



Regional General Permit 5

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

NATIONAL ENERGY EMERGENCY ACTIVITIES

EFFECTIVE: June 11, 2026

EXPIRES: June 11, 2031

The U.S. Army Corps of Engineers, Sacramento District, hereby issues Regional General Permit (RGP) 5 to expedite the authorization of activities involving the discharge of dredged or fill material into waters of the United States (U.S.) and structures or work in or affecting navigable waters for energy and critical minerals production, transportation, refining, and generation activities, as described in Executive Order (EO) 14156, *Declaring a National Energy Emergency*, signed by the President of the United States on January 20, 2025. Activities authorized under this RGP are substantially similar in nature and cause only minimal individual and cumulative environmental impacts.

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

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

ACTION ID: SPK-2025-00011

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

LOCATION: Within the Sacramento District's Regulatory Program boundaries which include the Central Valley and Sierra Nevada of California and the States of Nevada and Utah.

PURPOSE: For the reasons stated in Section 1 of EO, the President has found that insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy. A national emergency was declared on the basis of those findings.

On April 1, 2025, in accordance with 33 CFR § 325.2(e)(4) and EO 14156, the South Pacific Division Commander approved the Sacramento District to use special emergency processing procedures in the States of California, Nevada, and Utah. The special emergency processing procedures were established consistent with Section 4 of EO 14156 for activities that require Department of the Army authorization under Section 10 of the RHA of 1899, Section 404 of the

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<http://www.spk.usace.army.mil/Missions/Regulatory>

CWA, and/or Section 103 of the Marine Research, Protection, and Sanctuaries Act (MRPSA) of 1972, as amended, and alterations of a USACE civil works project under 33 U.S.C. 408 (Section 408).

The purpose of this RGP is to provide an expedited process for authorizing activities in waters of the U.S. that require Department of the Army (DA) authorization related to energy and critical minerals production, transportation, refining, and generation, while protecting the nation's aquatic resources.

This RGP is specific to National Energy Emergency activities. It does not replace or supersede RGP 8 (Emergency Repair and Protection Activities). RGP 8 authorizes the discharge of dredged or fill material into waters of the U.S. and structures or work in or affecting navigable waters of the U.S. necessary for repair or protection measures associated with an emergency situation. An emergency situation is defined in RGP 8 as 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.

ACTIVITIES COVERED: This RGP authorizes activities related to the production, transportation, refining, and generation of domestic energy resources consistent with EO 14156 that involve the permanent or temporary discharge of dredged or fill material into waters of the U.S. and/or work or structures in navigable waters. The activities listed below are substantially similar in nature and cause only minimal individual and cumulative environmental impacts when conducted under the terms and conditions of this permit. Activities covered under this RGP include, but are not limited to, the construction, expansion, modification, maintenance, and repair of:

- Mining and drilling facilities
- Electric, oil, and natural gas facilities
- Production, enrichment, and refining facilities
- Hydropower generation facilities
- Transmission pipelines
- Aerial transmission lines and poles
- Energy storage facilities, such as batteries and tanks
- Docks, piers, and terminals
- Access roads, rail lines, and canals
- Temporary construction, access, staging, and stockpile areas
- Temporary dewatering structures and fills
- Temporary return water from upland contained disposal areas

DEFINITIONS: Consistent with EO 14156, the following terms apply to this RGP:

“Energy” or “energy resources” means crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals, including phosphate and potash used in the production of fertilizer, as defined by 30 U.S.C. 1606 (a)(3).

“Production” means the extraction or creation of energy.

“Transportation” means the physical movement of energy, including through, but not limited to, pipelines.

“Refining” means the physical or chemical change of energy into a form that can be used by consumers or users, including, but not limited to, the creation of gasoline, diesel, ethanol, aviation fuel, or the beneficiation, enrichment, or purification of minerals.

“Generation” means the use of energy to produce electricity or thermal power and the transmission of electricity from its site of generation.

“Energy supply” means the production, transportation, refining, and generation of energy.

“Single and complete” means the total project proposed or accomplished by one entity. For linear projects, single and complete applies to each crossing of a separate waterbody and those that cross a single waterbody several times but at separate and distant locations.

