-SPK](#)
Subject: [Non-DoD Source] FOIA Request - Lake Tahoe Cables
Date: Tuesday, April 5, 2022 4:39:30 PM
Attachments: [ACOE FOIA Request 2_220405.pdf](#)

Dear FOIA Coordinator,

Please see the attached FOIA request of today's date.

Thank you,
William N. Carlon

The Law Offices of Andrew L. Packard
245 Kentucky Street, Suite B3
Petaluma, CA 94952

Tel. (707) 782-4060 ext 2
Fax: (707) 782-4062
Email: wncarlon@packardlawoffices.com

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922
April 18, 2022

Office of Counsel

SUBJECT: Freedom of Information Act Request No. FA-22-0090; All Records Pertaining to Submerged Telecommunication and Power Cables in Lake Tahoe Between the United States Army Corps of Engineers (USACE) and Pacific Bell

Mr. William N. Carlon
Law Offices of Andrew L. Packard
245 Kentucky Street
Petaluma, California 94559

Dear Mr. Carlon:

On April 6, 2022, our office received your Freedom of Information Act (FOIA) request for copy of all records pertaining to submerged telecommunication and power cables in Lake Tahoe between the USACE and Pacific Bell.

For the purpose of assessing fees, I have classified you as a category 3 other requester under 32 C.F.R. § 518.85(b)(2)(iii). Category 3 requesters are entitled to two hours of search time and 100 pages of records free of charge. There are no charges for this request.

As requested, a redacted copy of all records pertaining to submerged Telecommunication and Power Cables in Lake Tahoe Between the United States Army Corps of Engineers USACE and Pacific Bell regarding Cable C is enclosed. We do not have any records for Cable A or B.

Although the bulk of the requested information has been provided. The information regarding the detail of historic sites and location have been redacted in pursuant to 5 U.S.C. 552(b)(3), generally known as "Exemption 3" of the FOIA. Exemption 3 incorporates the disclosure prohibitions referenced in other Federal statutes into the FOIA. The aforementioned information is protected in accordance with the non-disclosure clauses of the National Historic Preservation Act (16 USC 470w-3).

Also, names of Department of Defense (DoD) employees contained in the headers of e-mails and other similar lists of names within the records have been redacted pursuant to 5 U.S.C. § 552 (b)(6) of the Freedom of Information Act. In response to the terrorist attacks on the United States in the fall of 2001, DoD revised its policies which implement the Freedom of Information Act. At that time, the decision was made to withhold lists of names of all DoD employees. The court upheld this policy decision stating, "The privacy interest protected by exemption six of the Freedom of Information

Act encompasses not only the addresses, but also the names of federal employees.” See Judicial Watch, Inc. v. United States, 84 Fed. Appx. 335 (4th Cir. (2004)).

Because your request has been partially denied, you are advised of your right to appeal this determination through this office to the Secretary of the Army (ATTN: General Counsel). Your appeal must be postmarked or electronically transmitted within 90 days of the date of this letter. The envelope containing the appeal should bear the notation “Freedom of Information Act Appeal” and should be sent to U.S. Army Corps of Engineers, Sacramento District, ATTN: CESPCK-OC, 1325 J Street, Room 1440, Sacramento, California 95814.

For any further assistance or to discuss any aspect of your request, you have the right to contact the U.S. Army Corps of Engineers FOIA Public Liaison. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about FOIA mediation services they offer. Contact Information:

U.S. Army Corps of Engineers
FOIA Public Liaison
441 G. Street, NW
ATTN: CECC-L (Emily Green)
Washington, DC 20314-1000
Email: foia-liaison@usace.army.mil
Phone: 202-761-4791

Office of Government Information Services
National Archives and records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
E-Mail: ogis@nara.gov
Phone: 202-741-5770 or
Toll Free: 877-684-6448

If you have any questions regarding the provided information, please contact Ms. Andrea Vaiasicca, FOIA Specialist, at the above letterhead address or by calling (916) 557-7204.

Sincerely,



A. L. Faustino
Initial Denial Authority
District Counsel

Enclosures

From: (b) (6) CIV USARMY CESPK (USA)
To: "Frank.Papandrea@libertyutilities.com"
Cc: "Ashamey@insigniaenv.com"
Subject: SPK 2005-01096 Liberty Emerald Bay Cable RGP 8 Receipt of Application
Date: Friday, October 1, 2021 9:26:00 AM

This acknowledges the US Army Corps of Engineers, Sacramento District, Reno office has received a permit request for the Liberty Emerald Bay Cable Project on September 9, 2021.

Your action has been assigned ID number SPK-2005-01096. Please use this ID as reference in any future correspondence regarding this project.

(b) (6) has been assigned as the project manager and can be reached by telephone at 775-784-5304 or by email at (b) (6)@usace.army.mil.

If additional information is needed to complete the processing of your request. That request will be forthcoming shortly.

Respectfully,

(b) (6)
Regulatory Project Manager
Nevada/Utah Section
U.S Army Corps of Engineers Sacramento District
300 Booth Street, Room 3050
Reno, Nevada, 89509-1328
 775-784-5305
(b) (6)@usace.army.mil

We want to hear from you! Submit a customer service survey form
<https://regulatory.ops.usace.army.mil/customer-service-survey/>

Need information on the Regulatory Program?
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>

In response to COVID-19, Regulatory Division staff are teleworking from home or other approved location. We will do our best to administer the Regulatory Program in an effective and efficient manner. Priority will be given to health and safety activities and essential infrastructure. Action on your permit application or other request may be delayed during this emergency. We appreciate your patience over the next several weeks.

From: (b) (6) CIV USARMY CESPK (USA)
To: Morgan.Joseph@epa.gov; [Starostka, Andy](mailto:Starostka.Andy); [Moeszinger, Patrick@Wildlife](mailto:Moeszinger.Patrick@Wildlife); [Tiffany Good \(TRPA\)](mailto:Tiffany.Good@TRPA); [Ninette Lee \(CA State Lands\)](mailto:Ninette.Lee@CAStateLands); [Jason Ramos \(CA State Lands\)](mailto:Jason.Ramos@CAStateLands); [CA Water Quality Control Board](mailto:CAWaterQualityControlBoard); [Tyrone Conner](mailto:Tyrone.Conner); d11-pf-marineevents@uscg.mil; loretta.r.beene@uscg.mil; julianne.polanco@parks.ca.gov; [Hodges, Elizabeth@Parks](mailto:Hodges.Elizabeth@Parks); susane.iamerson@washotribe.us; darrel.cruz@washotribe.us; dfonseca@ssband.org; kperry@ssband.org
Cc: (b) (6) CIV USARMY CESPK (USA); Frank.Papandrea@libertyutilities.com; Ashamey@insigniaenv.com
Subject: RGP 8 Agency Notice: Emergency Repair: Liberty Utilities Emerald Bay Submerged Electric Cable Repair project; SPK-2005-01096
Date: Friday, October 1, 2021 11:11:00 AM
Attachments: [REDACTED]
Importance: High

We have received an application from Liberty Utilities to repair approximately 400 linear feet of cable requiring work and structures in navigable waters of the United States, for the Emerald Bay Submerged Electric Line Crossing Repair project located in Lake Tahoe, along the lakebed across Emerald Bay, with center point of the line near Latitude 38.956068964335°, Longitude -120.095038850012°, Emerald Bay, El Dorado County, California. The project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354 feet of cable will be repaired within the United States Army Corps of Engineers' (USACE's) jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. Based on the information provided by the applicant, the proposed activity qualifies for Nationwide Permit Number RGP #8 - Emergency Actions. We have attached the applicant's notification to include proposed plans for your reference.

The U.S. Army Corps of Engineers, Sacramento District, Reno Regulatory Field Office (Corps) is proposing to issue a Regional General Permit (RGP) 8 for the above-referenced work following procedures identified in our Public Notice number SPK-1997-00652, dated August 10, 2018, and we are soliciting your comments. Comments must be received by this office by **Close of Business October 8, 2021**. The Corps will make a determination whether the project meets the criteria for a RGP 8 by **October 12, 2020** so that construction may start in mid to late October, when the repair materials are received. If the project meets the criteria for RGP 8 authorization, a RGP 8 verification letter will be issued. Otherwise, the Corps will immediately terminate the RGP process and proceed to process the application under according to other permit procedures. "No objection" comments may be provided by telephone, but substantive comments should be provided and confirmed in writing.

Sincerely

(b) (6)
Senior Project Manager
Nevada-Utah Regulatory Section
300 Booth Street, Room 3050
Reno, Nevada 89509

Ph: 775-784-5304

Cell: 775-686-9622- Primary number during COVID-19 Response

Business hours: Monday-Friday, 8AM-2PM Pacific Time

In response to COVID-19, Regulatory Division staff are teleworking from home or other approved location. We will do our best to administer the Regulatory Program in an effective and efficient manner. Priority will be given to health and safety activities and essential infrastructure. Action on your permit application or other request may be delayed during this emergency. We appreciate your patience over the next several weeks.

Let us know how we're doing. Please complete the survey at:

<https://regulatory.ops.usace.army.mil/ords/f?p=136:4>



US Army Corps
of Engineers

RGP 8 EMERGENCY NOTIFICATION

US Army Engineer District, Sacramento
1325 J Street
Sacramento, California 95814-2922

October 1, 2021

TO: Joseph Morgan, USEPA Andy Starostka, USFWS CA Water Quality Control Board, Lahontan Patrick Moeszinger, CDFW Ninette Lee, CA State Lands Jason Ramos, CA State Lands Tiffany Good, TRPA Tyrone Conner, USCG David Sulouff, USCG Waterways Loretta Beene, USCG Julianne Polanco, CA SHPO Elizabeth Hodges, CA SHPO Susan Jamerson, Washoe Environmental Director Darrel Cruz, Washoe THPO Daniel Fonseca, SSBMI THPO Kara Perry, SSBMI Cultural Outreach	EMAIL: morgan.joseph@epa.gov andy_starostka@fws.gov Lahontan@waterboards.ca.gov Patrick.Moeszinger@wildlife.ca.gov Ninette.Lee@slc.ca.gov Jason.Ramos@slc.ca.gov tgood@trpa.org Tyrone.L.Conner@uscg.mil d11-pf-marineevents@uscg.mil Loretta.R.Beene@uscg.mil Julianne.Polanco@parks.ca.gov Elizabeth.Hodges@parks.ca.gov SusanE.Jamerson@washoetribe.us darrel.cruz@washoetribe.us dfonseca@ssband.org kperry@ssband.org
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FROM: (b) (6) Regulatory Division (CESPK-RD)	EMAIL: (b) (6) @usace.army.mil PHONE: (775) 784-5304
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COMMENTS RE: Emerald Bay Submerged Electric Line Crossing Repair (SPK-2005-01096)

We have received an application from Liberty Utilities to repair approximately 400 linear feet of submerged electric cable requiring work and structures in navigable of waters of the United States, for the Emerald Bay Submerged Electric Line Crossing Repair project located in Lake Tahoe, along the lakebed across Emerald Bay, with center point of the line near Latitude 38.95607°, Longitude -120.09504°, Emerald Bay, El Dorado County, California. The project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354 feet of cable will be repaired below the ordinary high water mark elevation 6,229.1-foot Lake Tahoe Datum, including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. Based on the information provided by the applicant, the proposed activity qualifies for Nationwide Permit Number RGP #8 - Emergency Actions. We have attached the applicant's notification to include proposed plans for your reference.

The U.S. Army Corps of Engineers, Sacramento District, Reno Regulatory Field Office (Corps) is proposing to issue a Regional General Permit (RGP) 8 for the above-referenced work following procedures identified in our Public Notice number SPK-1997-00652, dated August 10, 2018, and we are soliciting your comments. Comments must be received by this office by **Close of Business October 8, 2021**. The Corps will make a determination whether the project meets the criteria for a RGP 8 by **October 12, 2020** so that construction may start in mid to late October, when the repair materials are received. If the project meets the criteria for RGP 8 authorization, a RGP 8 verification letter will be issued. Otherwise, the Corps will immediately terminate the RGP process and proceed to process the application under according to other permit procedures. "No objection" comments may be provided by telephone, but substantive comments should be provided and confirmed in writing.

Please notify us immediately if you have not received the attachments referenced below.

Attachments (consolidated):

Application/Notification Documentation

Figures

Photos



Frank Papandrea
Specialist, Environment
Liberty (California)
701 National Avenue
Tahoe Vista, CA 96148

September 9, 2021

(b) (6)

United States Army Corps of Engineers
Sacramento District Regulatory Division
1325 J Street, Room 1350
Sacramento, CA 95814-02922

RE: Request for Authorization Under Regional General Permit (RGP) 8 for Liberty's Emerald Bay Cable Repair Project (Project)

Liberty is submitting this request for authorization under RGP 8 in order to repair portions of an existing 4.5-inch-diameter 14.4-kilovolt underwater power cable on the bed of Lake Tahoe's Emerald Bay in El Dorado County, California. The damage was detected during routine maintenance inspections on both northern and southern ends of the cable near the water's edge and appears to be caused by repeated contact with motorboat propellers or anchors. In addition, portions of the cable located above the shoreline are exposed and the protective wrapping has been compromised. To prevent further motorboat propeller or anchor damage and exposure of the onshore exposed cable, increase the safety of the existing facility, and maintain power to its customers, Liberty proposes to armor the damaged cable with cast-iron protectors. A total of approximately 354 feet of cable will be repaired within the United States (U.S.) Army Corps of Engineers' jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. Installation of the cast-iron protectors will result in approximately 0.16 cubic yards of fill within a water of the U.S.

Desktop studies were conducted to determine the potential for sensitive biological and cultural resources within the Project area. Four sensitive species were identified within 1 mile of the repair areas. The Project is not located within critical habitat. Due to the limited onshore work areas located within active recreational areas, and with the implementation of avoidance and minimization measures, no impacts to sensitive species are anticipated. An abandoned historic power cable is located outside of the Project's Area of Direct Impact. Repairs to Liberty's underwater cable will not interfere or impact the historic power cable.

Liberty is aware of an AT&T phone cable located west of the north shore work area; repair activities will not impact that facility.

This notification for RGP 8 includes the following:

- Attachment A: Supporting Documentation
- Attachment B: Figures
- Attachment C: Photographs

Should you have any questions about the enclosed documentation or need any additional information, please do not hesitate to contact me at (530) 721-3396 or Anna Shamey at (651) 587-3248.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frank Papandrea', written in a cursive style.

Frank Papandrea
Specialist, Environment
Enclosure

cc:

Blaine Ladd, Liberty
Anna Shamey, Insignia Environmental

ATTACHMENT A: SUPPORTING DOCUMENTATION

ATTACHMENT A: SUPPORTING DOCUMENTATION

CONTACT INFORMATION

The contact information for the applicant and designated agent are listed in this section.

Applicant

Name: Frank Papandrea

Company: Liberty

Address: 701 National Avenue, Tahoe Vista, CA 96148

Phone number: (530) 721-3396

Email: Frank.Papandrea@libertyutilities.com

Designated Agent

Name: Anna Shamey

Company: Insignia Environmental

Address: 545 Middlefield Road, Suite 210, Menlo Park, CA 94025

Phone number: (651) 587-3248

Email: Ashamey@insigniaenv.com

LOCATION OF PROJECT

The Emerald Bay Cable Repair Project (Project) is located within Lake Tahoe's Emerald Bay in El Dorado County, California. The general location of the Project is depicted in Figure B-1: Project Overview Map in Attachment B: Figures. The Project includes the emergency repair of two portions of an existing underwater power cable near the mouth of Emerald Bay. The Project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354 feet of cable will be repaired within the United States Army Corps of Engineers' (USACE's) jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. The Project boundaries and extent of the repairs that occur within USACE jurisdiction are depicted in Figure B-2: Detailed Map in Attachment B: Figures. The approximate center point of the cable is at 38°57'46.99"N, 120°5'12.58"W.

DIRECTIONS

The south shore of the Project can be accessed by foot from the Eagle Point Campground. From the City of South Lake Tahoe, head northeast on State Route 89 for approximately 5.5 miles and then take the turnoff to Eagle Point Campground (38°57'4.84"N, 120°5'9.16"W). Follow the road until Lower Eagle Point Campground is reached. From the campground, follow the westward trail toward the Emerald Bay shore for approximately 0.25 mile.

The north shore of the Project can be accessed by foot via the Rubicon Trail. From the City of South Lake Tahoe, head northeast on State Route 89 for approximately 7.5 miles. Turn right toward Emerald Bay and into the California State Parks Vikingsholm Harvey West Unit Parking

Fee Area in Emerald Bay State Park (38°57'15.02"N, 120°6'37.85"W). From the parking area, head north along the Rubicon Trail for approximately 1.25 miles.

PROJECT PURPOSE

During a routine maintenance inspection in March 2021, Liberty found damage to its existing 4.5-inch-diameter 14.4-kilovolt underwater power cable on the bed of Emerald Bay. The damage was detected on both ends of the cable near the water's edge and appears to be caused by repeated contact with motorboat propellers or anchors. Although the mechanical protection remains intact, the overall damage shows separation between the outer armor wires, which could allow for further intrusion of outside elements (such as a boat propeller). The cable is now in imminent danger of failure, which would immediately cut off power to more than 500 customers along the west shore of Lake Tahoe, including one green cross customer and the Fallen Leaf Community Service District Fire Department. While there are electric distribution sources from both the north and south that could restore power in the result of a failure, the systems lack reliability and are vulnerable to extended outages. The cable also serves as a back-up power source in the event of an outage for more than 900 customers, including the Meeks Bay Fire Protection District. Damages to the cable would lead to a significant increase in vulnerability to outages for these customers. In the event of a cable failure, the cable could not be repaired and would need to be replaced because the design of the cable does not allow for splicing in place. In addition, on the north shore of Emerald Bay, the protective wrapping of a section of cable has come undone and exposed the cable. The exposed cable is energized with 14.4 kilovolts of power and poses a potentially fatal hazard to the public if contact is made with the cable conductor. To prevent further motorboat propeller or anchor damage, increase the safety of the existing facility, and maintain power to its customers, Liberty proposes to armor the damaged cable with cast-iron protectors.

NATURE OF ACTIVITY

The Project includes the installation of cast-iron protectors measuring approximately 6 inches in diameter around damaged portions of the existing underwater power cable. A plan view drawing is included in Figure B-2: Detailed Map in Attachment B: Figures.

Liberty will conduct cable repairs from a small pontoon boat, which will be used to deliver materials and to transport and support divers during cast-iron protector installation. The pontoon boat will launch from a dock in the Tahoe Keys. Onshore repair sites will be accessed by foot and underwater repair sites will be accessed by divers. Construction materials will be stored on the boat during installation of the cast-iron protectors.

Divers will locate the unburied cable and place a nylon sling underneath the cable. The nylon sling will be tied off to the pontoon boat or a lift bag and will be used to lift the cable a few inches from the floor of the bay, allowing for the bottom half of the cast-iron protector to be installed. A photograph of the cast iron protectors is provided in Attachment C: Photographs as Photograph 5. Next, the top half of the cast-iron protector will be placed onto the cable and the halves will be bolted together. The nylon sling will be slid along in front of the divers to keep the cable above the floor of the bay in the direct area of the cast-iron protector installation. As the sling is advanced, the previously installed cast-iron protectors will be laid back onto the floor of

the bay. This operation will start near the shore and will be repeated until the required number of cast-iron protectors have been installed on both the north and south sides of the bay. Upon completion, the nylon sling will be removed.

On the north side of the bay, cable located above the shoreline will be levered up and placed on an 8-inch by 8-inch wood plank while cast-iron protectors are installed. The cable will be levered down after installation. A 12-foot by 10-foot temporary work area within USACE jurisdiction will be utilized for repairs on the north shore. No vegetation removal or ground disturbance will be required to access the cable, utilize the temporary work area, or perform onshore repairs.

An equipment list is provided in Table 1: Construction Equipment.

Table 1: Construction Equipment

Equipment	Approximate Number	Use
Pontoon boat	1	Provide support to divers during cast-iron protector installation and access onshore work areas
Nylon sling	1	Lift the underwater cable off of the lake floor
Lever	1	Lever the onshore cable for installation
8-inch by 8-inch wood plank	1	Support the onshore cable after it has been levered

Anticipated Impacts to Waters of the U.S.

Installation of approximately 0.16 cubic yard of cast-iron protectors within Emerald Bay will result in permanent fill within a water of the U.S. Permanent impacts (i.e., fill) within Emerald Bay are summarized in Table 2: Permanent Impacts to Waters of the U.S.

Table 2: Permanent Impacts to Waters of the U.S.

Project Component	Approximate Area and Volume of Fill within Waters of the U.S.				Expected Loss of Waters of the U.S. (acres)
	Dimensions		Volume of Fill Material (cubic yards)	Area of Fill (acres)	
	Length (feet)	Diameter ¹ (inches)			
Cast-iron protectors	342	1.5	0.16	<0.01	<0.01

Impacts to waters of the U.S. are a result of an increase in diameter of the existing cable by 1.5 inches. Because the impacts will be limited to less than 0.01 acre and are contained to the area directly surrounding an existing structure, compensatory mitigation is not proposed.

¹ The diameter of fill was calculated by subtracting the diameter of the existing cable (4.5 inches in diameter) from the approximate diameter of the cast-iron protectors (6 inches in diameter).

Schedule

Work is anticipated to begin in mid- to late October 2021 depending on procurement of the cast-iron protectors and agency approval.² Installation of the cast-iron protectors is expected to take a total of 5 days. Work hours will comply with local ordinances, which are expected to be from 8:30 a.m. to 6:30 p.m.

Existing Conditions

The underwater cable to be repaired is located on the bed of Emerald Bay. The north shore work area and cable are located on a rocky slope next to a set of wooden steps used for recreational access to Emerald Bay. Attachment C: Photographs includes photographs displaying pre-construction conditions at the north and south shores.

Regional General Permit (RGP) 8 Terms and General Conditions

Cable repairs fall under Term 4 Repair, Replacement, or Rehabilitation of Existing Structures or Fills of RGP 8. The cable repairs will be completed in accordance with Term 1 of the RGP, which notes that “the activity shall be the minimum necessary to alleviate the immediate emergency, unless this office determines that additional work would result in no more than minimal effects to waters of the U.S. and is necessary to reduce the potential for future failure or loss of the structure or site.”

The repairs will involve installing cast-iron protectors on the existing cable in order to address the emergency situation. Cable repairs are required to alleviate the risk of loss of power and safety caused by damage to the cable. The Project is composed of a single cable crossing Emerald Bay that is owned and operated by Liberty, which meets the definition of a single and complete linear project as described in Section F of the January 6, 2017, Federal Register Notice of Issuance and Reissuance of Nationwide Permits; Final Rule (82 FR 1860) in accordance with Term 5 of RGP 8.

Best Management Practices (BMPs)

The following BMPs will be utilized to avoid and minimize impacts to the aquatic environment.

- Adverse effects to waters of the U.S. are not expected as a result of work associated with the Project; however, continuous visual surface water monitoring will be conducted during operations in Emerald Bay.
- Work onshore will be limited to the designated work areas depicted in Figure B-2: Detailed Map in Attachment B: Figures.
- Disturbance to the lake bottom will be minimized by use of the nylon sling to lift the cable for cast-iron protector installation.

² The cast-iron protectors have been ordered by Liberty; however, the delivery of the materials is not expected until mid-October.

- Temporary work areas will be restored to pre-construction conditions and any trash generated during construction or materials brought to the site will be taken from the site at the end of each work day.
- All work will be done by hand to minimize disturbance.
- Construction equipment (i.e., pontoon boat) will be properly maintained to prevent the leaking of fuels, lubricants, or other fluids into Emerald Bay.
- The pontoon boat will be checked daily for leaks.
- Spill kits will be kept on the pontoon boat.
- Any spills or leaks will be cleaned immediately.

LIST OF OTHER CERTIFICATES OR APPROVALS/DENIALS RECEIVED FROM OTHER FEDERAL, STATE, OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION

Liberty is pursuing permits and authorizations applicable to the Project, which are summarized in Table 3: Future and Pending Permits. In addition, the State Water Resources Control Board (SWRCB), Lahontan Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife (CDFW), Tahoe Regional Planning Agency (TRPA), and the California State Lands Commission (CSLC) have been notified of the Project's planned enrollment under RGP 8.

Table 3: Future and Pending Permits

Agency	Permit/Notification	Jurisdiction/Purpose
SWRCB and RWQCB	Pre-Certified Section 401 Water Quality Certification (WQC) in accordance with the Clean Water Act (CWA)	For activities authorized under the USACE RGP 8
CDFW	California Fish and Game Code Section 1610 Notification	For work necessary to protect life or property
TRPA	Shore Zone Permit	Repairs to existing structures in the lake zones
CSLC	Notification	Repairs to facilities located on lands leased by the CSLC

BIOLOGICAL RESOURCES

Preliminary investigations of the Project area included a review of aerial photographs, U.S. Geological Survey topographic maps, and National Wetland Inventory maps. A literature and database search was conducted within approximately 1 mile of the Project work area and included the following resources:

- the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation database,
- the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California,
- the California Natural Diversity Database (CNDDDB) maintained by the CDFW, and
- TRPA wildlife mapping.

Critical Habitat

There is no proposed or final USFWS critical habitat in the Project area.

Special-Status Species

Based on the results of the desktop analysis, four special-status species have been recorded within 1 mile of the Project area, as summarized in Table 4: Species within 1 Mile of the Project Area .

Table 4: Species within 1 Mile of the Project Area

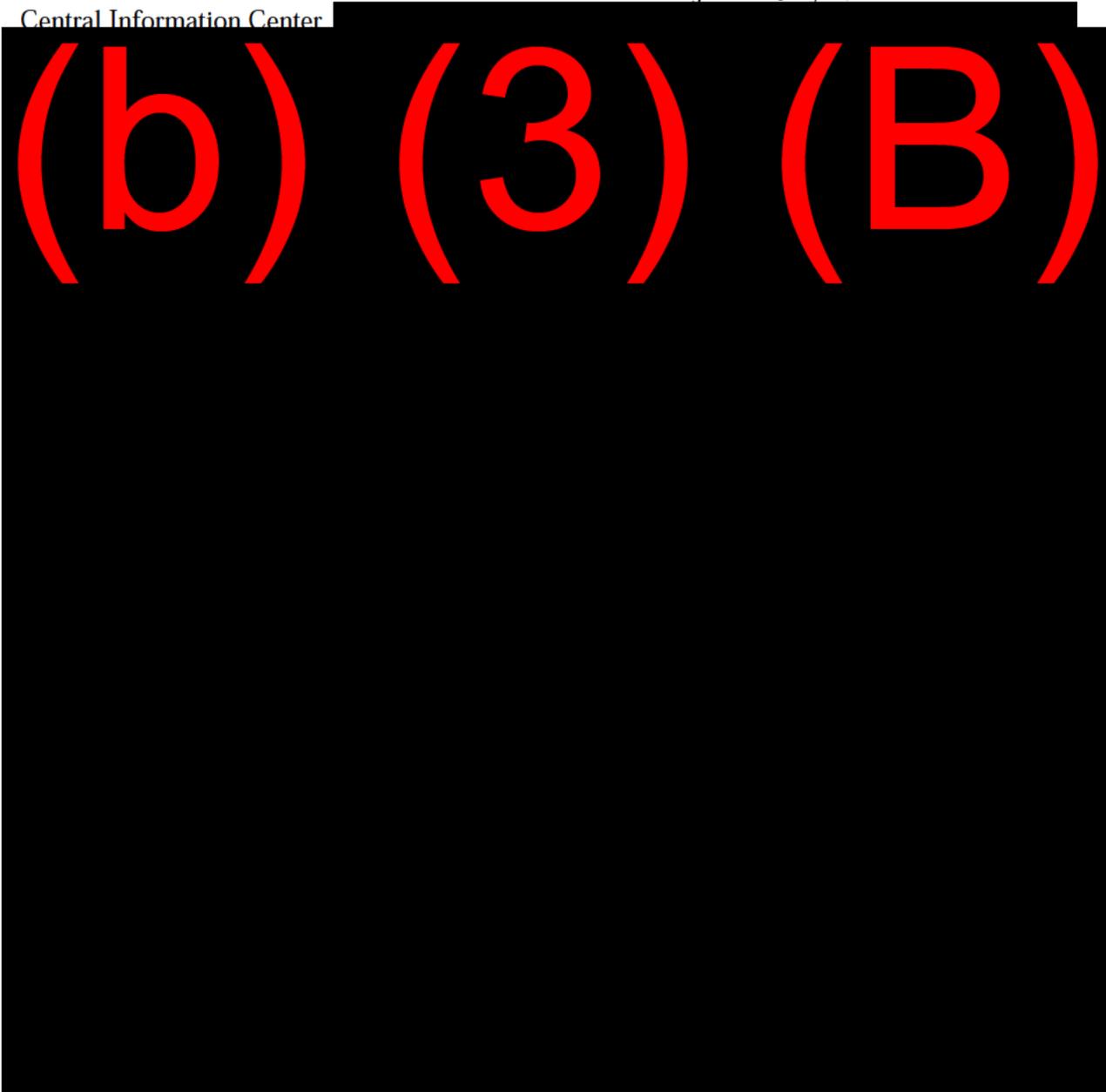
Species	Listing Status	Presence in Work Areas
Tahoe yellow cress (<i>Rorippa subumbellata</i>)	State endangered and CNPS 1B.1	Several CNDDDB observations of Tahoe yellow cress populations have been recorded near the southern work area. In 2016, CNDDDB observations were recorded approximately 500 feet northeast of the southern Project area and approximately 700 feet southwest of the southern Project area. Sand in the work area is suitable habitat for Tahoe yellow cress, although recreational use is a threat to the species in this area. The blooming period for this species is from May through September.
Marsh skullcap (<i>Scutellaria galericulata</i>)	CNPS 2B.2	Marsh skullcap has been observed near the north shore work area. In 2016, a CNDDDB observation was recorded approximately 1,000 feet south of the north shore work area in a rocky habitat. This species does not commonly grow in rocky habitat but was found along the lake shore in rocky habitat in 2016. The freshwater along the shore of the north shore work area is suitable habitat for marsh skullcap. The blooming period for this species is from June to September.
Lahontan cutthroat trout (<i>Oncorhynchus clarkii henshawi</i>)	Federally threatened	Approximately 5,000 Lahontan cutthroat trout were stocked in Lake Tahoe in 2019, and another 5,000 were stocked in Lake Tahoe in 2020. Spawning occurs in streams between February and July. Project work is not expected to impact Lahontan cutthroat trout. The substrate at the northern work area as mapped by TRPA in 2015 is boulder, which is classified as the species' feed and cover habitat class. The substrate at the southern work area as mapped by TRPA in 2015 is sand/cobble/boulder, which is also classified as the species' feed and cover habitat class.
Osprey (<i>Pandion haliaetus</i>)	CDFW Waitlist	There is a potential for nesting birds to occur during the nesting bird season (i.e., March through September). Multiple osprey nests have been recorded in the CNDDDB within 0.3 mile of the southern work area.

Nesting Birds

Work is planned to begin outside of the nesting bird season (i.e., after September 15). In the event that cast iron protectors are received prior to September 15 and work begins during the nesting bird season, a pre-construction nesting bird survey will need to be conducted to ensure that no nests are present within 500 feet of the Project area. If an active nest is discovered, a buffer will be established to ensure that work does not impact the nest, in accordance with the USFWS Migratory Bird Treaty Act.

CULTURAL AND HISTORICAL RESOURCES

A cultural resources record search was conducted for the Project on July 8, 2021 at the North Central Information Center.



(b) (3) (B)

Table 6: Previously Recorded Cultural Resources Adjacent to the Project ADI

(b) (3) (B)

ATTACHMENT B: FIGURES

Figure B-1: Project Overview Map

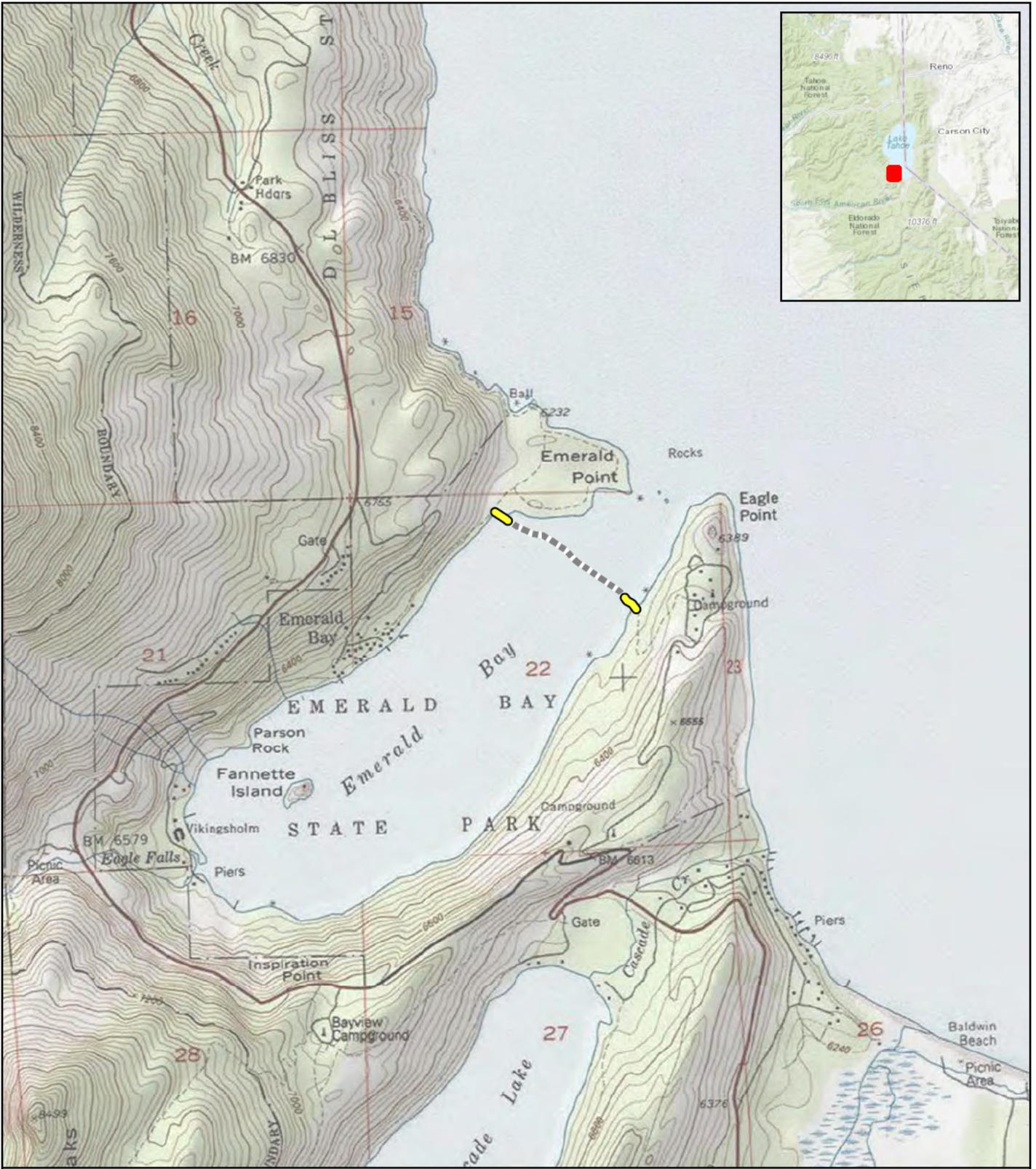
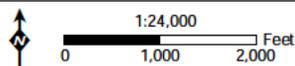


Figure B-1: Project Overview

Emerald Bay Cable Repair Project

Project Components

- Existing Power Cable
- ▬ Cable Repair Area



Z:\Projects\Liberty_Emerald_Bay\MXDs\Fig_1_Overview.mxd 8/11/2021

Figure B-2: Detailed Map

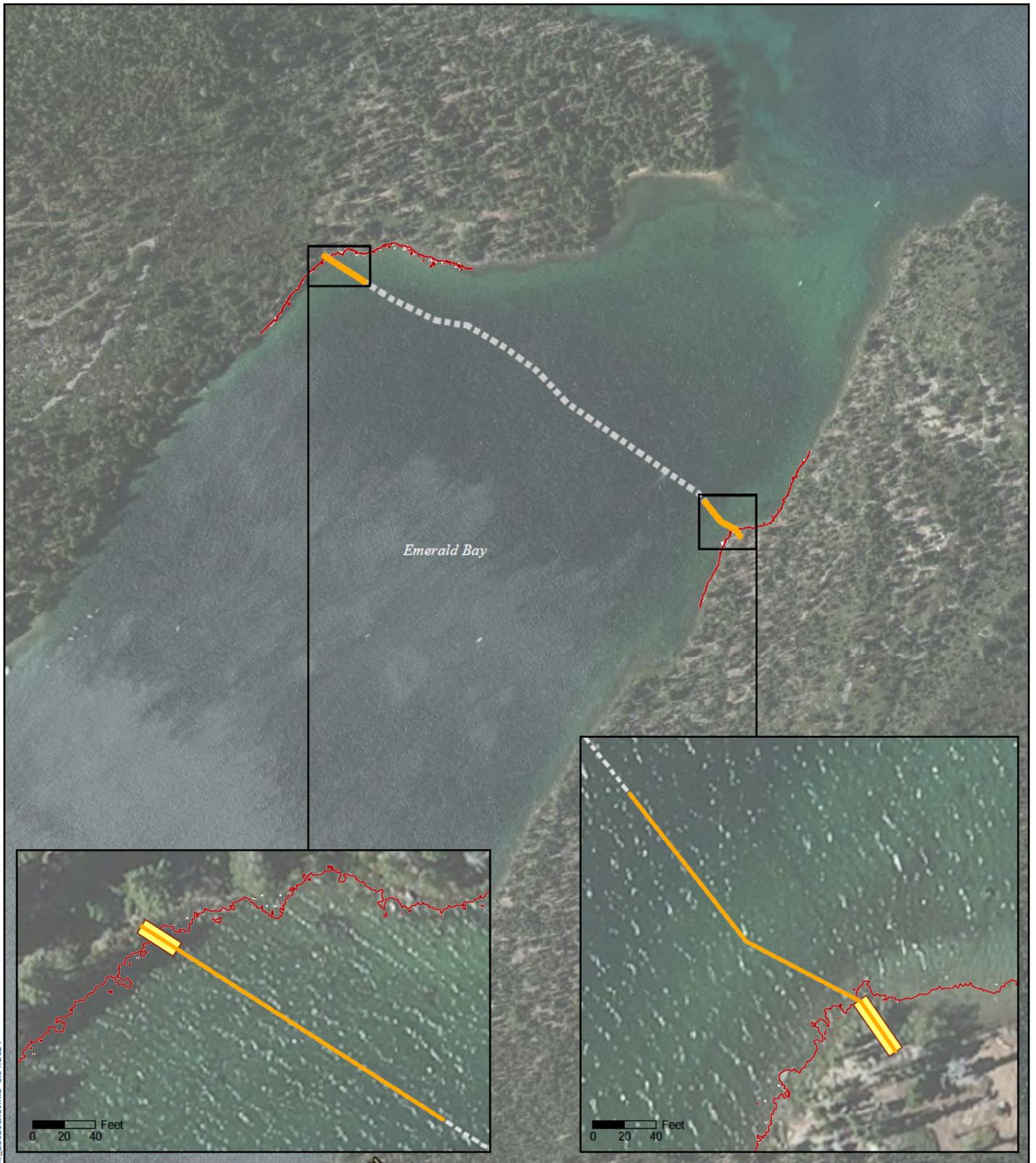
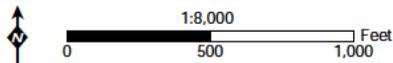


Figure B-2: Detailed Map

Emerald Bay Cable Repair Project

- Project Components**
- Existing Power Cable
 - Cable Repair Area
 - Temporary Work Area

— Ordinary High Water Mark (6229.1 foot elevation)



ATTACHMENT C: PHOTOGRAPHS

ATTACHMENT C: PHOTOGRAPHS



Photograph 1:

A northwest-facing view of the electric cable on the north shore of and within Emerald Bay.



Photograph 2:

A northwest-facing view of the electric cable on the north shore of Emerald Bay.



Photograph 3:
A view of the damage to the electric cable on the north shore of Emerald Bay.



Photograph 4:
A northwest-facing view of the southern cable, indicated by the red arrow.



Photograph 5:

An image of the cast-iron protectors to be installed around the damaged cable.



From: [Hodges, Elizabeth@Parks](mailto:Hodges.Elizabeth@Parks)
To: (b) (6) [CIV USARMY CESPK \(USA\)](mailto:CIV_USARMY_CESPK_USA); Morgan.Joseph@epa.gov; [Starostka, Andy](mailto:Starostka.Andy); [Moeszinger, Patrick@Wildfire](mailto:Moeszinger.Patrick@Wildfire); [Tiffany Good \(TRPA\)](mailto:Tiffany.Good); [Lee, Ninette@SLC](mailto:Lee.Ninette@SLC); [Ramos, Jason@SLC](mailto:Ramos.Jason@SLC); Lahontan; [Tyrone Conner](mailto:Tyrone.Conner); d11-pf-marineevents@uscg.mil; loretta.r.beene@uscg.mil; susane.jamerson@washoe-tribe.us; darrel.cruz@washoe-tribe.us; dfonseca@ssband.org; kperry@ssband.org
Cc: (b) (6) [CIV USARMY CESPK \(USA\)](mailto:CIV_USARMY_CESPK_USA); Frank.Papandrea@libertyutilities.com; Ashamey@insigniaenv.com
Subject: [Non-DoD Source] RE: RGP 8 Agency Notice: Emergency Repair: Liberty Utilities Emerald Bay Submerged Electric Cable Repair project; SPK-2005-01096
Date: Friday, October 1, 2021 11:45:39 AM

Hi (b) (6),

I suggest the Corps check with the Emerald Bay State Park archaeologist to ensure no cultural resources will be affected by project activities (and of course the Tribes but I see they are already cc'd on the email notification).