TERMS:

1. The time limit for completing the activity under this RGP is **five (5) years** from the date of the authorization letter issued by this office or the expiration of the CWA Section 401 water quality certification, whichever occurs first.
2. The permanent loss of waters of the U.S., resulting from a single and complete activity, must not exceed 1.0 acre or 500 linear feet below the ordinary high-water mark (OHWM) or mean high-water line (MHW) in navigable waters of the U.S.
3. The emergency activity must not be related to a solar or wind project.
4. The activity must be a single and complete project. For emergency oil or natural gas pipeline activities crossing a single waterbody, more than one time, at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of this authorization.
5. For the permanent loss of 0.1 acre or more of waters of the U.S., compensatory mitigation at ratio of 2:1 is required. Compensatory mitigation shall normally be accomplished through

the purchase of credits at a Corps-approved mitigation bank. If bank credits are not available, compensatory mitigation shall be accomplished through an in-lieu fee program or permittee-responsible mitigation. Permanent losses below 0.1 acre will not require compensatory mitigation.

6. Aerial electric power transmission lines crossing navigable waters of the U.S., which are defined at 33 CFR part 329, must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

GENERAL CONDITIONS:

1. Prior to commencing work in waters of the U.S., you must submit a pre-construction notification (PCN) to this office.
2. You shall conduct no work in waters of the U.S. until notified by this office that the activity is authorized under this RGP, subject to its terms and general conditions and any special conditions added to the authorization to ensure minimal impact.
3. You shall ensure the activity does not substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
4. You shall site temporary construction-related impacts, such as access roads, and staging areas, to avoid and minimize impacts waters of the U.S. Temporary discharges of dredged and/or fill must consist of materials and be placed in a manner that will not be eroded by expected high flows. Within **30 days** of completion of construction, temporary fill must be entirely removed to an area that has no waters of the U.S., dredged material must be returned to its original location, and the affected areas must be restored to pre-construction elevations and revegetated with native species.
5. You shall ensure the activity authorized under this RGP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.
6. You are not authorized to initiate any activity in waters of the U.S. under this RGP that has the potential to impair tribal rights. Reserved tribal rights include, but are not limited to, reserved water rights and treaty fishing and hunting rights.
7. You shall ensure soil erosion and sediment controls are used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high-water mark or high tide line, is permanently stabilized at the earliest practicable date.

8. You shall conduct no activity under this RGP that occurs in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
9. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, no activity authorized under this RGP may result in substantial adverse effects to Essential Fish Habitat (EFH). We will follow the emergency consultation procedures at 50 C.F.R. § 600.920(a)(1) and incorporate appropriate EFH conservation recommendations into the permit authorization to the maximum extent practicable. If adverse effects to EFH occur, this office must be notified immediately. We will conduct after-the-fact consultation once the emergency work in waters of the U.S. is complete.
10. Pursuant to the Federal Endangered Species Act (ESA), no activity authorized under this RGP may directly or indirectly jeopardize the continued existence of a species listed (or proposed for listing), nor may it destroy or adversely modify designated or proposed critical habitat. We will follow the emergency consultation procedures at 50 C.F.R. § 402.05 and in the absence of an existing Section 10 Permit or Biological Opinion, we will engage in emergency consultation with U.S. Fish and Wildlife Service and/or National Marine Fisheries Service, providing a ten-day comment period. Authorization of an activity under this RGP does not authorize the “take” of a threatened or endangered species as defined under the ESA. If any “take” occurs during the emergency response, we must be notified immediately. Formal consultation will begin as soon as the emergency is under control, and a final Biological Opinion will be issued after the event to document impacts and provide long-term recommendations.
11. Pursuant to the National Historic Preservation Act (NHPA), no activity authorized under this RGP may cause effects on properties listed, or eligible for listing, in the National Register of Historic Places until the emergency procedures identified in 36 C.F.R. § 800.12(b) have been satisfied. Prior to authorizing any activity, we will notify the Advisory Council on Historic Preservation, State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO), and relevant Tribes, providing a seven-day comment period. For activities in Utah, we will follow the “Emergency Situations” stipulation of the Programmatic Agreement (PA) between the Sacramento District and the Utah SHPO. Furthermore, this office may authorize you or your agent to initiate consultation regarding eligibility determinations in accordance with the terms of the PA and 36 C.F.R. § 800.2(c)(4).
12. If any previously unknown historic, cultural, or archaeological remains and artifacts are discovered while accomplishing the activities authorized by this RGP, you must immediately notify this office of what you have found and, to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. We will determine the need to initiate the Federal, Tribal, and state

coordination to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

13. You shall maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity or sell the property associated with this permit. Authorization under this RGP is non-transferable. Should you wish to cease maintaining the authorized activity, or should you desire to abandon it, you must contact this office and restore the area. Maintenance activities associated with the authorized structure or fill must be specifically approved, in writing, by this office if they involve the discharge of dredged or fill material into waters of the U.S. or work in or affecting navigable waters of the U.S.

14. You shall allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that the activity is being, or has been, accomplished in compliance with the terms and conditions of this permit.

15. You are responsible for all authorized work and ensuring that all contractors and workers are made aware of and adhere to the terms and conditions of the permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available and visible for quick reference at the site until all activities are completed.

16. You shall not discharge unsuitable materials into waters of the U.S. Unsuitable material includes items such as vehicle bodies, farm machinery, appliances, and other metal objects and pollutants such as asphalt, concrete with exposed rebar, biodegradable construction debris, and tires. Materials discharged must be free from pollutants in toxic amounts (see Section 307 of the CWA). Fresh cement or concrete is not allowed in the water unless it is placed in sealed forms.

17. You shall provide compensation, at a ratio of 2:1, for the permanent loss 0.1 acre or more of waters of the U.S. Compensatory mitigation will normally be accomplished through the purchase of credits at a Corps-approved mitigation bank. If bank credits are not available, in whole or in part, compensatory mitigation shall be accomplished through a Corps-approved in lieu fee program (ILF). If no ILF is available, compensatory mitigation may be accomplished through permittee-responsible mitigation but only after the Corps has reviewed and approved a mitigation plan.

18. The activity must not cause more than a minimal effect on navigation. Safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at your expense on authorized facilities in navigable waters of the U.S. You understand and agree that, if future operations by the U.S. 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 their authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required,

upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the United States on account of any such removal or alteration.

19. Pipes and pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the U.S. are considered bridges and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the RHA of 1899.

20. Where structures or work are proposed in navigable waters of the United States, you should provide the location and dimensions of the proposed structures to the U.S. Coast Guard (USCG) prior to submitting a pre-construction notification, or prior to beginning construction. The USCG may assess potential navigation related concerns associated with the location of proposed structures or work and may inform you of marking and lighting requirements necessary to comply with General Condition 18 above. For assistance identifying the appropriate USCG District or Sector Waterways Management Staff responsible for the area of the proposed work, contact USCG at CGWWM@uscg.mil.

21. For all utility lines, pipelines, cables, or similar linear crossings intersecting or underlying waters of the U.S., you shall utilize horizontal directional drilling (HDD) or other trenchless sub-surface construction methods to the maximum extent practicable to eliminate surface disturbance, trenching, and sedimentation within the aquatic environment. If the use of directional drilling/trenchless technologies is technically, logistically, or economically impracticable due to the nature of the emergency, site constraints (e.g., geological hazards, shallow bedrock), or imminent threats to life or property, you must provide a written justification in the PCN detailing the specific constraints that prevent the implementation of these measures and receive written concurrence (or verbal authorization followed by written confirmation, if responding to an immediate, life-safety emergency) from this office before initiating work in waters of the U.S.

22. For all activities, except for those in wetlands classified as peatlands, within 100 feet of the water source in natural spring areas, and in riffle and pool complexes, on tribal lands on Indian country in the State of Utah, and lands of exclusive federal jurisdiction in relevant respects within the state of Utah, you shall comply with all terms and conditions of the attached March 25, 2026, 401 WQC granted by the U.S. Environmental Protection Agency (U.S. EPA) Region 8.