This is

Elizabeth Hodges, Associate State Archaeologist
Section 106 Review and Compliance
California Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816
(916) 445-7017
Elizabeth.Hodges@parks.ca.gov

From: (b) (6) [CIV USARMY CESPK \(USA\)](mailto:CIV_USARMY_CESPK_USA) (b) (6) @usace.army.mil>
Sent: Friday, October 1, 2021 11:12 AM
To: Morgan.Joseph@epa.gov; [Starostka, Andy](mailto:Starostka.Andy) <andy_starostka@fws.gov>; [Moeszinger, Patrick@Wildfire](mailto:Moeszinger.Patrick@Wildfire) <Patrick.Moeszinger@wildfire.ca.gov>; [Tiffany Good \(TRPA\)](mailto:Tiffany.Good) <tgood@trpa.org>; [Lee, Ninette@SLC](mailto:Lee.Ninette@SLC) <Ninette.Lee@slc.ca.gov>; [Ramos, Jason@SLC](mailto:Ramos.Jason@SLC) <Jason.Ramos@slc.ca.gov>; Lahontan <RB6-Lahontan@waterboards.ca.gov>; [Tyrone Conner](mailto:Tyrone.Conner) <tyrone.l.conner@uscg.mil>; d11-pf-marineevents@uscg.mil; loretta.r.beene@uscg.mil; [Polanco, Julianne@Parks](mailto:Polanco.Julianne@Parks) <Julianne.Polanco@parks.ca.gov>; [Hodges, Elizabeth@Parks](mailto:Hodges.Elizabeth@Parks) <Elizabeth.Hodges@parks.ca.gov>; susane.jamerson@washoe-tribe.us; darrel.cruz@washoe-tribe.us; dfonseca@ssband.org; kperry@ssband.org
Cc: (b) (6) [CIV USARMY CESPK \(USA\)](mailto:CIV_USARMY_CESPK_USA) <(b) (6) @usace.army.mil>; Frank.Papandrea@libertyutilities.com; Ashamey@insigniaenv.com
Subject: RGP 8 Agency Notice: Emergency Repair: Liberty Utilities Emerald Bay Submerged Electric Cable Repair project; SPK-2005-01096
Importance: High

We have received an application from Liberty Utilities to repair approximately 400 linear feet of cable requiring work and structures in navigable waters of the United States, for the Emerald Bay Submerged Electric Line Crossing Repair project located in Lake Tahoe, along the lakebed across Emerald Bay, with center point of the line near Latitude 38.956068964335°, Longitude -120.095038850012°, Emerald Bay, El Dorado County, California. The project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354

feet of cable will be repaired within the United States Army Corps of Engineers' (USACE's) jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. Based on the information provided by the applicant, the proposed activity qualifies for Nationwide Permit Number RGP #8 - Emergency Actions. We have attached the applicant's notification to include proposed plans for your reference.

The U.S. Army Corps of Engineers, Sacramento District, Reno Regulatory Field Office (Corps) is proposing to issue a Regional General Permit (RGP) 8 for the above-referenced work following procedures identified in our Public Notice number SPK-1997-00652, dated August 10, 2018, and we are soliciting your comments. Comments must be received by this office by **Close of Business October 8, 2021**. The Corps will make a determination whether the project meets the criteria for a RGP 8 by **October 12, 2020** so that construction may start in mid to late October, when the repair materials are received. If the project meets the criteria for RGP 8 authorization, a RGP 8 verification letter will be issued. Otherwise, the Corps will immediately terminate the RGP process and proceed to process the application under according to other permit procedures. "No objection" comments may be provided by telephone, but substantive comments should be provided and confirmed in writing.

Sincerely

(b) (6)

Senior Project Manager
Nevada-Utah Regulatory Section
300 Booth Street, Room 3050
Reno, Nevada 89509

Ph: 775-784-5304

Cell: 775-686-9622- Primary number during COVID-19 Response

Business hours: Monday-Friday, 8AM-2PM Pacific Time

In response to COVID-19, Regulatory Division staff are teleworking from home or other approved location. We will do our best to administer the Regulatory Program in an effective and efficient manner. Priority will be given to health and safety activities and essential infrastructure. Action on your permit application or other request may be delayed during this emergency. We appreciate your patience over the next several weeks.

Let us know how we're doing. Please complete the survey at:

<https://regulatory.ops.usace.army.mil/ords/f?p=136:4>

From: Toy_Jannalisa@SLC
To: (b) (6) CIV USARMY CESPK (USA)
Cc: PRAREquest_CSLC@SLC
Subject: [Non-DoD Source] FW: RGP 8 Agency Notice: Emergency Repair: Liberty Utilities Emerald Bay Submerged Electric Cable Repair project; SPK-2005-01096
Date: Friday, October 1, 2021 5:44:38 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[LON_1944_Liberty Utilities \(09-09-21S\) Signed.pdf](#)
Importance: High

Hi (b) (6)

Thanks for the information regarding the Liberty Utilities emergency repairs to the submerged electrical cable in Emerald Bay. The Letter of Non-Objection we issued them for the repairs is attached if you would like to view it. They may proceed with their plans, as submitted to our office, subject to certain conditions outlined in the letter and must apply to our office for a new lease covering the new improvements that will be installed. We don't object to your office issuing a Regional General Permit (RGP) 8.

Thanks and please let me know if you would like any additional information.

Janna Toy
Public Land Management Specialist
California State Lands Commission | Land Management Division
100 Howe Avenue, Suite 100-South | Sacramento | CA 95825
(916) 574-1926 | Jannalisa.Toy@slc.ca.gov



*Teleworking Mondays 7:30 a.m. – 4:00 p.m.; Tuesdays – Fridays, 7:30 a.m. – 5:00 p.m.
Off on alternate Mondays (off on October 11th & 25th)
I may be reached through email, Microsoft Teams, and at (916) 574-1926*

From: Lee, Ninette@SLC <Ninette.Lee@slc.ca.gov>
Sent: Friday, October 01, 2021 12:33 PM
To: Toy, Jannalisa@SLC <Jannalisa.Toy@slc.ca.gov>
Subject: FW: RGP 8 Agency Notice: Emergency Repair: Liberty Utilities Emerald Bay Submerged Electric Cable Repair project; SPK-2005-01096
Importance: High

Hi Janna,

FYI- maybe Army Corps would like a copy of the LON we sent.

Ninette Lee, Public Land Manager
CALIFORNIA STATE LANDS COMMISSION
Land Management Division | Northern California & Delta Region
100 Howe Avenue, Suite 100-South | Sacramento | CA 95825
Phone: 916.574.1869 | Email: ninette.lee@slc.ca.gov



*****In response to COVID-19, I am currently teleworking. I can still be reached at (916) 574-1869 or ninette.lee@slc.ca.gov between the hours of 9:00 AM and 5:30 PM.*****

From: (b) (6) CIV USARMY CESPK (USA) (b) (6) @usace.army.mil>
Sent: Friday, October 01, 2021 11:12 AM
To: Morgan.Joseph@epa.gov; Starostka, Andy <andy_starostka@fws.gov>; Moeszinger, Patrick@Wildlife <Patrick.Moeszinger@wildlife.ca.gov>; Tiffany Good (TRPA) <tgood@trpa.org>; Lee, Ninette@SLC <Ninette.Lee@slc.ca.gov>; Ramos, Jason@SLC <Jason.Ramos@slc.ca.gov>; Lahontan <RB6-Lahontan@waterboards.ca.gov>; Tyrone Conner <tyrone.l.conner@uscg.mil>; d11-pf-marineevents@uscg.mil; loretta.r.beene@uscg.mil; Polanco, Julianne@Parks <Julianne.Polanco@parks.ca.gov>; Hodges, Elizabeth@Parks <Elizabeth.Hodges@parks.ca.gov>;

susane.jamerson@washoetribe.us; darrel.cruz@washoetribe.us; dfonseca@ssband.org; kperry@ssband.org

Cc: (b) (6) CIV USARMY CESP (USA) <(b) (6) @usace.army.mil>; Frank.Papandrea@libertyutilities.com; Ashamey@insigniaenv.com

Subject: RGP 8 Agency Notice: Emergency Repair: Liberty Utilities Emerald Bay Submerged Electric Cable Repair project; SPK-2005-01096

Importance: High

Attention: This email originated from outside of SLC and should be treated with extra caution.

We have received an application from Liberty Utilities to repair approximately 400 linear feet of cable requiring work and structures in navigable waters of the United States, for the Emerald Bay Submerged Electric Line Crossing Repair project located in Lake Tahoe, along the lakebed across Emerald Bay, with center point of the line near Latitude 38.956068964335°, Longitude -120.095038850012°, Emerald Bay, El Dorado County, California. The project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354 feet of cable will be repaired within the United States Army Corps of Engineers' (USACE's) jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. Based on the information provided by the applicant, the proposed activity qualifies for Nationwide Permit Number RGP #8 - Emergency Actions. We have attached the applicant's notification to include proposed plans for your reference.

The U.S. Army Corps of Engineers, Sacramento District, Reno Regulatory Field Office (Corps) is proposing to issue a Regional General Permit (RGP) 8 for the above-referenced work following procedures identified in our Public Notice number SPK-1997-00652, dated August 10, 2018, and we are soliciting your comments. Comments must be received by this office by **Close of Business October 8, 2021**. The Corps will make a determination whether the project meets the criteria for a RGP 8 by **October 12, 2020** so that construction may start in mid to late October, when the repair materials are received. If the project meets the criteria for RGP 8 authorization, a RGP 8 verification letter will be issued. Otherwise, the Corps will immediately terminate the RGP process and proceed to process the application under according to other permit procedures. "No objection" comments may be provided by telephone, but substantive comments should be provided and confirmed in writing.

Sincerely

(b) (6)

Senior Project Manager
Nevada-Utah Regulatory Section
300 Booth Street, Room 3050
Reno, Nevada 89509

Ph: 775-784-5304

Cell: 775-686-9622- Primary number during COVID-19 Response

Business hours: Monday-Friday, 8AM-2PM Pacific Time

In response to COVID-19, Regulatory Division staff are teleworking from home or other approved location. We will do our best to administer the Regulatory Program in an effective and efficient manner. Priority will be given to health and safety activities and essential infrastructure. Action on your permit application or other request may be delayed during this emergency. We appreciate your patience over the next several weeks.

Let us know how we're doing. Please complete the survey at:

<https://regulatory.ops.usace.army.mil/ords/f?p=136:4>



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

CESPK-RDI-N (File Number, SPK-2005-01096)

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Memorandum Documenting Regional General Permit Verification

1. Introduction and overview: Information about the proposal subject to one or more of the Corps regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 4 and findings are documented in Section 5 of this memorandum. Further, summary information about the activity including the administrative history of actions taken during project evaluation is attached (ORM2 summary) and incorporated into this memorandum.

a. Applicant Name: Liberty Utilities, Attn: Mr. Frank Papandrea

b. Activity location: The project is in Lake Tahoe, along the lakebed across Emerald Bay, with center point of the line near Latitude 38.95607°, Longitude -120.09504°, Emerald Bay, El Dorado County, California.

c. Description of activity requiring verification: The project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354 feet of cable would be repaired below the ordinary high water mark elevation 6,229.1-foot Lake Tahoe Datum. This would include approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay.

d. Existing conditions and any applicable project history: During a routine maintenance inspection the applicant found damage to the existing 4.5-inch-diameter, 14.4-kilovolt underwater power cable on the bed of Emerald Bay. The damage was detected on both ends of the cable near the water's edge and appears to be caused by repeated contact with motorboat propellers or anchors. Although the mechanical protection remains intact, the overall damage shows separation between the outer armor wires, which could allow for further intrusion of outside elements (such as a boat propeller). The cable is now in imminent danger of failure, which would immediately cut off power to more than 500 customers along the west shore of Lake Tahoe, including one green cross customer and the Fallen Leaf Community Service District Fire Department. While there are electric distribution sources from both the north and south that could restore power in the result of a failure, the systems lack reliability and are vulnerable to extended outages. The cable also serves as a back-up power source in the event of an outage for more than 900 customers, including the Meeks Bay Fire Protection District. Damages to the cable

would lead to a significant increase in vulnerability to outages for these customers. In the event of a cable failure, the cable could not be repaired and would need to be replaced because the design of the cable does not allow for splicing in place. In addition, on the north shore of Emerald Bay, the protective wrapping of a section of cable has come undone and exposed the cable. The exposed cable is energized with 14.4 kilovolts of power and poses a potentially fatal hazard to the public if contact is made with the cable conductor. To prevent further motorboat propeller or anchor damage, increase the safety of the existing facility, and maintain power to its customers, Liberty proposes to armor the damaged cable with cast-iron protectors.

(1) Jurisdictional Determination

Is this project supported by a Jurisdictional Determination? No Jurisdictional Determination. Lake Tahoe is a navigable waterway regulated under Section 10 of the Rivers and Harbors Act of 1899. The ordinary high water mark is 6229.1 feet in elevation (Lake Tahoe Datum).

e. Permit authority: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403)

f. Applicable Permit: Regional General Permit 8, Emergency Repair and Protection Activities.

g. Waiver discussion:

Does the activity require a written waiver? No.

2. Evaluation of the Pre-Construction Notification:

a. Direct and indirect effects caused by the RGP/PGP activity: The proposed work would have a direct temporary effect on navigation for the duration of the repair activities. Water quality may be impacted for the duration of the repair activities as a result of lifting the cable off the lakebed to place the cast iron sleeves around the cable. Water quality impacts are proposed to be minimized by using less invasive construction methods.

b. Site specific factors: The Project includes the installation of cast-iron protectors measuring approximately 6 inches in diameter around damaged portions of the existing underwater power cable. The applicant proposes to conduct cable repairs from a small pontoon boat, which would be used to deliver materials and to transport and support divers during cast-iron protector installation. The pontoon boat would launch from a dock in the Tahoe Keys. Onshore repair sites would be accessed by foot and underwater repair sites would be accessed by divers. Construction materials would be stored on the boat during installation of the cast-iron protectors. Divers would locate the unburied cable and place a nylon sling underneath the cable. The nylon sling would be tied off to the pontoon boat or a lift bag and would be used to lift the cable a few inches from the floor of the bay, allowing for the bottom half of the cast-iron protector to be installed. Next, the top half of the cast-iron protector would be placed onto the cable and the halves would be bolted together. The nylon sling would be slid along in front of the divers to keep the cable above the floor of the bay in the direct area of the cast-iron protector installation. As the sling is advanced, the previously installed cast-iron protectors would be laid back onto the floor of the bay. This operation would start near the shore and would be repeated until the required number of cast-iron protectors have been installed on both the north and south sides of the bay. Upon completion, the nylon sling would be removed. On the north side of the bay, cable located above the shoreline would be levered up and placed on an 8-inch by 8-inch wood plank while cast-iron protectors are installed. The cable would be levered down after installation. A 12-foot by 10-foot temporary work area within USACE jurisdiction would be utilized for repairs on the north shore. No vegetation removal or ground disturbance would be required to access the cable, utilize the temporary work area, or perform onshore repairs.

c. Coordination:

(1) Interagency coordination

Was the PCN coordinated with other agencies? Yes.

If yes, describe results including resolution of any concerns: Coordination with the US Environmental Protection Agency (USEPA), US Fish and Wildlife Service (USFWS), US Coast Guard (USCG), California Department of Fish and Wildlife (CDFW), California State Lands Commission, Tahoe Regional Planning Agency (TRPA), California Waterboard- Lahontan Region, California State Historic Preservation Office (CA SHPO), Washoe Tribe of Nevada and California (Washoe), and the Shingle Springs Band of Miwok Indians (SSBMI) was conducted via email dated October 1, 2021, with comments requested by October 8, 2021.

California State Lands Commission commented with no objection and provided a copy of the no objection letter that was issued by their office. The USFWS commented that standard Lake Tahoe best management practices (BMPs) should be implemented and that use of Key D through the Information Planning and Consultation (IPaC) website was appropriate for use for consulting on the Lahontan Cutthroat Trout because the project activities are similar in effect to the activities that are covered in Key D. The CA SHPO office recommended consulting the Emerald Bay State Park staff archaeologist on the

project and provided the contact phone number. Multiple attempts to call the number on October 5 and 8, 2021, went unanswered.

(2) Corps internal coordination

Was the PCN coordinated with other business lines of the Corps? No.

3. Mitigation:

a. Avoidance and minimization:

Provide brief description of how the activity has been designed on-site to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site: The project proposes to use existing access areas from the land and boat, and the work is proposed to be conducted in a manner that will minimize impacts to water quality in addition to conducting the work in an expeditious manner to alleviate the emergency issues.

Describe other mitigative actions including project modifications implemented to minimize adverse project impacts (see 33 CFR 210.4(r)(1)(i)): N/A.

b. Compensatory mitigation requirement:

Is compensatory mitigation required for unavoidable impacts to jurisdictional aquatic resources to reduce the individual and cumulative adverse environmental effects to a minimal level? No.

Provide rationale: No mitigation is required because the activity consists of construction of a structure that would not adversely impact aquatic resources.

4. Compliance with Other Laws, Policies and Requirements:

a. Section 7(a)(2) of the Endangered Species Act (ESA):

(1) ESA action area

The Corps ESA action area consists of the area within which the Corps is responsible for evaluating the effects of its federal action (i.e., verification of an activity in waters of the U.S). In this case the Corps ESA action area is the length of the cable across the bay, including all cable located below 6229.1 feet of elevation (Lake Tahoe Datum), and the boat path from which the work will be conducted.

(2) Lead federal agency for Section 7 of the ESA

Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? No.

(3) Listed/proposed species and/or designated/proposed critical habitat

Are there listed or proposed species or designated critical habitat that may be present or in the vicinity of the Corps' action area? Yes. Lahontan Cutthroat Trout (*Oncorhynchus clarkii henshawi*) (LCT) and Sierra Nevada Yellow Legged frog (*Rana sierrae*) (SNYLF).

Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s): The project area does not support SNYLF habitat, so we have determined there would be no affect to SNYLF. We have determined that project may affect but is not likely to adversely affect LCT. The likelihood of LCT occurring in the action area is very low because 1) the abundance of LCT in the action area is low due to the large size of Lake Tahoe; 2) ongoing patterns of recreational use are expected to deter LCT's use of the action area. To the extent that LCT may nonetheless be present in the action area, it is expected that the fish would respond by avoiding the area and have the ability to move without impediment to other suitable shore habitat. Because SNYF designated critical habitat does not occur in the project area, and critical habitat has not been defined for the LCT, no critical habitat will be impacted.

(4) Section 7 ESA consultation

Consultation with either the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service was initiated and completed as required, for any determinations other than "no effect" (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation). In an email dated October 5, 2021, the USFWS responded to the agency notification stating that the Key D in the Information Planning and Consultation (IPaC) should be appropriately be applied for the proposed project because the impacts were similar in nature to the activities specified therein. In accordance with this comment the IPaC Key D was completed on October 8, 2021, and through which the USFWS concurred with our determination of may affect, not likely to adversely affect.

b. Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act), Essential Fish Habitat (EFH): N/A, there is no essential fish habitat in this district's area of responsibility in Lake Tahoe.

c. Section 106 of the National Historic Preservation Act (Section 106):

(1) Section 106 permit area

The permit area includes only those areas comprising waters of the United States that will be directly affected by the proposed work/structures. Activities outside of waters of the U.S. are not included; all three tests in 33 CFR 325, Appendix C(g)(1) have not been met.

Final description of the permit area: The Corps' permit area includes the length of the cable across the bay, including all cable located below 6229.1 feet of elevation (Lake Tahoe Datum), and the boat path from which the work will be conducted.

(2) Lead federal agency for Section 106 of the NHPA

Has another federal agency been identified as the lead federal agency for complying with Section 106 of the National Historic Preservation Act with the Corps designated as a cooperating agency and has that consultation been completed? No.

(3) Historic properties

Known historic properties? No. The cable to repaired was placed in 2015.

Effect determination and basis for that determination: No potential to effect historic properties. The proposed project does not include any work to any cultural resources and there are no new ground disturbing activities associated with the repair work.

(4) Consultation with the appropriate agencies, tribes, and/or other parties for effect determinations

Consultation was initiated and completed with the appropriate agencies, tribes and/or other parties for any determinations other than "no potential to cause effects." (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation). The California State Historic Preservation Office (CA SHPO) responded to the agency notification with no concerns but recommended contacting the Emerald Bay State Park staff archaeologist to determine if there were any concerns. Multiple phone calls placed between October 5 and October 8, 2021, went unanswered with no option to leave a message. As there are no new ground disturbing activities associated with the proposed project, no further consultation has been conducted.

d. Tribal Trust Responsibilities:

(1) Tribal government-to-government consultation

Was government-to-government consultation conducted with Federally-recognized Tribe(s)? No.