23. For all activities, except for those in wetlands classified as peatlands, within 100 feet of the water source in natural spring areas, in riffle and pool complexes, and wild rice (*Manoomin*) waters, on tribal lands within U.S. EPA Region 9 boundaries in the State of California and Nevada, you shall comply with all terms and conditions of the attached April 3, 2026, Section 401 WQC granted by the U.S. EPA Region 9.

24. For all activities, except those that involve dam maintenance/rehabilitation or reservoir dewatering, on non-tribal lands within the State of Utah, you shall comply with all terms and

conditions of the attached May 19, 2026, 401 WQC granted by the State of Utah, Department of Environmental Quality.

25. For all activities on non-tribal lands within the State of California (except those listed in the granted Section 401 WQC, Order No. WQ 2026-0016-DWQ), you shall comply with all terms and conditions of the attached May 18, 2026, Section 401 WQC. An activity does not qualify for coverage, and work shall not be performed under this certification, if individual project impacts exceed the maximum allowable thresholds for the corresponding activity type:

a. For utility, telecommunication, and oil/gas pipelines: more than 0.005 acre or 50 linear feet of permanent impacts, or more than 0.5 acre or 400 linear feet of total impacts (excluding vehicle travel through dry washes for site access);

b. For linear transportation projects: more than 0.01 acre or 100 linear feet of permanent impacts, or more than 0.2 acre or 300 linear feet of total impacts; or

c. For bank stabilization activities: more than 0.1 acre or 200 linear feet of permanent impacts, or more than 0.2 acre or 300 linear feet of total impacts.

26. Where the certifying authority responsible for certifying compliance with applicable water quality requirements in accordance with Section 401 of the Clean Water Act has not certified this RGP, individual water quality certification for the proposed activity which may result in any discharge from a point source into waters of the United States must be obtained or waived. If the certifying authority issues an individual water quality certification for the proposed activity, you must submit a copy of the certification to this office. The discharge into waters of the United States is not authorized until this office has notified you that the certification requirement has been satisfied by the certifying authority.

PRECONSTRUCTION NOTIFICATION PROCEDURES:

1. In accordance with General Condition 1, you must request authorization under this RGP by submitting a PCN to our office in electronic format (pdf), either to:

SPKRegulatoryMailbox@usace.army.mil (if less than 25 MB) or through Department of Defense (DoD) Secure Access File Exchange (SAFE): <https://safe.apps.mil/>. The PCN must include a completed *Department of the Army Permit Application Form* (ENG 4345) requesting authorization under this RGP. For activities with multiple single and complete projects, you may submit one ENG 4345, but it must contain information regarding each single and complete project. In addition, the following information must be provided:

a. A location map and proposed project drawings prepared in accordance with the *Updated Map and Drawing Standards for the South Pacific Division Regulatory Program* dated February 10, 2016 (<https://www.spd.usace.army.mil/Missions/Regulatory/Public-Notices-and-References/Article/651327/updated-map-and-drawing-standards/>).

b. A delineation of waters of the U.S. on the site prepared in accordance with the current methodologies required by the Corps. The report must include a delineation map prepared in accordance with the *U.S. Army Corps of Engineers Recommended Minimum Standards for Aquatic Resource Delineation Reports* dated July 2025

(<https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll9/id/3136>).

c. A description of the proposed activity and its purpose, including a statement explaining how the activity is covered under EO 14156.

d. A description of the direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of waters of the U.S. expected to result from the proposed activity, in acres, linear feet, or other appropriate unit of measure.

e. A description of any proposed avoidance and minimization measures intended to reduce the adverse environmental effects caused by the proposed activity.

f. List of any other permit(s), regional general permits or Nationwide Permits, used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification.

g. For activities that would alter or temporarily or permanently occupy or use a Corps Civil Works project pursuant to 33 U.S.C. 408, the PCN must include a statement confirming a written request has been submitted for section 408 permission from, or for review by, the Corps.

h. If any federally listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. Any specific project information prepared concerning the potential to cause effects to listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) should be submitted as part of the PCN. Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.