(2) Other tribal consultation

Other Tribal including any discussion of Tribal Treaty rights? The Washoe Tribe of Nevada and California and the Shingle Springs Band of Miwok Indians were notified of the project on October 1, 2021, as part of the agency notification for the proposed project. To date, no comments have been received from either tribe.

e. Section 401 of the Clean Water Act – Water Quality Certification (WQC):

(1) Section 401 WQC requirement

Is a Section 401 WQC required, and if so, has the certification been issued, waived or presumed waived? A general WQC has been granted. Compliance with the 401 WQC will be a condition of any permit verification

f. Coastal Zone Management Act (CZMA): N/A, there are no coastal zones within this district’s area of responsibility.

g. Wild and Scenic Rivers Act:

(1) National Wild and Scenic River System

Is the project located 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? No.

h. Effects on Corps Civil Works Projects (33 USC 408):

(1) Permission requirements under Section 14 of the Rivers and Harbors Act (33 USC 408)

Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy, or use a Corps Civil Works project? No, there are no Corps Civil Works project(s) in or near the vicinity of the proposal.

i. Other (as needed): N/A.

j. Compliance statement:

The Corps has determined that it has fulfilled its responsibilities under the following laws, regulations, policies, and guidance:

Table 1 – Compliance with Federal Laws and Responsibilities		
Laws, Regulations, Policies, and Guidance	Yes	N/A
Section 7(a) (2) of the ESA	X	
EFH provisions of the Magnuson-Stevens Act		X
Section 106 of the NHPA	X	
Tribal Trust	X	
Section 401 of the Clean Water Act	X	
Wild and Scenic Rivers Act		X
Section 408 - 33 USC 408		X
Other: N/A		X

5. Special Conditions:

a. Special condition(s) requirement(s): Are special conditions required to ensure minimal effects, protect the public interest and/or ensure compliance of the activity with any of the laws above? Yes.

b. Special condition(s):

Special condition 1: You shall comply with the attached October 9, 2018, Section 401 Water Quality Certification.

Rationale: This condition is necessary to ensure compliance with Section 401 of the Clean Water Act for the GP verification (33 USC 1341; 33 CFR 320.3; 33 CFR 320.4(d); 33 CFR 325.2(b)(1); 33 CFR 325.4(a)(1)).

Special condition 2: To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the enclosed U.S. Fish and Wildlife Service letter of concurrence (Number 08ENV00-2022-I-0006, dated October 8, 2021), including those ascribed to the U.S. Army Corps of Engineers (Corps) therein. If you are unable to implement any of these measures, you must immediately notify the Corps and the U.S. Fish and Wildlife Office so we may consult as appropriate, prior to initiating the work, in accordance with federal law.

Rationale: This condition is necessary to ensure compliance with Section 7 of the Endangered Species Act (16 USC 1531 et seq; 50 CFR 402; 33 CFR 320.4(j)(4); 33 CFR 325.2(b)(5); 33 CFR 325.4(a)(1)).

6. Determination:

a. General permit statement:

The activity will result in no more than minimal individual and cumulative adverse effects on the aquatic environment and will not be contrary to the public interest, provided the permittee complies with the special conditions identified above.

b. Compliance statement:

This activity, as described, complies with all terms and conditions of the RGP identified in Section 1.f.

PREPARED AND APPROVED BY:

_____ Date: _____
(b) (6)
Senior Project Manager
Nevada-Utah Section

REVIEWED BY:

(b) (6)

_____ Date:_____

Project Manager
Nevada-Utah Section

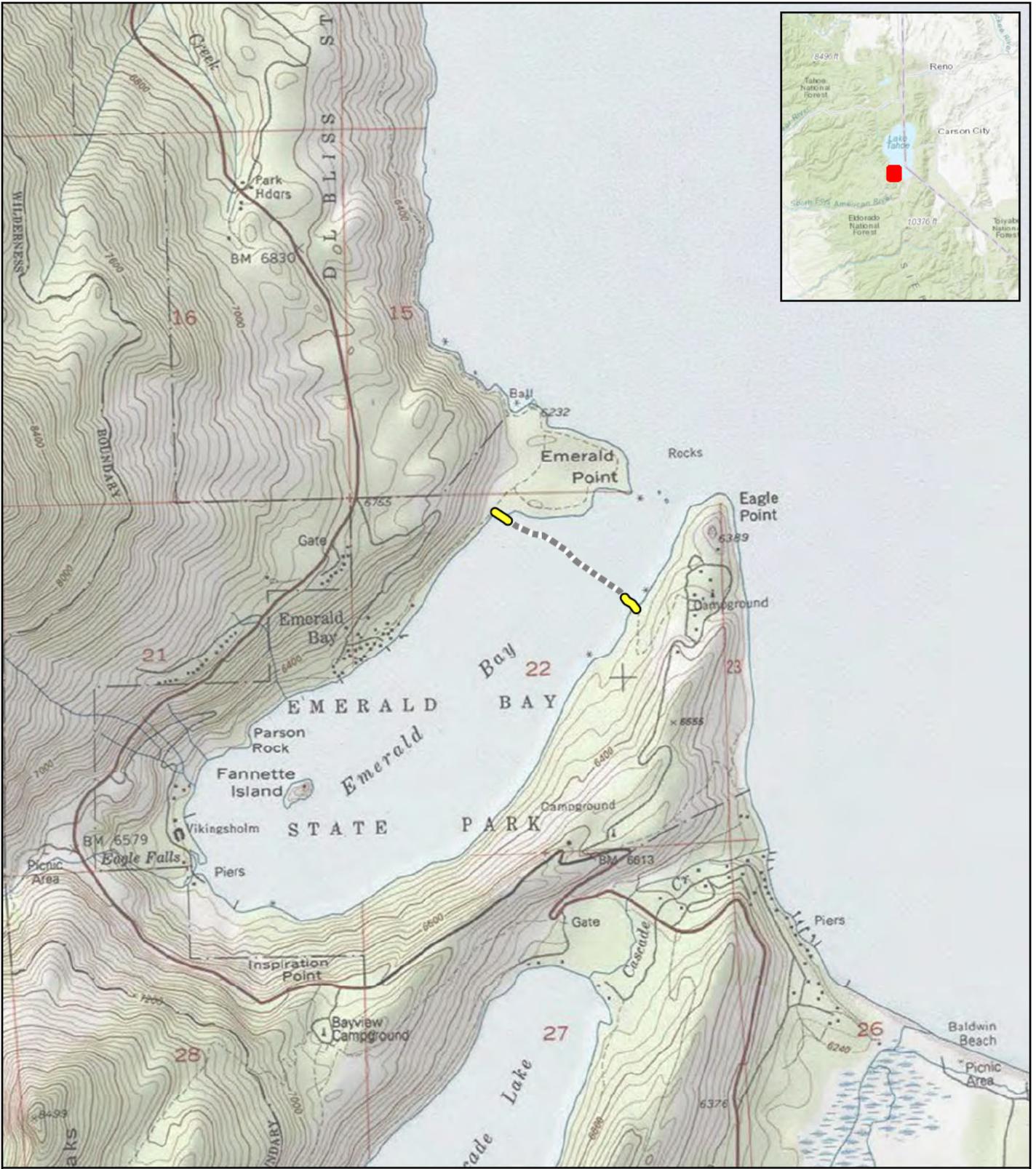
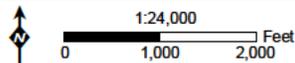


Figure B-1: Project Overview

Emerald Bay Cable Repair Project

Project Components

- ▬ Existing Power Cable
- ▬ Cable Repair Area





Frank Papandrea
Specialist, Environment
Liberty (California)
701 National Avenue
Tahoe Vista, CA 96148

September 9, 2021

(b) (6)

United States Army Corps of Engineers
Sacramento District Regulatory Division
1325 J Street, Room 1350
Sacramento, CA 95814-02922

RE: Request for Authorization Under Regional General Permit (RGP) 8 for Liberty's Emerald Bay Cable Repair Project (Project)

Liberty is submitting this request for authorization under RGP 8 in order to repair portions of an existing 4.5-inch-diameter 14.4-kilovolt underwater power cable on the bed of Lake Tahoe's Emerald Bay in El Dorado County, California. The damage was detected during routine maintenance inspections on both northern and southern ends of the cable near the water's edge and appears to be caused by repeated contact with motorboat propellers or anchors. In addition, portions of the cable located above the shoreline are exposed and the protective wrapping has been compromised. To prevent further motorboat propeller or anchor damage and exposure of the onshore exposed cable, increase the safety of the existing facility, and maintain power to its customers, Liberty proposes to armor the damaged cable with cast-iron protectors. A total of approximately 354 feet of cable will be repaired within the United States (U.S.) Army Corps of Engineers' jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. Installation of the cast-iron protectors will result in approximately 0.16 cubic yards of fill within a water of the U.S.

Desktop studies were conducted to determine the potential for sensitive biological and cultural resources within the Project area. Four sensitive species were identified within 1 mile of the repair areas. The Project is not located within critical habitat. Due to the limited onshore work areas located within active recreational areas, and with the implementation of avoidance and minimization measures, no impacts to sensitive species are anticipated. An abandoned historic power cable is located outside of the Project's Area of Direct Impact. Repairs to Liberty's underwater cable will not interfere or impact the historic power cable.

Liberty is aware of an AT&T phone cable located west of the north shore work area; repair activities will not impact that facility.

This notification for RGP 8 includes the following:

- Attachment A: Supporting Documentation
- Attachment B: Figures
- Attachment C: Photographs

Should you have any questions about the enclosed documentation or need any additional information, please do not hesitate to contact me at (530) 721-3396 or Anna Shamey at (651) 587-3248.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Papandrea". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank Papandrea
Specialist, Environment
Enclosure

cc:

Blaine Ladd, Liberty
Anna Shamey, Insignia Environmental

ATTACHMENT A: SUPPORTING DOCUMENTATION

ATTACHMENT A: SUPPORTING DOCUMENTATION

CONTACT INFORMATION

The contact information for the applicant and designated agent are listed in this section.

Applicant

Name: Frank Papandrea

Company: Liberty

Address: 701 National Avenue, Tahoe Vista, CA 96148

Phone number: (530) 721-3396

Email: Frank.Papandrea@libertyutilities.com

Designated Agent

Name: Anna Shamey

Company: Insignia Environmental

Address: 545 Middlefield Road, Suite 210, Menlo Park, CA 94025

Phone number: (651) 587-3248

Email: Ashamey@insigniaenv.com

LOCATION OF PROJECT

The Emerald Bay Cable Repair Project (Project) is located within Lake Tahoe's Emerald Bay in El Dorado County, California. The general location of the Project is depicted in Figure B-1: Project Overview Map in Attachment B: Figures. The Project includes the emergency repair of two portions of an existing underwater power cable near the mouth of Emerald Bay. The Project involves installation of a total of approximately 400 feet of cast-iron protectors on the north and south sides of the bay, extending approximately 200 feet into the water from each shoreline. A total of approximately 354 feet of cable will be repaired within the United States Army Corps of Engineers' (USACE's) jurisdiction (i.e., below the 6,229.1-foot elevation line), including approximately 200 feet of underwater cable and 12 feet of cable above the shoreline on the north side of the bay, and approximately 142 feet of underwater cable on the south side of the bay. The Project boundaries and extent of the repairs that occur within USACE jurisdiction are depicted in Figure B-2: Detailed Map in Attachment B: Figures. The approximate center point of the cable is at 38°57'46.99"N, 120°5'12.58"W.

DIRECTIONS

The south shore of the Project can be accessed by foot from the Eagle Point Campground. From the City of South Lake Tahoe, head northeast on State Route 89 for approximately 5.5 miles and then take the turnoff to Eagle Point Campground (38°57'4.84"N, 120°5'9.16"W). Follow the road until Lower Eagle Point Campground is reached. From the campground, follow the westward trail toward the Emerald Bay shore for approximately 0.25 mile.

The north shore of the Project can be accessed by foot via the Rubicon Trail. From the City of South Lake Tahoe, head northeast on State Route 89 for approximately 7.5 miles. Turn right toward Emerald Bay and into the California State Parks Vikingsholm Harvey West Unit Parking

Fee Area in Emerald Bay State Park (38°57'15.02"N, 120°6'37.85"W). From the parking area, head north along the Rubicon Trail for approximately 1.25 miles.

PROJECT PURPOSE

During a routine maintenance inspection in March 2021, Liberty found damage to its existing 4.5-inch-diameter 14.4-kilovolt underwater power cable on the bed of Emerald Bay. The damage was detected on both ends of the cable near the water's edge and appears to be caused by repeated contact with motorboat propellers or anchors. Although the mechanical protection remains intact, the overall damage shows separation between the outer armor wires, which could allow for further intrusion of outside elements (such as a boat propeller). The cable is now in imminent danger of failure, which would immediately cut off power to more than 500 customers along the west shore of Lake Tahoe, including one green cross customer and the Fallen Leaf Community Service District Fire Department. While there are electric distribution sources from both the north and south that could restore power in the result of a failure, the systems lack reliability and are vulnerable to extended outages. The cable also serves as a back-up power source in the event of an outage for more than 900 customers, including the Meeks Bay Fire Protection District. Damages to the cable would lead to a significant increase in vulnerability to outages for these customers. In the event of a cable failure, the cable could not be repaired and would need to be replaced because the design of the cable does not allow for splicing in place. In addition, on the north shore of Emerald Bay, the protective wrapping of a section of cable has come undone and exposed the cable. The exposed cable is energized with 14.4 kilovolts of power and poses a potentially fatal hazard to the public if contact is made with the cable conductor. To prevent further motorboat propeller or anchor damage, increase the safety of the existing facility, and maintain power to its customers, Liberty proposes to armor the damaged cable with cast-iron protectors.

NATURE OF ACTIVITY

The Project includes the installation of cast-iron protectors measuring approximately 6 inches in diameter around damaged portions of the existing underwater power cable. A plan view drawing is included in Figure B-2: Detailed Map in Attachment B: Figures.

Liberty will conduct cable repairs from a small pontoon boat, which will be used to deliver materials and to transport and support divers during cast-iron protector installation. The pontoon boat will launch from a dock in the Tahoe Keys. Onshore repair sites will be accessed by foot and underwater repair sites will be accessed by divers. Construction materials will be stored on the boat during installation of the cast-iron protectors.

Divers will locate the unburied cable and place a nylon sling underneath the cable. The nylon sling will be tied off to the pontoon boat or a lift bag and will be used to lift the cable a few inches from the floor of the bay, allowing for the bottom half of the cast-iron protector to be installed. A photograph of the cast iron protectors is provided in Attachment C: Photographs as Photograph 5. Next, the top half of the cast-iron protector will be placed onto the cable and the halves will be bolted together. The nylon sling will be slid along in front of the divers to keep the cable above the floor of the bay in the direct area of the cast-iron protector installation. As the sling is advanced, the previously installed cast-iron protectors will be laid back onto the floor of

the bay. This operation will start near the shore and will be repeated until the required number of cast-iron protectors have been installed on both the north and south sides of the bay. Upon completion, the nylon sling will be removed.

On the north side of the bay, cable located above the shoreline will be levered up and placed on an 8-inch by 8-inch wood plank while cast-iron protectors are installed. The cable will be levered down after installation. A 12-foot by 10-foot temporary work area within USACE jurisdiction will be utilized for repairs on the north shore. No vegetation removal or ground disturbance will be required to access the cable, utilize the temporary work area, or perform onshore repairs.

An equipment list is provided in Table 1: Construction Equipment.

Table 1: Construction Equipment

Equipment	Approximate Number	Use
Pontoon boat	1	Provide support to divers during cast-iron protector installation and access onshore work areas
Nylon sling	1	Lift the underwater cable off of the lake floor
Lever	1	Lever the onshore cable for installation
8-inch by 8-inch wood plank	1	Support the onshore cable after it has been levered

Anticipated Impacts to Waters of the U.S.

Installation of approximately 0.16 cubic yard of cast-iron protectors within Emerald Bay will result in permanent fill within a water of the U.S. Permanent impacts (i.e., fill) within Emerald Bay are summarized in Table 2: Permanent Impacts to Waters of the U.S.

Table 2: Permanent Impacts to Waters of the U.S.

Project Component	Approximate Area and Volume of Fill within Waters of the U.S.				Expected Loss of Waters of the U.S. (acres)
	Dimensions		Volume of Fill Material (cubic yards)	Area of Fill (acres)	
	Length (feet)	Diameter ¹ (inches)			
Cast-iron protectors	342	1.5	0.16	<0.01	<0.01

Impacts to waters of the U.S. are a result of an increase in diameter of the existing cable by 1.5 inches. Because the impacts will be limited to less than 0.01 acre and are contained to the area directly surrounding an existing structure, compensatory mitigation is not proposed.

¹ The diameter of fill was calculated by subtracting the diameter of the existing cable (4.5 inches in diameter) from the approximate diameter of the cast-iron protectors (6 inches in diameter).

Schedule

Work is anticipated to begin in mid- to late October 2021 depending on procurement of the cast-iron protectors and agency approval.² Installation of the cast-iron protectors is expected to take a total of 5 days. Work hours will comply with local ordinances, which are expected to be from 8:30 a.m. to 6:30 p.m.

Existing Conditions

The underwater cable to be repaired is located on the bed of Emerald Bay. The north shore work area and cable are located on a rocky slope next to a set of wooden steps used for recreational access to Emerald Bay. Attachment C: Photographs includes photographs displaying pre-construction conditions at the north and south shores.

Regional General Permit (RGP) 8 Terms and General Conditions

Cable repairs fall under Term 4 Repair, Replacement, or Rehabilitation of Existing Structures or Fills of RGP 8. The cable repairs will be completed in accordance with Term 1 of the RGP, which notes that “the activity shall be the minimum necessary to alleviate the immediate emergency, unless this office determines that additional work would result in no more than minimal effects to waters of the U.S. and is necessary to reduce the potential for future failure or loss of the structure or site.”

The repairs will involve installing cast-iron protectors on the existing cable in order to address the emergency situation. Cable repairs are required to alleviate the risk of loss of power and safety caused by damage to the cable. The Project is composed of a single cable crossing Emerald Bay that is owned and operated by Liberty, which meets the definition of a single and complete linear project as described in Section F of the January 6, 2017, Federal Register Notice of Issuance and Reissuance of Nationwide Permits; Final Rule (82 FR 1860) in accordance with Term 5 of RGP 8.

Best Management Practices (BMPs)

The following BMPs will be utilized to avoid and minimize impacts to the aquatic environment.

- Adverse effects to waters of the U.S. are not expected as a result of work associated with the Project; however, continuous visual surface water monitoring will be conducted during operations in Emerald Bay.
- Work onshore will be limited to the designated work areas depicted in Figure B-2: Detailed Map in Attachment B: Figures.
- Disturbance to the lake bottom will be minimized by use of the nylon sling to lift the cable for cast-iron protector installation.

² The cast-iron protectors have been ordered by Liberty; however, the delivery of the materials is not expected until mid-October.

- Temporary work areas will be restored to pre-construction conditions and any trash generated during construction or materials brought to the site will be taken from the site at the end of each work day.
- All work will be done by hand to minimize disturbance.
- Construction equipment (i.e., pontoon boat) will be properly maintained to prevent the leaking of fuels, lubricants, or other fluids into Emerald Bay.
- The pontoon boat will be checked daily for leaks.
- Spill kits will be kept on the pontoon boat.
- Any spills or leaks will be cleaned immediately.

LIST OF OTHER CERTIFICATES OR APPROVALS/DENIALS RECEIVED FROM OTHER FEDERAL, STATE, OR LOCAL AGENCIES FOR WORK DESCRIBED IN THIS APPLICATION

Liberty is pursuing permits and authorizations applicable to the Project, which are summarized in Table 3: Future and Pending Permits. In addition, the State Water Resources Control Board (SWRCB), Lahontan Regional Water Quality Control Board (RWQCB), California Department of Fish and Wildlife (CDFW), Tahoe Regional Planning Agency (TRPA), and the California State Lands Commission (CSLC) have been notified of the Project's planned enrollment under RGP 8.

Table 3: Future and Pending Permits

Agency	Permit/Notification	Jurisdiction/Purpose
SWRCB and RWQCB	Pre-Certified Section 401 Water Quality Certification (WQC) in accordance with the Clean Water Act (CWA)	For activities authorized under the USACE RGP 8
CDFW	California Fish and Game Code Section 1610 Notification	For work necessary to protect life or property
TRPA	Shore Zone Permit	Repairs to existing structures in the lake zones
CSLC	Notification	Repairs to facilities located on lands leased by the CSLC

BIOLOGICAL RESOURCES

Preliminary investigations of the Project area included a review of aerial photographs, U.S. Geological Survey topographic maps, and National Wetland Inventory maps. A literature and database search was conducted within approximately 1 mile of the Project work area and included the following resources:

- the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation database,
- the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California,
- the California Natural Diversity Database (CNDDDB) maintained by the CDFW, and
- TRPA wildlife mapping.

Critical Habitat

There is no proposed or final USFWS critical habitat in the Project area.

Special-Status Species

Based on the results of the desktop analysis, four special-status species have been recorded within 1 mile of the Project area, as summarized in Table 4: Species within 1 Mile of the Project Area .

Table 4: Species within 1 Mile of the Project Area

Species	Listing Status	Presence in Work Areas
Tahoe yellow cress (<i>Rorippa subumbellata</i>)	State endangered and CNPS 1B.1	Several CNDDDB observations of Tahoe yellow cress populations have been recorded near the southern work area. In 2016, CNDDDB observations were recorded approximately 500 feet northeast of the southern Project area and approximately 700 feet southwest of the southern Project area. Sand in the work area is suitable habitat for Tahoe yellow cress, although recreational use is a threat to the species in this area. The blooming period for this species is from May through September.
Marsh skullcap (<i>Scutellaria galericulata</i>)	CNPS 2B.2	Marsh skullcap has been observed near the north shore work area. In 2016, a CNDDDB observation was recorded approximately 1,000 feet south of the north shore work area in a rocky habitat. This species does not commonly grow in rocky habitat but was found along the lake shore in rocky habitat in 2016. The freshwater along the shore of the north shore work area is suitable habitat for marsh skullcap. The blooming period for this species is from June to September.
Lahontan cutthroat trout (<i>Oncorhynchus clarkii henshawi</i>)	Federally threatened	Approximately 5,000 Lahontan cutthroat trout were stocked in Lake Tahoe in 2019, and another 5,000 were stocked in Lake Tahoe in 2020. Spawning occurs in streams between February and July. Project work is not expected to impact Lahontan cutthroat trout. The substrate at the northern work area as mapped by TRPA in 2015 is boulder, which is classified as the species' feed and cover habitat class. The substrate at the southern work area as mapped by TRPA in 2015 is sand/cobble/boulder, which is also classified as the species' feed and cover habitat class.
Osprey (<i>Pandion haliaetus</i>)	CDFW Waitlist	There is a potential for nesting birds to occur during the nesting bird season (i.e., March through September). Multiple osprey nests have been recorded in the CNDDDB within 0.3 mile of the southern work area.

Nesting Birds

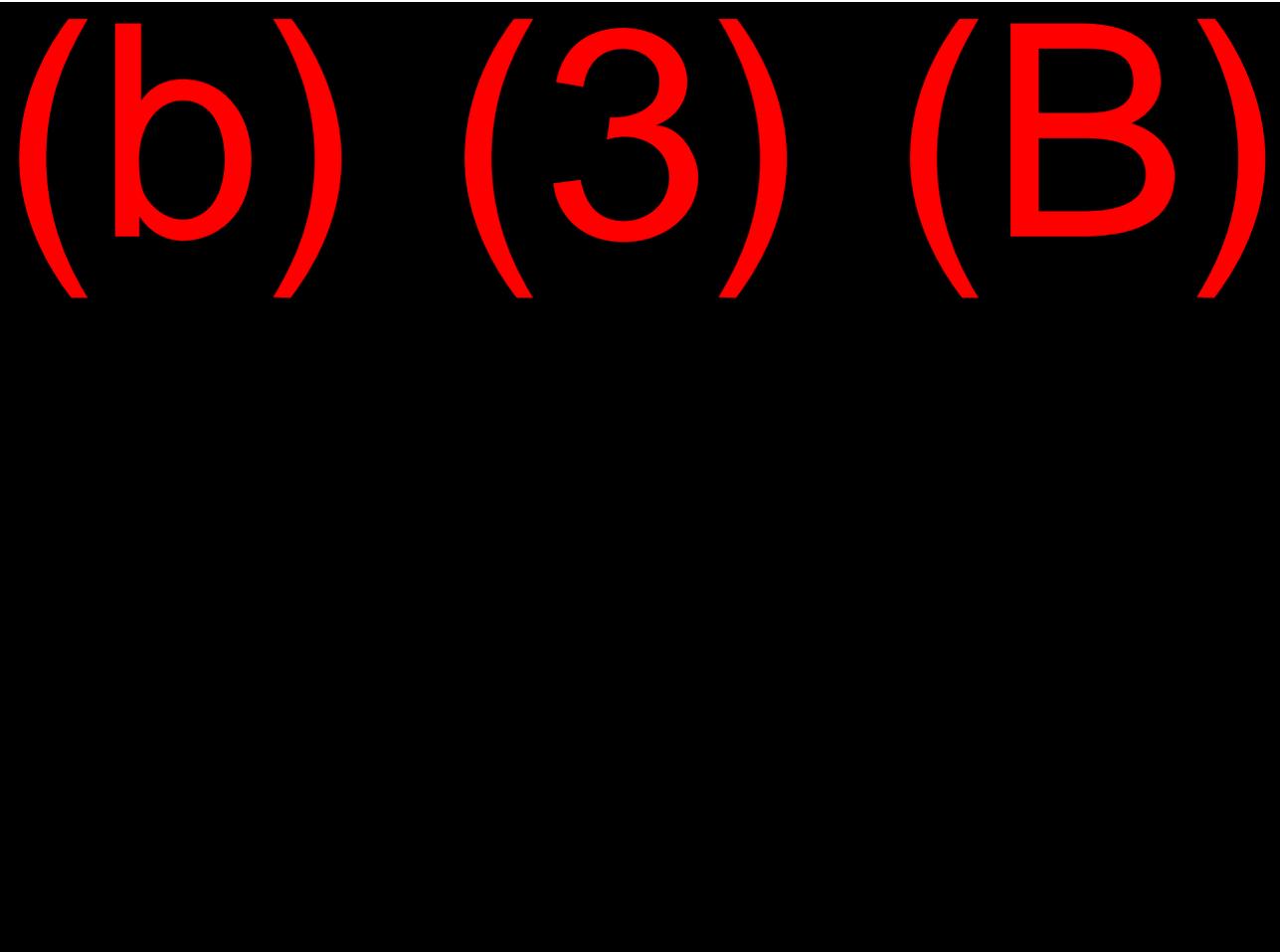
Work is planned to begin outside of the nesting bird season (i.e., after September 15). In the event that cast iron protectors are received prior to September 15 and work begins during the nesting bird season, a pre-construction nesting bird survey will need to be conducted to ensure that no nests are present within 500 feet of the Project area. If an active nest is discovered, a buffer will be established to ensure that work does not impact the nest, in accordance with the USFWS Migratory Bird Treaty Act.

CULTURAL AND HISTORICAL RESOURCES

A cultural resources record search was conducted for the Project on July 8, 2021 at the North Central Information Center. (b) (3) (B)

[Redacted]

(b) (3) (B)



ATTACHMENT B: FIGURES

Figure B-1: Project Overview Map

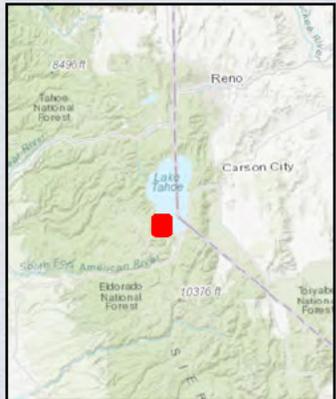
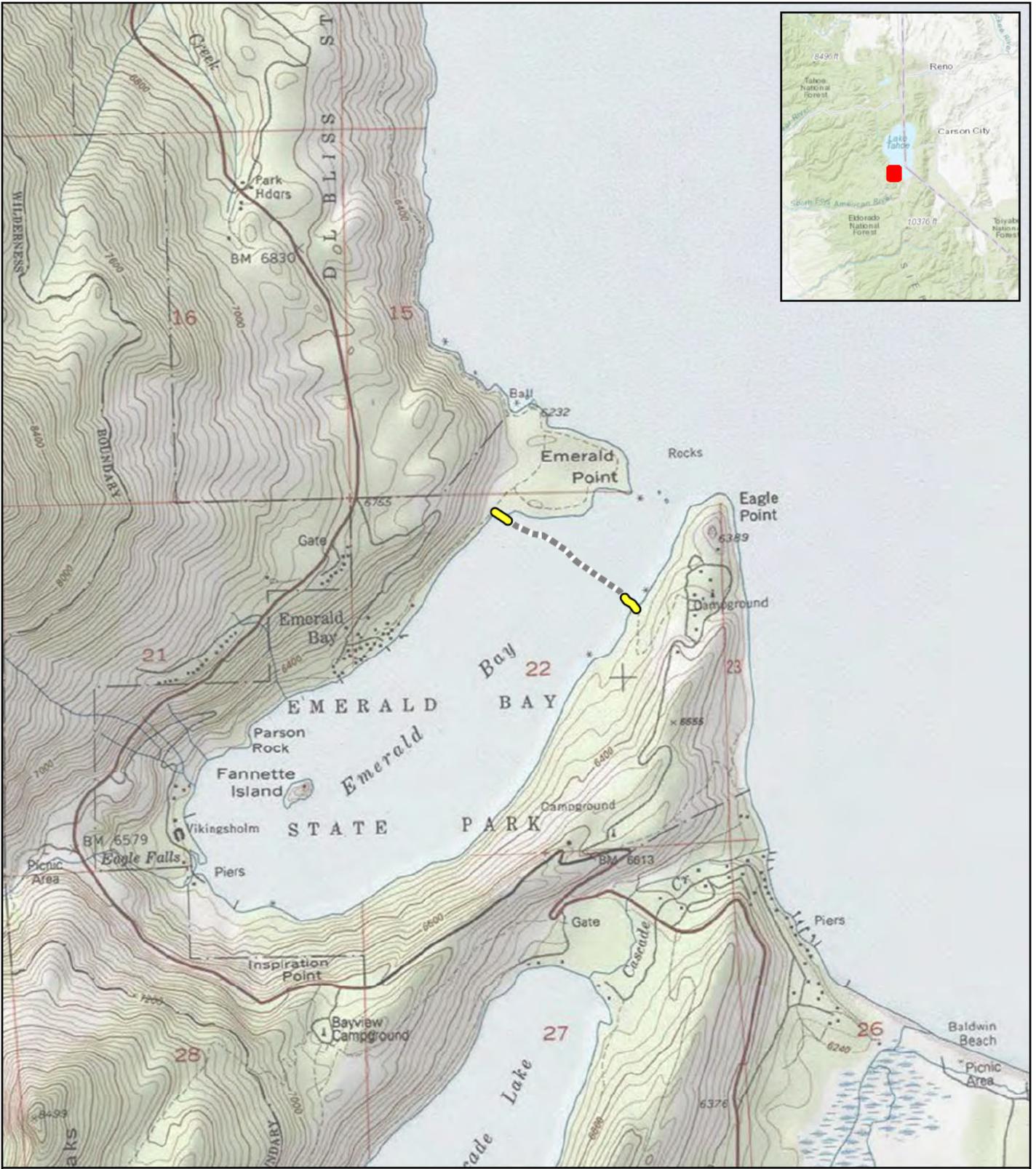


Figure B-1: Project Overview

Emerald Bay Cable Repair Project

Project Components

- Existing Power Cable
- ▬ Cable Repair Area

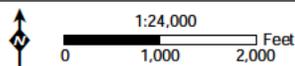


Figure B-2: Detailed Map

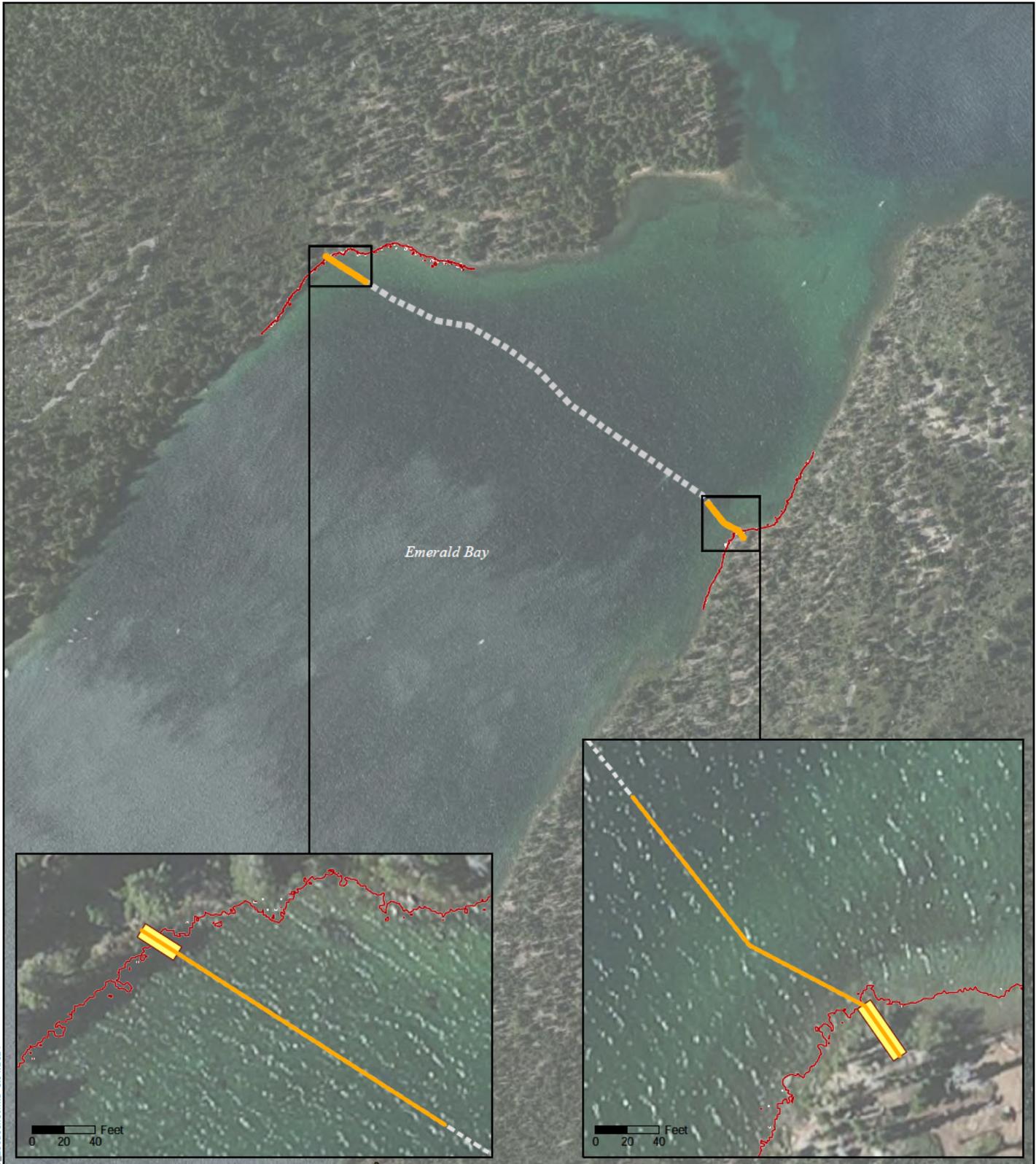
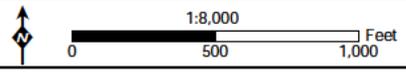


Figure B-2: Detailed Map

Emerald Bay Cable Repair Project

- Project Components**
- Existing Power Cable
 - Cable Repair Area
 - Temporary Work Area

— Ordinary High Water Mark (6229.1 foot elevation)



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ATTACHMENT C: PHOTOGRAPHS

ATTACHMENT C: PHOTOGRAPHS



Photograph 1:

A northwest-facing view of the electric cable on the north shore of and within Emerald Bay.



Photograph 2:

A northwest-facing view of the electric cable on the north shore of Emerald Bay.



Photograph 3:
A view of the damage to the electric cable on the north shore of Emerald Bay.



Photograph 4:
A northwest-facing view of the southern cable, indicated by the red arrow.



Photograph 5:

An image of the cast-iron protectors to be installed around the damaged cable.





Regional General Permit 8

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

EMERGENCY REPAIR AND PROTECTION ACTIVITIES

EFFECTIVE: August 10, 2018

EXPIRES: August 10, 2023

The U.S. Army Corps of Engineers, Sacramento District (District), hereby issues Regional General Permit (RGP) 8 authorizing structures or work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States, including wetlands, necessary for repair or protection measures associated with an emergency situation. An emergency situation, as determined by this office, is one which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a Department of the Army permit is not undertaken within a time period less than the normal time to process the request under standard processing procedures.

Note: The term "you" and its derivatives, as used in this RGP, means the permittee or any future transferee. The term "this office" refers to the appropriate U.S. Army Corps of Engineers, Sacramento District office identified in the *Contacts and Additional Information* section below. 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 specified below, and any project specific special conditions included in the written verification.

ISSUING OFFICE: U.S. Army Corps of Engineers, Sacramento District

ACTION ID: SPK-1997-00652

AUTHORITIES: Section 10 of the Rivers and Harbors Act of 1899 (RHA) for structures or work in or affecting navigable waters of the United States and Section 404 of the Clean Water Act (CWA) for the discharge of dredged or fill material in waters of the United States.

LOCATION: This RGP covers emergency activities subject to the authorities of Regulatory Program within the District's boundaries of California, Nevada, and Utah (see attached District map).

This RGP is applicable to all counties in the States of Nevada and Utah, and in the following counties in the State of California:

Alameda (eastern), Alpine, Amador, Butte Calaveras, Colusa, Contra Costa (eastern), El Dorado, Fresno, Glenn, Kern (north-western), Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc,

Mono (northern), Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Solano (eastern), Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, Yuba.

ACTIVITIES COVERED: Permanent or temporary work or structures in navigable waters of the U.S., and/or the permanent or temporary discharge of dredged and/or fill material into waters of the U.S., including wetlands, for repair or protection activities for which this office has determined that an emergency situation exists. Typical activities authorized under this RGP include, but are not limited to: bank stabilization; restoration of damaged areas; temporary fills for staging, access, and dewatering; and, repair, replacement, or rehabilitation of existing structures and/or fills (i.e. roads, bridges, utility pipelines and flood control structures, including attendant features, irrigation pumps or intakes, and other existing structures located in waters of the U.S.).

TERMS:

1. The activity shall be the minimum necessary to alleviate the immediate emergency, unless this office determines that additional work would result in no more than minimal effects to waters of the U.S. and is necessary to reduce the potential for future failure or loss of the structure or site.
2. For the restoration of areas damaged by storms, floods, or other discrete events:
 - a. The restored area must not extend waterward of the ordinary high water mark or high tide line that existed prior to the damage (i.e. the restoration must not narrow the width of the waterbody as it existed prior to the damage).
 - b. The slope of the restored area below the ordinary high water mark or high tide line must not exceed the slope that existed prior to the damage.
 - c. The bottom elevation of the restored area must not exceed the bottom elevation that existed prior to the damage (i.e. the restored area must not result in a reduction in the depth of the waterbody that existed prior to the damage).
3. For new bank stabilization activities (including restoration of areas damaged by discrete events (see Term 2)): Any activity that involves new bank stabilization shall be done using bioengineered design techniques, such as willow plantings, root wads, and/or large woody debris) or a combination of native vegetation and hard-armoring (e.g., rip-rap), unless determined to be not practicable by this office. Native vegetation shall be planted within 30 days following completion of construction activities in waters of the U.S. authorized by this RGP.
4. Repair, Replacement, or Rehabilitation of Existing Structures or Fills: Minor deviations in the structure or fill area, including upgrades to existing structures or fills are authorized due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to alleviate the emergency situation.
5. Single and Complete: The activity must be a single and complete linear or non-linear project, as defined in Section F of the January 6, 2017, Federal Register Notice for *Issuance and Reissuance of Nationwide Permits; Final Rule* (82 FR 1860), which can be found at: http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/2017/nwp2017_final_rule_FR_06jan2017.pdf?ver=2017-01-06-092409-457

GENERAL CONDITIONS:

- 1. Notification:** You shall notify the appropriate office identified on the list provided beginning on page 13, in writing as early as possible. The notification may also be submitted by email to cespk-regulatory-info@usace.army.mil. The notification contents are described in "Notification Procedures" beginning on page 7. You shall follow-up with a telephone call to this office as soon as possible. Notification shall be made by e-mail, delivered written notice, or other verifiable means.
- 2. Initiation of Construction:** You shall not begin any work in waters of the U.S. subject to Section 10 RHA or Section 404 CWA until notified by this office that the activity is authorized under this RGP, subject to the terms, General Conditions, and any added Special Conditions. Work in waters of the U.S. authorized by this RGP shall commence no later than 14 calendar days following verification of the RGP by this office, unless this office specifically determines, in writing, that logistical considerations necessitate an extension beyond 14 days.
- 3. Activity Completion:** Work in waters of the U.S. authorized by this RGP shall be completed within 180 calendar days from commencement of construction activities in waters of the U.S., unless this office agrees to extend the time by re-verifying the activity under this RGP or other DA permit
- 4. Time Extension:** If additional time is needed to complete activities in waters of the U.S. authorized by this RGP, you shall submit a written request for re-verification under this RGP. The request must be received by this office a minimum of 30 days prior to expiration of the RGP verification, and must contain specific justification for the proposed extension.
- 5. Avoidance and Minimization:** You shall avoid and minimize discharges of dredged or fill material into waters of the U.S. to the maximum extent practicable. Temporary staging, access, and disposal areas shall be located outside of waters of the U.S. unless determined not to be practicable or appropriate by this office. Return water from upland disposal areas shall not be allowed to enter waters of the U.S., and must be contained within the disposal area or with applicable water management/containment equipment. If it is not practicable or appropriate to avoid discharges of dredged or fill material into waters of the U.S. associated with staging, access, and disposal areas, appropriate justification shall be identified in the Notification required in Condition 1. Compensatory mitigation may be required as a special condition of any authorization under this RGP.
- 6. Site Inspection:** You shall 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.
- 7. Tribal Rights:** You shall ensure that the authorized activity does not impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

8. Water Quality Certification: If a conditioned Section 401 Water Quality Certification (WQC) has been issued for the activity authorized by this RGP, you shall comply with the conditions specified in the certification as special conditions to this RGP.

a. For California permittees on non-tribal land: TBD.

b. For Utah permittees on non-tribal land: Utah Department of Environmental Quality, May 4, 2018, *Approval of a Blanket 401 Water Quality Certification with Conditions*, DWQ-1997-00652.

c. For Nevada permittees on non-tribal Land: Nevada Division of Environmental Protection, May 3, 2018, Section 401 Water Quality Certification (NV401-18-020).

d. For permittees on certain tribal lands in USEPA Region 8:

(1) USEPA Region 8: June 22, 2018, *Clean Water Act Section 301 Certification for Regional General Permit 8, Emergency Related Activities Tribal Waters in Utah, EPA Region 8 Tribes*, SPK-1999-00652.