i. For activities that might have the potential to cause effects on a historic property listed, determined to be eligible for listing, or potentially eligible for listing, in the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. Any project-specific information prepared concerning the potential to cause effects on a historic property should be submitted as part of the PCN. Compliance reports shall follow

the *Sacramento District's Guidelines for Submittals for Compliance with Section 106 of the National Historic Preservation Act* dated October 2020

(<https://www.spk.usace.army.mil/Portals/12/documents/regulatory/sec-106-tribal/2020.10.29-Section%20106%20Submittal%20Guidelines.pdf>). Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act.

j. For activities that would occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river.”

k. For activities that would result in a loss of water of the U.S. where compensatory mitigation is required, the PCN must include a statement describing how the compensatory mitigation requirement will be satisfied. Compensatory mitigation should be achieved at a Corps-approved mitigation bank or in lieu fee (ILF) program. If credits are not available at a mitigation bank or ILF program and permittee-responsible mitigation (PRM) is proposed, the PCN shall include a conceptual or detailed plan.

2. Within **three (3) business days** of receiving the PCN, this office will:

a. Contact the requestor to acknowledge receipt of the PCN, provide the identification number, and, if applicable, request information on the status of water quality certification under CWA Section 401, including whether pre-filing/pre-discharge requirements were met.

b. Determine if the PCN is complete. If the PCN is not complete, we will contact the requestor about the information needed to complete the request. If all the necessary information is not provided within **30 days**, we will administratively withdraw the request.

3. Within **five (5) business days** of receiving a complete PCN, this office will:

a. Begin tribal coordination, via email, by requesting comments within **10 calendar days** from potentially affected tribes.

b. If applicable, contact the appropriate certifying authority under CWA Section 401 by email with information about the proposed activity and seek agreement on a reasonable period of **25 calendar days** for the certifying authority to make a certification decision.

4. Within **10 business days** of receiving a complete PCN, this office will:

a. Notify the relevant State or Tribal Historic Preservation Office(s), the Advisory Council of Historic Places, and Native American Tribe(s) of the proposed activity (the undertaking) and provide them an opportunity to comment within **seven (7) calendar days**.

b. Begin appropriate consultation and coordination necessary for compliance with other laws with each agency in accordance with that agency's provisions for emergency situations. The timeline for completing each consultation or coordination is **10 calendar days** which will be communicated to the agency at the start.

5. Within **five (5) business days** of concluding the CWA Section 401(a)(2) process with U.S. EPA, unless there is an extenuating circumstance, we will make a decision on the request for authorization under this RGP. You may not begin work requiring Department of the Army authorization until the CWA Section 401 process is complete, and we have verified, in writing, that the activity may proceed under this RGP.

FURTHER INFORMATION:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to: Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

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

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

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

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

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

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

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

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

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit 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 permit.

b. The information provided by you in support of your permit 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 C.F.R § 325.7 or enforcement procedures such as those contained in 33 C.F.R § 326.4 and 326.5. The referenced enforcement procedures refer to the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Discretionary Authority. This office has the discretion to suspend, modify, or revoke authorizations under this permit. This discretionary authority may be used by us to further condition or restrict the applicability of this permit for cases in which we have concerns associated with the CWA Section 404(b)(1) Guidelines, or regarding any factor of the public's interest. Should we determine that a proposed activity may have more than minimal individual or cumulative adverse impacts to waters of the U.S. or otherwise be contrary to the public interest, we will modify the authorization to reduce or eliminate those adverse effects or notify you that the proposed activity is not authorized by this permit and provide instructions on how to apply for authorization under another type of DA permit. Activities not meeting the terms and conditions of this permit may be authorized through another type of permit from us, such as a Nationwide Permit, Regional General Permit, Letter of Permission, or Standard Permit. We 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. We may include additional special conditions to a verification under this permit to ensure the activity has minimal impact. We may also restore authorization under this RGP at any time we determine the reason for asserting discretionary authority has been resolved or

satisfied by a condition, project modification, or new information. We may also use our discretionary authority to modify, suspend, or revoke this RGP at any time.

PERMIT DURATION: This RGP is valid for five years from the date of issuance. This RGP will expire no later than **June 11, 2031**. We may re-evaluate the terms and conditions of this RGP at any time to protect the public interest. Activities under this RGP must be verified in writing by this office and will be valid until the expiration described above.