(2) Ute Mountain Ute Tribe: June 11, 2018, *Re: SPK-1997-00652, Regional General Permit 8 for Emergency Actions in Utah*, Section 401 Water Quality Certification.

(3) Navajo Nation Environmental Protection Agency: June 6, 2018, Section 401 Water Quality Certification.

(4) Pyramid Lake Paiute Tribe: Section 401 Water Quality Certification has been waived.

(5) Walker River Paiute Tribe: Section 401 Water Quality Certification has been waived.

e. For permittees on certain tribal lands in USEPA Region 9:

(1) USEPA Region 9: June 11, 2018, *Clean Water Act Section 401 Conditional Water Quality Certification for Regional General Permit 8 (RGP 8) for Emergency Repair and Protection Activities* (SPK-1997-0652).

(2) Cortina Indian Rancheria of Wintun Indians: TBD.

9. Threatened and 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 by the Federal Endangered Species Act (ESA). Authorization of an activity by this RGP does NOT authorize the "take" of a listed threatened or endangered species, as defined under the Federal ESA.

10. Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act: You are responsible for ensuring the proposed action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. You are responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available

under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

11. 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 (NHPA) have been satisfied.

12. Post-Review Discovery: If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify this office of what you have found. We will initiate Federal, Tribal, and state coordination, as 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. Best Management Practices: Unless determined to be not practicable or appropriate by this office, for activities that result in the discharge of dredged and/or fill material into waters of the U.S., you shall employ construction Best Management Practices (BMPs) on-site prior to the initiation of construction activities in waters of the U.S., to prevent degradation to on-site and off-site waters of the U.S. Methods and techniques shall include the use of appropriate measures to intercept and capture mobilized soil and sediment prior to their entering waters of the U.S., as well as erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. All BMPs shall be in place prior to initiation of any construction activities in waters of the U.S., and shall remain until construction activities are completed. You shall ensure all BMPs are inspected on a weekly basis and are maintained until construction activities are completed and site soils are stabilized.

14. Project Limits: For activities that result in the discharge of dredged and/or fill material into waters of the U.S., you shall clearly identify the limits of the authorized activity in the field with highly visible markers (e.g., construction fencing, flagging, silt barriers, etc.) prior to commencement of construction activities within waters of the U.S., unless determined not to be practicable or appropriate by this office. You shall maintain such identification properly until construction is completed and the soils have been stabilized. You are prohibited from any activity (e.g., equipment usage or materials storage) subject to Section 10 RHA or Section 404 CWA outside of the permit limits (as shown on the permit drawings).

15. Equipment: Heavy equipment entering or working in waters of the U.S., including wetlands, must be thoroughly cleaned, free of leaks, and placed on appropriate protective wetland matting, to the extent practicable and appropriate. You shall implement any other appropriate and practicable measures to minimize soil and vegetation compaction and/or disturbance. These measures may include but are not limited to, the use of wide-treaded/low ground-pressure equipment or other devices that minimize impacts to soil and vegetation.

16. Suitable Material: No activity may use unsuitable material, including trash, debris, car bodies, and asphalt. Material used for construction or discharged must be free from toxic pollutants in toxic amounts.

17. Wild and Scenic Rivers: Activities shall not be conducted within 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 affect the Wild and Scenic River designation or study status. You shall not conduct any work in waters of the U.S. under authority of this RGP until you have received this written determination, and have submitted a copy of the determination to this office (e-mail is acceptable). Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information regarding these rivers is also available at: <http://www.rivers.gov/>.

18. Aquatic Life Movements: No activity authorized under this RGP may substantially disrupt the migration 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, and must not impede expected water flows. Temporary fills, and culverts installed on a temporary basis to alleviate further damage, must be removed and any affected stream reaches must be restored to pre-project contours and conditions once the emergency has subsided, using BMPs, locally native vegetation, and/or bioengineering.

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

20. Migratory Bird Breeding Areas: Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

21. Navigation: No activity may cause more than a minimal adverse effect on the course, condition, or capacity of a navigable water.

a. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the U.S.

b. You must install and maintain, at your expense, any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on your authorized facilities.

c. 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 this office, to remove, relocate, or alter the structural work or obstructions caused hereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

22. Obstruction of High Flows: You shall ensure that the project does not permanently restrict or impede the passage of normal or expected high flows in the affected aquatic resource.

23. Proper Maintenance: Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable RGP general conditions, as well as any special conditions added by the district engineer to the RGP authorization. You shall

obtain any required authorization for any maintenance activities, prior to conducting the maintenance.

24. Temporary Fills: Unless determined to be not appropriate or practicable by this office, for all temporary staging, access, dewatering, and construction activities resulting in temporary fill within waters of the U.S., you shall:

- a. Install a horizontal marker (e.g., fabric, certified weed free straw, waddles etc.) to delineate the existing bottom elevation of the waters of the U.S. prior to the placement of temporary fill in waters of the U.S.; and
- b. Remove all temporary structures, work and fills, including cofferdams and temporary emergency management measures, in their entirety within 30 days following completion of construction activities in waters of the U.S. authorized by this RGP. You shall return any area affected by temporary construction, dewatering, and access work, including staging areas, to their pre-existing contours and conditions, and re-vegetate with appropriate native vegetation common to the area, within 45 days following completion of construction activities in waters of the U.S. authorized by this RGP.
- c. Proposed plans for de-watering structures and/or diversions must be approved, in writing, by this office.

25. Special Conditions: You shall comply with all special conditions placed on the RGP authorization.

26. Post-project reporting: You shall provide a written report to this office, within 30 days following completion of construction activities in waters of the U.S. authorized by this RGP, or within 30 days following restoration of temporary fill areas as required by General Condition 24. The report shall include the following:

- a. A complete description of the work completed for each single and complete project, including any deviations from the activities in waters of the U.S. authorized by this RGP, and the reason(s) for the deviations;
- b. Drawings of the authorized work conducted for each single and complete project, and any on-site and/or off-site permittee responsible compensatory mitigation. The drawings shall include a plan-view drawing of the location of the authorized work (as shown on the permit drawings), with an overlay of the work as constructed in the same scale as the permit drawings, and a cross-section view drawing where appropriate (e.g., linear transportation activities, utility line trench activities, bank stabilization activities), of the work as constructed. The plan-view drawing(s) shall show all areas of ground disturbance, wetland impacts, structures, and the boundaries of any on-site and/or off-site mitigation and/or avoidance areas. Please note that any substantial deviations from the work as authorized, which result in additional impacts to waters of the U.S. requiring authorization, must be coordinated with the appropriate office prior to impacts;
- c. Numbered and dated pre-and post-construction color photographs of (1) the work conducted within a representative sample of the permanently filled waters of the U.S., (2) all of the partially filled waters of the U.S., and (3) all avoided waters of the U.S. on and immediately adjacent to the

project area. The compass angle and position of all photographs shall be identified on the plan-view drawing(s) required in subpart (a) of this Regional Condition;

d. Information to show construction of each authorized single and complete project was conducted in accordance with all General Conditions and Special Conditions placed on the RGP verification;

e. A description and photo-documentation of all BMPs, and construction limit markers, required to be installed by General Conditions 13 and 14; and

f. A description and photo-documentation of all temporary fill area(s) restored to pre-project contours and conditions required by General Condition 24, including photo-documentation of the horizontal marker(s) installed. For temporary fill areas within waters of the U.S. that have not been restored to pre-project contours or conditions, a description and photo-documentation of the temporary fill within waters of the U.S., including information on why restoration has not been completed.

27. Activities Affecting Structures or Works Built by the United States. An activity that requires section 408 permission is not authorized by this RGP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project.

NOTIFICATION PROCEDURES:

1. Notification shall be submitted in writing, via hard copy or electronic submission, and shall contain all information identified below for each single and complete project. The Notification may be in a letter containing the required information or may be on the standard individual permit application form (ENG 4345), provided the form identifies it is a request for authorization under this RGP and includes all information identified below. ENG 4345 is available at: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>. Unless determined to be not practicable by this office, based on the nature of the threat associated with the emergency situation, the Notification must include the information identified in items 1(a) through 1(k) (below), for each single and complete project that requires DA authorization. If it is determined by this office that the nature of the threat to life or property or the potential economic hardship precludes the submittal of some or all of the required information with the Notification, the information shall be submitted within 30-days following initiation of construction activities in waters of the U.S. authorized by the RGP. It is recommended that you conduct a follow-up telephone call to this office, to ensure the Notification package was received.

a. The name, address, telephone number (and email address, if available) of the applicant and any designated agent, including contractors;

b. The location of the proposed activity. This should include identification of the affected water(s) and the latitude and longitude of the approximate center point of the single and complete project. The project boundaries should be depicted on a copy of a U.S. Geologic Survey 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;

c. A description of the nature of the imminent threat to life or property and the purpose and need for the proposed activity;

d. A description of the work proposed to rectify the emergency situation. This should include a complete description of each single and complete project. For the temporary and/or permanent discharge of dredged and/or fill material into waters of the U.S., the description shall include the amount (in cubic yards) and type of fill material proposed to be placed into waters of the U.S., as well as the area (in acres) of waters of the U.S. that would be filled and whether or not the fill material is temporary or permanent. The description of the proposed work shall also include the direct and indirect environmental effects the activity(s) would cause, including the anticipated amount of loss of waters of the U.S. expected to result from the activity, in acres and, if applicable, linear feet. Note: Loss of waters of the U.S. shall be determined using the definition in Section F of the January 6, 2017, Federal Register Notice for *Issuance and Reissuance of Nationwide Permits; Final Rule* (82 FR 1860), which can be found at: http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/2017/nwp2017_final_rule_FR_06jan2017.pdf?ver=2017-01-06-092409-457;

e. Plan-view and cross-section view drawings 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 mark, high tide 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 required to complete the work;

f. A description of existing conditions at the project site as well as photographs showing pre-construction site conditions;

g. A description of measures proposed to be taken to avoid and minimize impacts to the aquatic environment;

h. A plan to compensate for adverse effects to waters of the U.S. If compensatory mitigation is not proposed, a narrative must be provided explaining why it should not be required;

i. A description of anticipated impacts from the proposed activities on Federally-listed, or proposed to be listed, threatened and/or endangered species, critical habitat and essential fish habitat (EFH). Information regarding the location of threatened and/or endangered species and their critical habitat, and EFH within the Sacramento District can be obtained directly from the Pacific Southwest Region of the United State Fish and Wildlife Service (USFWS) (<http://www.fws.gov/cno/es/>) and the West Coast Region of the National Marine Fisheries Service (NMFS) (<http://www.westcoast.fisheries.noaa.gov/>). You should contact this office and/or USFWS and/or NMFS, as appropriate, concerning the potential presence of Federally-listed threatened, endangered, or proposed species, and/or designated or proposed critical habitat in the project area. You should provide this office with the name(s), and other pertinent information related to agency personnel you contacted. If the project may affect Federally-listed threatened, endangered, or proposed 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. This information must include the following:

- (1) A description of the action to be considered;
 - (2) A description of the specific area that may be affected by the action;
 - (3) A description of listed species or critical habitat that may be affected by the action;
 - (4) A description of the manner in which the action may affect listed species or critical habitat and an analysis of any cumulative impacts;
 - (5) Relevant reports including any environmental impact statement, environmental assessment, or biological assessment prepared; and
 - (6) Any other relevant available information on the proposed action and its effect on listed or proposed species, or designated or proposed critical habitat in the project area.
- j. A description of any historic properties and/or other cultural resources which may be affected by the proposed work; include a vicinity map identifying cultural resource locations, if cultural resources are present. If this office determines that the project may affect cultural resources, you may be required to submit a cultural resources report, prepared in accordance with the February 25, 2011, *Guidelines for Compliance with Section 106 of the National Historic Preservation Act* http://www.spk.usace.army.mil/Portals/12/documents/regulatory/sec-106-tribal/FINAL_2014-03-24_Section-106-Guidelines.pdf. If a Programmatic Agreement (PA) is in place, then this office will provide specific guidance regarding the terms and requirements of that agreement, which may include preparation and submission of a cultural resources inventory, documentation, or other measures to be specified by this office so as to comply with the terms of the PA; and
- k. A description of (1) how the proposed activity will comply with each of the terms and General Conditions of this RGP; and/or (2) why the specific term(s) or General Condition(s) is not applicable to the proposed action; or (3) why compliance with the specific term(s) or General Condition(s) is not practicable or appropriate.
2. Within one (1) business day following receipt of the Notification, this office will notify you via e-mail or telephone, of the following:
- a. That the Notification has been received, with contact information for the assigned Regulatory Project Manager;
 - b. Whether the project requires a permit under Section 10 RHA and/or Section 404 CWA and appears to qualify for authorization under this RGP, and, if not, instructions on how to apply for a Nationwide Permit, other Regional/Programmatic General Permit, Letter of Permission, or Standard Permit for the proposed activities;
 - c. Whether the Notification is complete, or whether this office has determined that the nature of the threat to life, health, property or essential public services precludes the submittal of some or all of the information required; and
 - d. If the project appears to qualify for authorization under this RGP and the Notification is complete, an estimated time frame for completion of review of the proposed action.

If the Notification is not complete, this office will identify the specific additional information required to be submitted.

3. Within one business day following receipt of a complete Notification, this office will:

a. Provide, by email, delivery, overnight mail, or other expeditious means, a copy of the Notification package to the following agencies, as well as appropriate Federally-recognized Native American tribes, as applicable:

(1) California: U.S. Environmental Protection Agency (USEPA) Region 9, USFWS and/or NMFS, California Department of Fish and Wildlife (CDFW), California State Historic Preservation Officer (SHPO), California State Water Resources Control Board, and Regional Water Quality Control Board.

(2) Nevada: USEPA Region 9, USFWS, Nevada Department of Wildlife, Nevada Division of Environmental Protection (NDEP), Nevada Division of Emergency Management, Nevada Division of State Lands (DSL), and the Nevada SHPO.

(3) Utah: USEPA Region 8, USFWS, State of Utah Department of Environmental Quality (UDWQ), Utah Division of Water Resources, Utah Division of Wildlife Resources, and the Utah SHPO.

b. Conduct an immediate follow-up telephone call to each agency representative informing them of the proposed action and the immediate threat to life, health, property, or essential public services;

c. Request the notified agencies provide comments via telephone, e-mail, or other expeditious means, indicating whether or not they intend to provide substantive, site-specific comments regarding the proposed project within the identified time period. If agency personnel notify this office that they will submit comments before a decision is made on the proposed project, a short time frame will be allowed as determined by this office. The length of time for the comment period will depend on the nature of the emergency situation. This office will fully consider comments on the proposed activity related to the proposed activity's compliance with the terms and conditions of the RGP, including the need for mitigation to ensure the net adverse environment effects of the proposed activity are no more than minimal. This office may request a response to the comments from the applicant, and, where applicable, will provide informal responses to the commenting agencies. The administrative record for the project will include both agency comments, and this office's response to those comments; and

d. Conduct any required internal coordination to determine whether the proposed action also requires permission from the Corps pursuant to 33 USC 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. If it is determined that the activity requires Section 408 permission(s), this office will immediately notify you of the requirement and provide a Corps point of contact for submitting the request for Section 408 permission.

4. As soon as possible following completion of agency and internal coordination, this office will notify you by letter if the project is authorized under this RGP, subject to the terms, General Conditions, and any additional Special Conditions placed on the authorization. Special Conditions placed on the authorization may include, but are not limited to, (1) those necessary to ensure avoidance and minimization of impacts to waters of the U.S. and the aquatic environment (including Federally-listed threatened and/or endangered species) to the maximum extent practicable; (2) requirements for compensatory mitigation for loss of waters of the U.S. (i.e. permanent adverse direct and/or indirect effects), measures to ensure minimization of effects to the aquatic environment; and (3) other measures necessary to ensure the proposed project would result in no more than minimal individual and cumulative adverse effects.

5. If determined necessary by this office, concurrent with, or as soon as possible following written authorization of the activity under the RGP, this office will initiate consultation for compliance with Section 7 of the Endangered Species Act, Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act and Section 106 of the National Historic Preservation Act, including any necessary coordination with Native American Tribes and individuals.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to: Section 10 of the RHA (33 U.S.C. 403), and/or Section 404 CWA (33 U.S.C. 1344).

2. Limits of this authorization.

a. This RGP does not obviate the need to obtain other federal, state, or local authorizations required by law.

b. This RGP does not grant any property rights or exclusive privileges.

c. This RGP does not authorize any injury to the property or rights of others.

d. This RGP does not authorize interference with any existing or proposed federal projects.

3. Limits of Federal Liability. In issuing this RGP, 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 RGP.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this RGP.

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

5. Reevaluation of RGP Decision. This office may reevaluate its decision on this RGP at any time the 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 RGP.

b. The information provided by you in support of your RGP application proves to have been false, incomplete, or inaccurate (see 4 above).

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 comply with the terms and conditions of your RGP 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.

6. Discretionary Authority: This office reserves the right (i.e. discretion), to modify, suspend, or revoke RGP authorization whenever this office determines sufficient concerns for the environment or any other factor of the public interest. When this office determines that a proposed specific activity covered by the RGP would have more than minimal individual or cumulative adverse effects on the environment or otherwise may be contrary to the public interest, this office must either modify the RGP authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the proposed activity is not authorized by the RGP and provide instructions on how to seek authorization under a General or Individual Permit. This office will follow the procedures of 33 CFR 325.7 and 33 CFR 330.5(d) when deciding whether to exercise discretionary authority to modify, suspend, or revoke a case specific activity's authorization under the RGP.

7. Extensions. The RGP duration, as described above, establishes a time limit for the completion of the activity authorized by this RGP. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, this office will normally give favorable consideration to a request for an extension of this time limit.

Activities not meeting the terms and conditions of this RGP may be authorized through another type of permit from this office, such as a Nationwide Permit, Letter of Permission or Standard Individual Permit. This office will determine on a case-by-case basis whether an activity has a more than minimal impact, individually or cumulatively, on the aquatic environment or may be

contrary to the public interest. This office may include additional special conditions to a verification under this RGP to ensure the activity has minimal impact.

PERMIT DURATION: This RGP is valid for five years from issuance, and will expire on August 10, 2023. This office may re-evaluate the terms and conditions of this RGP at any time it deems necessary to protect the public interest. This RGP may be re-issued, after public notice and documentation of the decision. Activities under this RGP must be verified in writing by this office. Verifications are valid for 180 calendar days from commencement of construction activities in waters of the U.S. authorized by this RGP, unless either specifically waived in writing by this office in the RGP verification, or a time extension is specifically granted through re-verification of the activity under the RGP by this office.

CONTACTS AND ADDITIONAL INFORMATION:

- 1. For Alameda, Contra Costa, Sacramento, San Joaquin, Solano, Stanislaus, and Yolo Counties in California:** Chief, California Delta Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; telephone (916) 557-5269.
- 2. For Butte, Colusa, Glenn, Lake, Nevada, Placer, Sierra, Sutter, and Counties in California:** Chief, California North Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922; e-mail *regulatory-info@usace.army.mil*; telephone (916) 557-7731.
- 3. For Lassen, Modoc, Plumas, Shasta, Yuba, and Tehama Counties in California:** Redding Regulatory Field Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 310 Hemsted Drive, Suite 310, Redding, California 96002-0935; e-mail *cespk-regulatory-info@usace.army.mil*; telephone (530) 223-9534.
- 4. For Alpine, Amador, Calaveras, El Dorado, Fresno, Kern, Kings, Madera, Mariposa, Merced, Mono, and Tulare Counties in California:** Chief, California South Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922; e-mail *cespk-regulatory-info@usace.army.mil*; telephone (916) 5577262.
- 5. For the State of Nevada (including the Lake Tahoe Basin in California), except Clark, Lincoln, Nye, and White Pine Counties, to:** Reno Regulatory Field Office, Nevada-Utah Regulatory Branch, U.S. Army Corps of Engineers, C. Clifton Young Federal Building, 300 Booth Street, Suite 3050, Reno, Nevada 89509-1328; e-mail *cespk-regulatory-info@usace.army.mil*; telephone (775) 784-5304.
- 6. For Clark, Lincoln, Nye, and White Pine Counties in Nevada, and Beaver, Garfield, Iron, Kane, Piute, San Juan, Washington, and Wayne Counties in Utah, to:** St. George Regulatory Field Office, Nevada-Utah Regulatory Branch, U.S. Army Corps of Engineers, 196 East Tabernacle, Suite 30, St. George, Utah 84770-3474; e-mail *cespk-regulatory-info@usace.army.mil*; telephone (435) 986-3979.

7. For State of Utah except Beaver, Garfield, Iron, Kane, San Juan, Piute, Washington and Wayne Counties: Chief, Nevada-Utah Regulatory Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 533 West 2600 South, Suite 150, Bountiful, Utah 84010-7744; e-mail cespk-regulatory-info@usace.army.mil; telephone (801) 295-8380.

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

ATTACHMENTS:

Attachment 1: Sacramento District Boundary

Attachment 2: Section 401 Water Quality Certifications:

a. USEPA Region 8: June 22, 2018, *Clean Water Act Section 301 Certification for Regional General Permit 8, Emergency Related Activities Tribal Waters in Utah, EPA Region 8 Tribes, SPK-1999-00652.*

b. Ute Mountain Ute Tribe: June 11, 2018, *Re: SPK-1997-00652, Regional General Permit 8 for Emergency Actions in Utah, Section 401 Water Quality Certification.*

c. Navajo Nation Environmental Protection Agency: June 6, 2018, Section 401 Water Quality Certification.

d. USEPA Region 9: June 11, 2018, *Clean Water Act Section 401 Conditional Water Quality Certification for Regional General Permit 8 (RGP 8) for Emergency Repair and Protection Activities (SPK-1997-0652).*

e. Utah Department of Environmental Quality: May 4, 2018, *Approval of a Blanket 401 Water Quality Certification with Conditions, DWQ-1997-00652.*

f. Nevada Division of Environmental Protection: May 3, 2018, Nevada Division of 401 Water Quality Certification (NV401-18-020).

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

(b) (6)

Chief, Regulatory Division

10 August 2018
Date

State Water Resources Control Board

October 9, 2018

(b) (6)

U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento CA, 95814

Dear (b) (6):

RE: CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER FOR THE REGIONAL GENERAL PERMIT (RGP) 8 FOR EMERGENCY REPAIR AND PROTECTION ACTIVITIES (SB18054IN)

Enclosed please find a Clean Water Act Section 401 Water Quality Certification and Order (Order), authorized by the State Water Resources Control Board. This Order is issued to the U.S. Army Corps of Engineers, Sacramento District for Regional General Permit 8 for Emergency Repair and Protection Activities (Project). Attachments A through E of the Enclosure are also part of the Order.

If you require further assistance, please contact me by phone at (916) 341-5462 or by email at Brendan.Reed@waterboards.ca.gov. You may also contact Beth Payne, Chief of the Water Quality Certification Unit, by phone at (916) 341-5579 or email at Elizabeth.Payne@waterboards.ca.gov.

Sincerely,



Brendan Reed
Environmental Scientist
Division of Water Quality Water Quality Certification Unit
State Water Resources Control Board

Enclosures (1): Clean Water Act Section 401 Water Quality Certification and Order for Regional General Permit (RGP) 8 for Emergency Repair and Protection Activities

cc: [Via email only] (w/ enclosure):

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Chief, Wetlands Regulatory Office
(WTR-8)
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CWA Section 401 WQC Program
Division of Water Quality
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cc: Continued on next page

cc: (Continued)

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Elizabeth.vanDiepen@waterboards.ca.gov

(b) (6)
Regulatory Permit Specialist
U.S. Army Corps of Engineers, Sacramento District
(b) (6) [@usace.army.mil](mailto: @usace.army.mil)



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

**WATER QUALITY ORDER NO. 2018-0025-EXEC CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION AND ORDER**

Effective Date: October 9, 2018

Program Type: Fill/Excavation

Reg. Meas. ID:	425023
SWRCB ID:	SB18054IN
USACOE#:	SPK-1997-00652

Project: Regional General Permit (RGP) 8 for Emergency Repair and Protection Activities (Project)

Applicant: U.S. Army Corps of Engineers, Sacramento District

Applicant Contact: (b) (6)
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U.S. Army Corps of Engineers
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Sacramento, CA 95814-2922
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Applicant's Agent: (b) (6)
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State Water Resources Control Board

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Attachment A	RGP 8 Area Map
Attachment B	Signatory Requirements
Attachment C	Reporting and Notification Requirements
Attachment D	Notice of Intent Form
Attachment E	Notice of Completion Form

I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) and attachments A through E is issued at the request of the U.S. Army Corps of Engineers, Sacramento District (Corps), for Certification of Regional General Permit (RGP) 8 for Emergency Repair and Protection Activities (Project). This Order is for the purpose described in the application submitted by the Corps. The application was received on July 20, 2018. The application was deemed complete on August 30, 2018.

II. Public Notice

The State Water Resources Control Board (State Water Board) provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from September 11, 2018 to October 2, 2018. The State Water Board did not receive any comments during the comment period.

III. Project Purpose and Description

RGP 8 serves as the federal Clean Water Act section 404 authorization for permanent or temporary work or structures in navigable waters of the U.S., and/or the permanent or temporary discharge of dredged and/or fill material into waters of the U.S., including wetlands, for repair or protection activities for which the Corps has determined that an emergency situation exists. An emergency situation, as determined by the Corps, is one which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a Department of the Army permit is not undertaken within a time period less than the normal time to process the request under standard processing procedures.

The definition of an emergency used in the Corps' RGP 8 differs from the definition of an emergency in the California Environmental Quality Act (CEQA). The CEQA definition of an emergency does not include an immediate, unforeseen, and significant economic hardship.

This Order only applies to projects that are defined as an emergency pursuant to CEQA (Pub. Resources Code, § 21060.3). See the General Compliance Conditions (section IX.D) of this Order for more details.

Activities covered under RGP 8 consist of permanent or temporary work or structures in navigable waters of the U.S., and/or the permanent or temporary discharge of dredged and/or fill material into waters of the U.S., including wetlands, for repair or protection activities for which the Corps has determined that an emergency situation exists. Typical activities authorized under this RGP include, but are not limited to: bank stabilization; restoration of damaged areas; temporary fills for staging, access, and dewatering; and, repair, replaces of rehabilitation of existing structures and/or fills (i.e. roads, bridges, utility pipelines and flood control structures, including attendant features, irrigation pumps or intakes, and other existing structures located in waters of the U.S.).

IV. Project Location

In any jurisdictional waters of the United States throughout the Sacramento District of the U.S. Army Corps of Engineers in: all of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, and Yuba counties; eastern portions of Alameda, Contra Costa, and Solano

counties; north-western portion of Kern County, and northern portion of Mono County. A map showing the Project location is found in Attachment A of this Order.

V. Project Impact and Receiving Waters Information

Individual projects authorized under this Order may be located within the jurisdiction of North Coast, Central Valley, or Lahontan Regional Water Quality Control Boards (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by individual projects authorized under this Order are protected in accordance with the applicable water quality control plans (Basin Plan) for the regions and other plans and policies which may be accessed online at: http://www.waterboards.ca.gov/plans_policies/. The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

Dischargers must identify the receiving waters, as listed in the applicable Basin Plan, that would be impacted by a proposed project. This information must be included in the Notice of Intent (NOI; Attachment D).

A. Projects located within the Carson River, Lake Tahoe, Little Truckee River, Truckee River, or Walker River Hydrologic Units must work with Regional Water Board staff to ensure that the following criteria are satisfied in order to be exempted from waste discharge prohibitions:

1. There is no feasible alternative to the project that would comply with the Basin Plan prohibitions, and
2. All applicable control and mitigation measures that are practicable have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.

VI. California Environmental Quality Act (CEQA)

The State Water Board has determined that the Project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, section 15061. Specifically, the issuance of this Order and the activities described herein are exempt by statute pursuant to Public Resources Code section 21080, subsections (b)(2)-(4). Additionally, State Water Board staff concludes that no exceptions to the CEQA exemptions apply to the activities approved by this Order. The State Water Board will file a Notice of Exemption with the State Clearinghouse within five (5) working days of issuance of this Order in accordance with the California Code of Regulations, title 14, section 15062.

VII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

VIII. Fees Received

The application fee amount for individual projects authorized under this Order is determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3), and is calculated as category F - Emergency Projects authorized by a Water Board Order (fee code 85) with the dredge and fill fee calculator located at https://www.waterboards.ca.gov/water_issues/programs/cwa401/. Note that fees are

periodically adjusted. Dischargers should confirm the correct fee amount prior to submitting payment.

IX. Conditions

The State Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds of the Project. In accordance with this Order, Enrollees may proceed with the Project under the following terms and conditions:

A. Reporting and Notification Requirements The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachments C, D, and E.

Written reports and notifications, other than the Notice of Intent, must be submitted using the Reporting and Notification Cover Sheet located in Attachment C, which must be signed by the Enrollee or an authorized representative.

1. Notice of Intent and Fee Requirements

a. The prospective Enrollee must notify the appropriate Regional Water Board and the State Water Board as early as possible, and no less than forty-eight (48) hours prior to initiating the emergency project. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means. If not included as part of the notification, the notification must be followed within three (3) business days by submission of all of the information in the Notice of Intent (NOI) form, provided in Attachment D.

- i. Notification may be via telephone, e-mail, written notice, or other verifiable means. A staff directory that includes contact information for State and Regional Program Managers is found at:
https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf
- A map of Regional Board boundaries is found at:
https://www.waterboards.ca.gov/waterboards_map.html

Electronic Submittal:

- Address e-mail to the “State Program Manager” and the appropriate “Region Program Manager” from the staff directory linked above.
- Include “Attention – RGP 8 Notice of Intent” in the subject line.

Hardcopy Submittal Addresses:

ATTN: Program Manager
 CWA Section 401 WQC Program
 Division of Water Quality
 State Water Resources Control Board
 1001 “I” St. 15th Floor
 Sacramento, CA 95814

AND

ATTN: Program Manager
CWA Section 401 WQC Program
Insert mailing address of appropriate Regional Water Board from the staff directory linked above

- b. The Water Boards recognize there may be situations where imminent threats to life or property occur and the Enrollee has not received a notice of applicability. If immediate, specific actions, as defined in the California Code of Regulations, title 14, section 15269(c), are required by the Enrollee and prior notice to the appropriate Regional Water Board and the State Water Board is not possible, then the Enrollee must contact the appropriate Regional Water Board and the State 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 NOI (Attachment D).
- c. The Enrollee must provide the appropriate fee to the Regional Water Board in accordance with California Code of Regulations, title 23, section 2200 within forty-eight (48) hours of project initiation. Failure to promptly pay the correct fee amount may result in a disqualification for enrollment pursuant to this Certification.
- d. Once the appropriate Regional Water Board receives a completed NOI and the correct fee from the Enrollee, the Water Board will transmit a Notice of Applicability (NOA) to the Enrollee verifying enrollment in this Certification.

2. Project Status Notifications

- a. The Enrollee must provide the appropriate Regional Water Board and State Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 8. In addition, the Enrollee must file the Notice of Completion (NOC) form provided in Attachment E.
- b. A completed NOC must be submitted to the appropriate Regional Water Board and State Water Board within 45 calendar days of completion of any action conducted under RGP 8.
- c. Failure to submit a complete NOC within 45 calendar days of completion of any action conducted under this Order may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.

3. Project Reporting

Annual Reporting: If required by the NOA, the Enrollee shall submit an Annual Report each year on the anniversary of the date that the individual project is authorized under this Order. Annual reporting shall continue until a Notice of Project Complete Letter is issued to the Enrollee.

- 4. **Conditional Notifications and Reports:** The following notifications and reports are required as appropriate. Reporting requirements are found in Attachment C of this Order.

a. Accidental Discharges of Hazardous Materials¹

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):

- i. As soon as (A) Enrollee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - first call – 911 (to notify local response agency)
 - then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
 - Lastly follow the required OES procedures as set forth in:
http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf
- ii. Following notification to OES, the Enrollee shall notify the appropriate Regional Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- iii. Within five (5) working days of notification to the Regional Water Board, the Enrollee must submit an Accidental Discharge of Hazardous Material Report.

b. Violation of Compliance with Water Quality Standards: The Enrollee shall notify the appropriate Regional Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.

- i. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the state, and water contact with uncured concrete.
- ii. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

c. Transfer of Property Ownership: Authorization under this Order is not transferable in its entirety or in part to any person or organization except after notice to the appropriate Regional Water Board in accordance with the following terms:

- i. The Enrollee must notify the Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Enrollee and purchaser must sign and date the notification and provide such notification to the Water Board at least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the State Water Board to be named as the Enrollee in a revised order.

¹ "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

- ii. Until such time as this Order has been modified to name the purchaser as the Enrollee, the Enrollee shall continue to be responsible for all requirements set forth in this Order.

d. Transfer of Long-Term BMP Maintenance: If maintenance responsibility for post-construction BMPs is legally transferred, the Enrollee must submit to the appropriate Regional Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Enrollee must provide such notification to the Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

B. Water Quality Monitoring

1. **General:** If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g. oil and grease, turbidity plume, or uncured concrete).
2. **Accidental Discharges/Noncompliance:** Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

C. Standard

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, chapter 28, Article 6 commencing with section 3867.
2. This Order 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 that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Enrollee (i.e. the person or entity proposing to enroll under the Corps' RGP 8 to conduct activities which may result in a discharge to a water of the U.S.).
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

D. General Compliance

1. This certification is limited to emergency actions that meet the CEQA 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. [(Pub. Resources Code, § 21060.3) (emphasis added).]

Emergency actions must meet the CEQA definition of an “emergency” and demonstrate an imminent threat to qualify for enrollment under this Order. For actions that do not qualify for enrollment under this Order, the Enrollee must contact either the State Water Board or the appropriate Regional Water Board to apply for an individual or other suitable general water quality certification.

2. This Order is limited to projects that satisfy one or more of the following exemption criteria, as defined by the CEQA Guidelines (Cal. Code Reg., tit. 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.
 - e. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.
3. This Order is limited only to sudden, unexpected emergency situations 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.

4. Emergency repairs and construction must commence within fourteen (14) calendar days of receiving a Notice of Applicability (NOA) from the Water Boards unless an extension is granted by the Corps and agreed to, in writing, by the appropriate Regional Water Board.
5. Authorized work in waters of the state shall be completed within 180 days of the enrollment date. If it is anticipated that work will not be completed prior to the expiration of enrollment, the Enrollee shall request an extension at least thirty (30) days prior to the expiration date. The request shall include justification for the extension.
6. All repairs and construction 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 Enrollee 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.
7. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Enrollee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
8. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
9. In response to a suspected violation of any condition of this Order, the State Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provide that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.
10. The Enrollee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Enrollee submittals.
11. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.

E. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment B of this Order.
2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a “take” will result from any act authorized under this Order held by the Corps, the Corps and/or the Enrollee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Corps is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Corps and/or the Enrollee shall grant State Water Board staff, North Coast, Central Valley, and Lahontan Regional Water Quality Control Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - d. Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Enrollee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

F. Construction

1. At all times, appropriate types and sufficient quantities of materials shall be maintained on site to contain and clean up any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the state. Construction personnel must know how to use appropriate containment and clean up materials.
2. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the state, and shall be located outside of waters of the state in areas where accidental spills will not enter or affect such waters.
3. If construction related materials reach surface waters, appropriate spill response procedures must be initiated as soon as the incident is discovered. In addition, the State Water Board staff contact identified in this Order must be notified via email and telephone within twenty-four (24) hours of occurrence.

4. Construction materials and debris from all construction work areas shall be removed from the site and disposed of properly following completion of individual projects enrolled under this Order.
5. Water diversion activities must not result in the degradation of beneficial uses or exceedances of water quality objectives of any of the receiving waters. Any temporary dam or other constructed obstruction must only be built from materials which will cause little or no siltation (e.g. clean gravel). Normal flows must be restored to the affected water immediately upon completion of work at that location.
6. Effective best management practices (BMPs) must be implemented to control erosion and runoff from areas associated with the emergency project, this includes access roads. All areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the U.S. and/or state must be restored. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.
7. 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 Enrollee 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.

G. Total Maximum Daily Load (TMDL)

To the maximum extent practicable, the individual projects authorized under this Order shall not contribute to, or cause, an exceedance of an established TMDL.

H. Mitigation Conditions

Permitted activities shall be the minimum necessary to alleviate the immediate emergency and a sequence of actions must be taken to first avoid and then to minimize adverse impacts to aquatic resources. Compensatory mitigation may be required to offset any remaining unavoidable adverse impacts to aquatic resources.

X. Water Quality Certification

I hereby issue the Order for the Regional General Permit (RGP) 8 for Emergency Repair and Protection Activities, certifying that as long as all of the conditions listed in this Order are met, 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). The State Water Board will file a Notice of Exemption (NOE) at the SCH within five (5) working days of issuance of this Order. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.



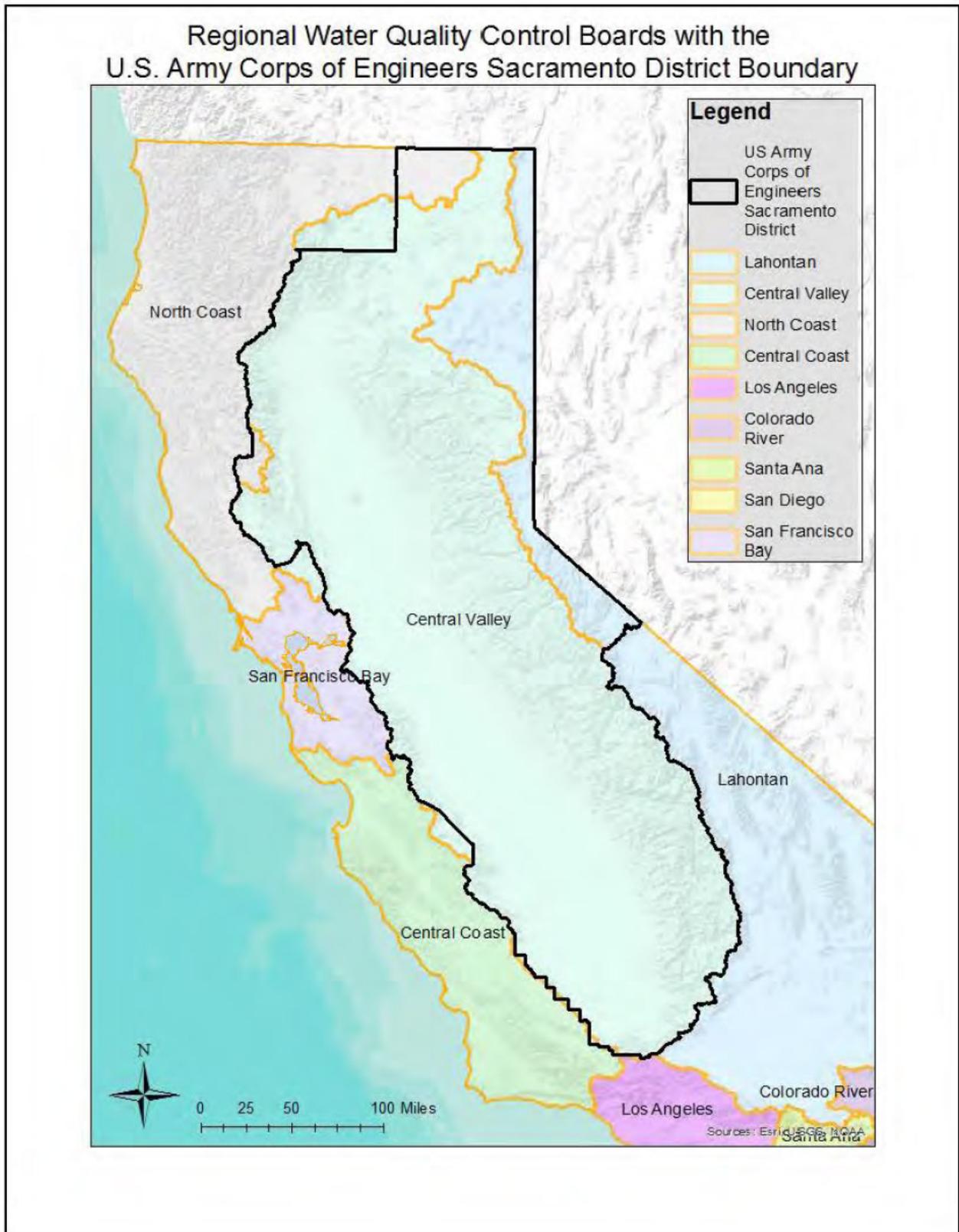
Eileen Sobeck
Executive Director
State Water Resources Control Board

10/9/18

Date

- Attachment A** RGP 8 Area Map
- Attachment B** Signatory Requirements
- Attachment C** Reporting and Notification Requirements
- Attachment D** Notice of Intent Form
- Attachment E** Notice of Completion Form

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Attachment B
Signatory Requirements

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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 Water Boards 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 Staff Contact prior to submitting any documents listed in item 1 above.
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.”