CONTACTS AND ADDITIONAL INFORMATION:

U.S. Army Corps of Engineers, Sacramento District
Regulatory Division
1325 J Street, Room 860
Sacramento, California 95814-2922
Email: SPKRegulatoryMailbox@usace.army.mil
Phone: 916-557-5250

ATTACHMENTS:

1. Sacramento District Office Map
2. General 401 Water Quality Certification(s)

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

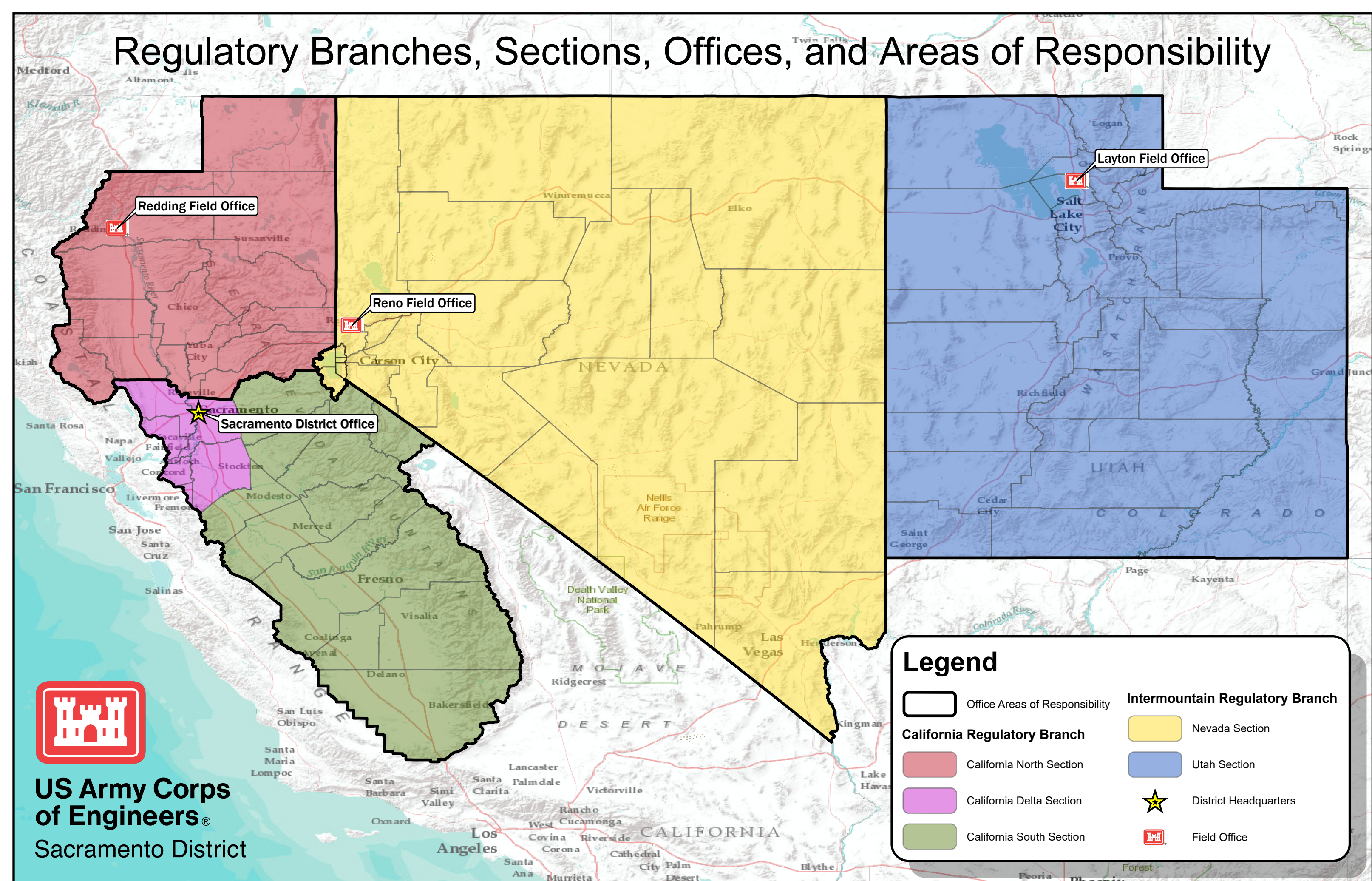


Michael S. Jewell
Chief, Regulatory Division

11 June 2026

Date

Regulatory Branches, Sections, Offices, and Areas of Responsibility





REGION 8
DENVER, CO 80202

March 25, 2026

SENT VIA EMAIL

Michael S. Jewell
Chief, Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
Michael.S.Jewell@usace.army.mil