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Copies of this Form

In order to identify your project, it is necessary to include a copy of the Project specific Cover Sheet below with your report: please retain for your records. If you need to obtain a copy of the Cover Sheet you may download a copy of this Order as follows:

1. Go to: http://www.waterboards.ca.gov/water_issues/programs/cwa401/certifications.shtml
2. Find your Order in the table based on Applicant, Date, and Subject headers.

Report Submittal Instructions

1. Check the box on the Report and Notification Cover Sheet next to the report or notification you are submitting.
 - **Part A (Annual Report):** If required by the NOA this report will be submitted annually from the anniversary of the date that the project is authorized under this Order until a Notice of Project Complete Letter is issued.
 - **Part B (Project Status Notifications):** Used to notify the Water Board of the status of the Project schedule that may affect billing.
 - **Part C (Conditional Notifications and Reports):** Required on a case by case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
2. Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.
3. **Electronic Report Submittal Instructions:**
 - Submit signed Report and Notification Cover Sheet and required information via email to the State Program Manager and the appropriate Regional Program Manager

Terms

1. **Notice of Intent (NOI):** The application to enroll a project under this Order. The NOI form is found in Attachment D.
2. **Notice of Applicability (NOA):** The authorization for enrollment under this Order. The NOA is issued by the Water Board upon approval of the NOI.
3. **Notice of Completion (NOC):** This notice, found in Attachment E of this Order, is submitted by the Enrollee to the Water Board. Water Board staff will review the request and send a Completion of Discharges Letter to the Enrollee upon approval. If monitoring is required to continue after the discharge period, this letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee. If no monitoring is required after the discharge period, then the Project Complete Letter described below may be issued in response to the NOC.

4. **Request for Notice of Project Complete Letter:** This request by the Enrollee to the Water Board pertains to projects that either have completed post-construction monitoring and achieved performance standards or have no post-construction monitoring requirements, and no further Project activities are planned. Water Board staff will review the request and send a Project Complete Letter to the Enrollee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.
5. **Post-Discharge Monitoring Period:** The post-discharge monitoring period begins on the date of the Notice of Completion of Discharges Letter and ends on the date of the Notice of Project Complete Letter issued by Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring, temporary impact restoration monitoring, or compensatory mitigation monitoring.

Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

1. **Map Format Information:**

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD38) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5 minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

2. **Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

REPORT AND NOTIFICATION COVER SHEET

Project:

Enrollee:

Reg. Meas. ID:

Place ID:

Order Effective Date:

Report Type Submitted

Part A – Project Reporting

Report Type 1 **Annual Report**

Part B - Project Status Notifications

Report Type 2 **Request for Notice of Project Complete Letter**

Part C - Conditional Notifications and Reports

Report Type 3 **Accidental Discharge of Hazardous Material Report**

Report Type 4 **Violation of Compliance with Water Quality Standards Report**

Report Type 5 **In-Water Work/Diversions Water Quality Monitoring Report**

Report Type 6 **Transfer of Property Ownership Report**

Report Type 7 **Transfer of Long-Term BMP Maintenance Report**

"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."

Print Name ¹

Affiliation and Job Title

Signature

Date

¹STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)

I hereby authorize _____ to act in my behalf as my representative in the submittal of this report, and to furnish upon request, supplemental information in support of this submittal.

Enrollee's Signature

Date

***This Report and Notification Cover Sheet must be signed by the Enrollee or a duly authorized representative and included with all written submittals.**

Part A – Project Reporting

Report Type 1	Annual Report
Report Purpose	Notify Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
When to Submit	If required by the NOA, annual reports shall be submitted each year on the anniversary of the date that the project was authorized by this Order. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Enrollee.
Report Contents	<p>The contents of the annual report shall include the topics indicated below for each project period. Report contents are outlined in Annual Report Topics below.</p> <ul style="list-style-type: none"> • Topic 1: Construction Summary • Topic 2: Mitigation for Temporary Impacts Status • Topic 3: Compensatory Mitigation for Permanent Impacts Status
Annual Report Topics (1-3)	
Annual Report Topic 1	Construction Summary
Report Contents	<ol style="list-style-type: none"> 1. Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). 2. Map showing general Project progress. 3. If applicable: <ol style="list-style-type: none"> a. Summary of Conditional Notification and Report Types 6 and 7 (Part C below).
Annual Report Topic 2	Mitigation for Temporary Impacts Status
Report Contents	<ol style="list-style-type: none"> 1. Planned or actual date of initiation and map showing locations of mitigation for temporary impacts to waters of the state and all upland areas of temporary disturbance which could result in a discharge to waters of the state. 2. If mitigation for temporary impacts has already commenced, provide information concerning attainment of performance standards.
Annual Report Topic 3	Compensatory Mitigation for Permanent Impacts Status
Report Contents	<p>*If not applicable report N/A.</p> <p>Part A. Permittee (Enrollee) Responsible</p> <ol style="list-style-type: none"> 1. Planned date of initiation of compensatory mitigation site installation. 2. If installation is in progress, a map of what has been completed to date.

- | | |
|--|---|
| | <p>3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.</p> |
|--|---|

Part B. Mitigation Bank or In-Lieu Fee

- | | |
|--|---|
| | <ol style="list-style-type: none">1. Status or proof of purchase of credit types and quantities.2. Include the name of bank/ILF Program and contact information.3. If ILF, location of project and type if known. |
|--|---|

Part B – Project Status Notifications

Report Type 2	Request for Notice of Project Complete Letter
Report Purpose	Notify Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
When to Submit	Must be received by Water Board staff within thirty (30) days following completion of all Project activities.
Report Contents	<p>Part A: Mitigation for Temporary Impacts</p> <p>1. A report establishing that the performance standards have been met for restored areas of temporary impact and restored upland areas of temporary disturbance which could result in a discharge to waters of the state.</p> <p>Part B: Permittee (Enrollee) Responsible Compensatory Mitigation</p> <p>2. Pre- and post-photo documentation of all compensatory mitigation sites.</p> <p>Part C: Post-Construction Storm Water BMPs</p> <p>3. Date of storm water Notice of Termination(s), if applicable.</p> <p>4. Report status and functionality of all post-construction BMPs.</p>

Part C – Conditional Notifications and Reports

Report Type 3	Accidental Discharge of Hazardous Material Report
Report Purpose	Notifies Water Board staff that an accidental discharge of hazardous material has occurred.
When to Submit	Within five (5) working days following the date of an accidental discharge. Continue reporting as required by Water Board staff.
Report Contents	<ol style="list-style-type: none"> 1. The report shall include the OES Incident/Assessment Form, a full description and map of the accidental discharge incident (i.e. location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written Follow-Up Report may be substituted. 2. If applicable, any required sampling data, a full description of the sampling methods including frequency/dates and times of sampling, equipment, locations of sampling sites. 3. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

Report Type 4	Violation of Compliance with Water Quality Standards Report
Report Purpose	Notifies Water Board staff that a violation of compliance with water quality standards has occurred.
When to Submit	The Enrollee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Water Board staff.
Report Contents	The report shall include: the cause; the location shown on a map; and the period of the noncompliance including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results if required by Water Board staff.

Report Type 5	In-Water Work and Diversions Water Quality Monitoring Report
Report Purpose	Notifies Water Board staff of the completion of in-water work.
When to Submit	Within three (3) working days following the completion of in-water work. Continue reporting in accordance with the approved water quality monitoring plan.
Report Contents	As required by the approved water quality monitoring plan.

Report Type 6	Transfer of Property Ownership Report
Report Purpose	Notifies Water Board staff of change in ownership of the Project or Permittee (Enrollee)-responsible mitigation area.
When to Submit	At least 10 working days prior to the transfer of ownership.
Report Contents	<ol style="list-style-type: none"> 1. A statement that the Enrollee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts: <ol style="list-style-type: none"> a. the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and b. responsibility for compliance with any long-term BMP¹ maintenance plan requirements in this Order. 2. A statement that the Enrollee has informed the purchaser to submit a written request to the Water Board to be named as the Enrollee in a revised order.

Report Type 7	Transfer of Long-Term BMP Maintenance Report
Report Purpose	Notifies Water Board staff of transfer of long-term BMP maintenance responsibility.
When to Submit	At least 10 working days prior to the transfer of BMP maintenance responsibility.
Report Contents	A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

¹ Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.

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NOTICE OF INTENT (NOI) FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS

[\(Attach fee check here\)](#)

Instructions for Notice of Intent (Attachment D)

The prospective Enrollee must notify the State Water Board and the applicable Regional Water Board as early as possible, and no less than forty-eight (48) hours prior to initiating the emergency project. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means. If not included as part of the notification, **the notification must be followed within three (3) business days by electronic or written submission of all of the information in this notice of intent (NOI).**

Locate the Regional Water Quality Control Board your emergency project is located in at:

https://www.waterboards.ca.gov/waterboards_map.html

Locate the contact information for the “**State Program Manager**” and the appropriate “**Region Program Manager**” from the website:

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

- Address notification email to the state program manager and appropriate region program manager and include in the subject line: (Attention: RGP 8 – Notice of Intent); or
- Call the state program manager and appropriate region program manager; or
- Send written notification to the following addresses:

ATTN: Program Manager
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
1001 “I” St. 15th Floor
Sacramento, CA 95814

ATTN: Program Manager
CWA Section 401 WQC Program
Insert address of appropriate Regional Water Board from the staff directory linked above

The Enrollee must provide to the appropriate Regional Water Board the fee for review and processing of the NOI in accordance with California Code of Regulations, title 23, section 2200 within forty-eight (48) hours of project initiation. Failure to promptly pay the correct fee amount may result in a disqualification for enrollment pursuant to this water quality certification.

The fee amount is calculated using the “**Emergency Projects authorized by a Water Board General Order**” fee category within the **Dredge and Fill Fee Calculator** located at:

https://www.waterboards.ca.gov/water_issues/programs/cwa401/I_ Note that fees are adjusted periodically. Enrollees should confirm the correct fee amount prior to submitting an NOI.

The Water Boards recognize there may be situations where imminent threats to life or property occur and the Enrollee has not received a notice of applicability (i.e., the notification from the Water Board that the Enrollee has successfully enrolled under this Certification). If immediate, specific actions, as defined in the California Code of Regulations, title 14, section 15269(c), are required by the Enrollee and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the Enrollee 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 electronic or written submission of all of the information in this NOI.**

**NOTICE OF INTENT (NOI) FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

PROPERTY OWNER		
Name:	Phone Number:	
Mailing Address:		
City:	State:	ZIP Code:
Contact Person:	E-Mail:	
PROSPECTIVE ENROLLEE (If different from owner)		
Name:	Phone Number:	
Mailing Address:		
City:	State:	ZIP Code:
Contact Person:	E-Mail:	
PROJECT SITE LOCATION		
Street (include address, if any):		
Nearest Cross Street(s):		
County:	Total size of project 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	_____	
Map Attached:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Photos Attached:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

DISCHARGE INFORMATION	
Names of Receiving Water(s):	
Receiving Water Types:	
<input type="checkbox"/> Lake/Reservoir	<input type="checkbox"/> Riparian Area
<input type="checkbox"/> Ocean/Estuary/Bay	<input type="checkbox"/> Vernal Pool
<input type="checkbox"/> River/Streambed	<input type="checkbox"/> Wetland
Emergency Project Description:	

**NOTICE OF INTENT (NOI) FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

Proposed Solution to Emergency:
Erosion and Sediment Control Measures Proposed:
Description of how Emergency Definition is Satisfied: (i.e., unexpected; potential loss of life or property)
Which of these criteria does the project satisfy? (Check all that apply)
<p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> 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.</p> <p><input type="checkbox"/> Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.</p>

**NOTICE OF INTENT (NOI) FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

Fill and Excavation Discharges: For each aquatic resource type listed below indicate in acres, cubic yards, and linear feet the estimated discharge to waters of the state, and identify the impact(s) as permanent and/or temporary.

Aquatic Resource Type	Temporary Impact			Permanent Impact		
	<i>Acres</i>	<i>Cubic Yards</i>	<i>Linear Feet</i>	<i>Acres</i>	<i>Cubic Yards</i>	<i>Linear Feet</i>
Lake/Reservoir						
Ocean/Estuary/Bay						
Riparian Zone						
Stream Channel						
Vernal Pool						
Wetland						

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 this Certification and Corps Regional General Permit No. 8 will be complied with."

Signature of Discharger	Title
Printed or Typed Name	Date

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NOTICE OF COMPLETION FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS

Instructions for Notice of Completion Form

The Enrollee must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 8. In addition, the Enrollee must file this notice of completion (NOC) form. **This information must be submitted to the State Water Board and appropriate Regional Water Quality Control Board within 45 calendar days of completion of any action conducted under RGP 8.**

Failure to submit a complete NOC 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.

Notice of Completion Form and Document Submittal Information

Electronic Submittal:

- Locate the email addresses of the “**State Program Manager**” and the appropriate “**Region Program Manager**” from the website:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf
- Address email to the state program manager and appropriate region program manager and include in the subject line: (Attention - RGP 8 Notice of Completion)

Hardcopy Submittal Addresses:

ATTN: Program Manager
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
1001 “I” St. 15th Floor
Sacramento, CA 95814

ATTN: Program Manager
CWA Section 401 WQC Program
Insert mailing address of appropriate Regional Water Board, obtained from the staff directory linked above.

**NOTICE OF COMPLETION FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

PROPERTY OWNER		
Name:	Phone Number:	
Mailing Address:		
City:	State:	ZIP Code:
Contact Person:	E-Mail:	
BILLING ADDRESS		
Name:	Phone Number:	
Mailing Address:		
City:	State:	ZIP Code:
Contact Person:	E-Mail:	
ENROLLEE (If different from owner)		
Name:	Phone Number:	
Mailing Address:		
City:	State:	ZIP Code:
Contact Person:	E-Mail:	
PROJECT SITE LOCATION		
Street (include address, if any):		
Nearest Cross Street(s):		
County:	Total size of project site (acres):	
Photos Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
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 impact site(s).		
Indicate the map format used (listed in order of preference):		
<input type="checkbox"/> GIS shapefiles. The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the aquatic resource type. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD38) in the California Teale Albers projection.		
<input type="checkbox"/> Google KML files saved from Google Maps: My Maps (free) or Google Earth Pro (not free). Maps must show the boundaries of all project areas and extent/type of aquatic resources		

**NOTICE OF COMPLETION FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

impacted.*

Aquatic resource maps marked on paper USGS 7.5 minute **topographic maps** or DOQQ printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted.

*** If using Google Maps: My Maps or similar, provide URL(s) of maps.**

DISCHARGE INFORMATION	
Project Start Date:	Project Completion Date:
Names of Receiving Water(s):	
Receiving Water Types:	
<input type="checkbox"/> Lake/Reservoir <input type="checkbox"/> Ocean/Estuary/Bay <input type="checkbox"/> River/Streambed	<input type="checkbox"/> Riparian Area <input type="checkbox"/> Vernal Pool <input type="checkbox"/> Wetland
Regulatory Agencies with Jurisdiction Over Project and Associated Permits/Agreements:	
Emergency Project Description: (e.g. discharge of riprap; discharge of fill; excavation for a utility line)	
Purpose of the Entire Project Activity: (e.g. stream-bank erosion control; maintain, repair, or restore damaged property)	
Erosion and Sediment Control Measures Implemented:	
Pollution Prevention Measures Implemented:	

Fill and Excavation Discharges: For each aquatic resource type listed below indicate in acres, cubic yards, and linear feet the actual discharge to waters of the state, and identify the impact(s) as permanent and/or temporary.

Aquatic Resource Type	Temporary Impact			Permanent Impact		
	<i>Acres</i>	<i>Cubic Yards</i>	<i>Linear Feet</i>	<i>Acres</i>	<i>Cubic Yards</i>	<i>Linear Feet</i>
Lake/Reservoir						
Ocean/Estuary/Bay						
Riparian Zone						
Stream Channel						
Vernal Pool						
Wetland						

**NOTICE OF COMPLETION FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

COMPENSATORY MITIGATION	
Required: <input type="checkbox"/> Yes <input type="checkbox"/> No	Photos Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No
Compensatory Mitigation Description (include aquatic resource type and acres and linear feet):	
MITIGATION SITE LOCATION	
Street (include address, if any):	
Nearest Cross Street(s):	
County:	
Latitude/Longitude (Center of Mitigation 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 mitigation site.	
Indicate the map format used (listed in order of preference):	
<input type="checkbox"/> GIS shapefiles. The shapefiles must depict the boundaries of all project(s) and extent of aquatic resources. Each shape should be attributed with the aquatic resource type. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD38) in the California Teale Albers projection.	
<input type="checkbox"/> Google KML files saved from Google Maps: My Maps (free) or Google Earth Pro (not free). Maps must show the boundaries of all project(s) and extent/type of aquatic resources.*	
<input type="checkbox"/> Aquatic resource maps marked on paper USGS 7.5 minute topographic maps or DOQQ printouts. Maps must show the boundaries of all project(s) and extent/type of aquatic resources.	
* If using Google Maps: My Maps or similar, provide URL(s) of maps.	

**NOTICE OF COMPLETION FORM FOR REGIONAL GENERAL PERMIT (RGP) 8 FOR
REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS**

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 this Certification and Corps Regional General Permit No. 8 will be complied with."

Signature of Discharger

Title

Printed or Typed Name

Date



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

October 22, 2021

Regulatory Division (SPK-2005-01096)

Liberty Utilities
Attn: Mr. Frank Papandrea
701 National Avenue
Tahoe Vista, California 96148
Frank.Papandrea@libertyutilities.com

Dear Mr. Papandrea:

We are responding to your September 9, 2021, request for a Department of the Army permit for the Emerald Bay Submerged Power Cable Repair project. This approximately 0.01-acre project involves activities in waters of the United States to repair an existing submerged power cable on the bottom of Emerald Bay. The project site is located in Lake Tahoe, along the lakebed across Emerald Bay, with center point of the line near Latitude 38.95607°, Longitude -120.09504°, Emerald Bay, El Dorado County, California (enclosure 1).

Based on the information you provided to this office, the Emerald Bay Submerged Power Cable Repair project involves work/structures in navigable waters of the U.S. for the repair of the submerged electric cable that has been damaged during low water conditions, subject to Section 10 of the Rivers and Harbors Act. The specific activities that require DA authorization are the work to install the cast iron protectors around the existing cable. The proposed activities will be conducted in accordance with the application materials dated September 9, 2021 (enclosure 2).

Based on the information you provided, the proposed activity is authorized by Regional General Permit (RGP) number 8- Emergency Repair and Protection Activities. Your work must comply with the terms and conditions of RGP number 8 (enclosure 3). In addition, your work must comply with the following special conditions:

Special Conditions

1. You shall comply with the attached October 9, 2018, Section 401 Water Quality Certification (enclosure 4).
2. To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the enclosed U.S. Fish and Wildlife Service letter of concurrence (Number 08ENV00-2022-I-0006, dated October 8, 2021; enclosure 5), including those ascribed to the U.S. Army Corps of Engineers (Corps) therein. If you are unable to implement any of these measures, you must immediately notify the

Corps and the U.S. Fish and Wildlife Office so we may consult as appropriate, prior to initiating the work, in accordance with federal law.

You should pay particular attention to general condition 26 of the RGP to ensure you complete the post-project reporting requirements.

This verification is valid for 6 months from the date of this letter or until the RGP is modified, reissued, or revoked, whichever comes first. Failure to comply with the terms and conditions, including project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We would appreciate your feedback on this permit action including your interaction with our staff and processes. For more information about our program or to complete our Regulatory Program national customer service survey, visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Please refer to identification number SPK-2005-01096 in any correspondence concerning this project. If you have any questions, please contact me at 300 Booth Street, Room 3050 Reno, Nevada 89509, by email at (b) (6)@usace.army.mil, or telephone at (775) 784-5304.

Sincerely,

(b) (6)

for Senior Project Manager
Nevada-Utah Section

Enclosures

cc: (w/o encls)

Anna Shamey, Insignia Environmental, ashamey@insigniaenv.com

Tyrone Conner, USCG, Tyrone.L.Conner@uscg.mil

David Sulouff, USCG Waterways, d11-pf-marineevents@uscg.mil

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NOAA Nautical Data Branch, ocs.ndb@noaa.gov

California Water Quality Control Board, Lahontan Region, Lahontan@waterboards.ca.gov

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Tiffany Good, Tahoe Regional Planning Agency, Shorezone Coordinator, tgood@trpa.gov