RE: Clean Water Act Section 401 Water Quality Certification for U.S. Army Corps of Engineers (USACE) Regional General Permit (RGP) "National Energy Emergency Activities" for activities that occur within Indian country in the state of Utah and lands of exclusive federal jurisdiction in relevant respects (SPK-2025-00011)

Dear Mr. Jewell:

The U.S. Environmental Protection Agency (EPA) reviewed the Clean Water Act (CWA) Section 401 water quality certification (WQC) request for the U.S. Army Corps of Engineers (USACE) Regional General Permit (RGP) "National Energy Emergency Activities," to expediate the authorization of activities involving the discharge of dredged or fill material into waters of the United States and/or structures or work in or affecting navigable waters of the U.S. for energy and critical minerals production, transportation, refining, and generation activities, as described in Executive Order (EO)14156 (2025), Declaring a National Energy Emergency..

Section 401 of the CWA requires applicants for Federal licenses or permits to conduct any activity that may result in any discharge into waters of the United States to obtain a certification or waiver from the certifying authority where the discharge originates or will originate. Where no state agency or Tribe has authority to give such certification, the EPA is the certifying authority. 33 U.S.C. 1341(a)(1). In this case, the Paiute Indian Tribe of Utah, the Skull Valley Band of Goshute Indians of Utah, the Northwestern Band of the Shoshone Nation, the Ute Mountain Ute Tribe,¹ and the Ute Indian Tribe do not have the authority to provide CWA Section 401 certification for projects occurring on Indian

¹ The Ute Mountain Ute Tribe has been approved to implement CWA section 401 under the Treatment as a State / Treatment in a Similar Manner as a State program for some, but not all, of Indian country lands in Utah associated with the Tribe or individual Tribal members.

country² lands within the state of Utah, and the state of Utah does not have the authority to provide CWA section 401 certification for projects within lands of exclusive federal jurisdiction in relevant respects. Therefore, the EPA is making the certification decision for the “National Energy Emergency Activities” RGP within Indian country lands associated with the above-referenced Tribes within the state of Utah. Additionally, the EPA is making the certification decision for the “National Energy Emergency Activities” RGP for lands of exclusive federal jurisdiction in relevant respects.³

Project Description

The purpose of this RGP is to provide an expedited process for authorizing activities in waters of the U.S. that require USACE authorization related to energy and critical minerals production, transportation, refining, and generation. This RGP is in accordance with EO 14156, Declaring a National Energy Emergency.

This RGP authorizes work or structures in navigable waters of the U.S. and the permanent or temporary discharge of dredged or fill material into waters of the U.S. for activities related to the production, transportation, refining, and generation of domestic energy resources consistent with EO 14156. In accordance with 33 C.F.R § 322.2(f)(1) and 33 C.F.R § 323.2(h)(1), this RGP authorizes the activities that listed below are substantially similar in nature and cause only minimal individual and cumulative environmental impacts, when conducted under the terms and conditions of this permit. Activities covered under this RGP include, but are not limited to, the construction, expansion, modification, maintenance, and repair of:

- Mining and drilling facilities
- Electric, oil, and natural gas facilities
- Production, enrichment, and refining facilities
- Hydropower generation facilities
- Transmission pipelines
- Aerial transmission lines and poles
- Energy storage facilities, such as batteries and tanks
- Docks, piers, and terminals

² Indian country is defined in 18 U.S.C. Section 1151. Indian country in Utah generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Utah: the Goshute Reservation, the Navajo Indian Reservation, the reservation lands of the Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes), the Skull Valley Indian Reservation, the Uintah and Ouray Reservation (subject to federal court decisions removing certain lands from Indian country status within the Uintah and Ouray Reservation), and the Washakie Reservation; (2) any land held in trust by the United States for an Indian Tribe (including but not limited to the Ute Mountain Ute Tribe); and (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. Section 1151. EPA Region 9 has authority to implement EPA programs, including CWA section 401 water quality certification, for the Goshute Reservation and the Navajo Indian Reservation. Therefore, this EPA Region 8 water quality certification does not apply to waters within those Reservations.

³ An inventory report compiled by the U.S. General Services Administration for federal properties as of 1962 identifies properties that may contain exclusive federal jurisdiction. This document is accessible at <https://www.congress.gov/116/meeting/house/110088/documents/HHRG-116-II13-20191017-SD044.pdf>. The EPA notes that this inventory report is not all-inclusive and that the information contained within it has not been recently confirmed and/or updated. Please contact EPA Region 8 at R8CWA401@epa.gov with questions regarding the jurisdictions where this certification decision applies.

- Access roads, rail lines, and canals
- Temporary construction, access, staging, and stockpile areas
- Temporary dewatering structures and fills
- Temporary return water from upland contained disposal areas

The EPA's Public Notice Process

On November 21, 2025, the EPA Region 8 received a request for certification from the project proponent. The EPA Region 8 issued a public notice on December 10, 2025, and provided the opportunity for the public to submit comments until January 9, 2026. No comments were received on the public notice.

General Information

The general information provided in this section does not constitute certification conditions.

- The project proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, or Tribal authorities.
- This certification is based on materials provided in the certification request, including a copy of the RGP.
- Project proponents should coordinate with Tribal governments regarding the presence of sensitive aquatic wildlife species.
- Copies of this certification should be kept on the job site and readily available for reference.
- Pursuant to CWA section 308(a), the EPA Region 8 is authorized to inspect the authorized activity and any mitigation areas to determine compliance with the terms and conditions of the USACE permit, including those conditions contained in this certification.
- Project proponents should notify the EPA Region 8 and the appropriate Tribal contacts, listed below, when submitting a pre-construction notification to the USACE for use of this RGP on Tribal lands and, prior to construction, provide the EPA Region 8 and Tribal contacts with the most up-to-date construction timeframe and plans:
 - Paiute Indian Tribe of Utah: Keitti Jake (kjake@pitu.gov; 435-586-1112 x801)
 - Skull Valley Band of Goshute Indians of Utah: Daniel Moon (danielm@svgoshutes.com; 435-831-4079)
 - Northwestern Band of the Shoshone Nation: Jason Walker (jswalker@ida.net; 208-406-6774)
 - Ute Mountain Ute Tribe: Scott Clow (sclow@utemountain.org; 970-564-5432) and Adrian Bishop (abishop@utemountain.org; 970-570-0154)
 - Ute Indian Tribe: Bart Powaukee (bartp@utetribe.com; 435-725-4821)

Conditions of Certification

The EPA has determined that the activity will comply with the applicable water quality requirements, including, consistent with 40 C.F.R. § 121.1(j), any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA; any Federal and state or Tribal laws or regulations implementing those sections; and any other water quality-related requirement of state or Tribal law,

subject to the following condition pursuant to CWA section 401(d):

Condition 1: Plan Development and Implementation

Prior to construction, the project proponent shall develop a plan that includes a copy of the PCN and the following information (if not already included in the PCN):

- Time stamped photo-documentation of the baseline conditions (i.e., 50 feet upstream of the project area, within the project area, and 100 feet downstream of the project area).
- Identifies on a site map, as applicable:
 - Project site with all waters of the U.S. demarcated. Identify all locations where the project will cross jurisdictional waterbodies and identify the ordinary high-water mark and/or wetland boundaries; the planned work area where wetlands/aquatic resources will be removed, disturbed, and/or protected; buffer zones; and areas to be restored/reclaimed, as well as site access points and other approved work areas.
 - Staging areas and stockpiling of materials and equipment, including locations for containment booms and/or absorbent materials, and/or hazardous materials. Stockpiles (e.g., sediment, soil, or other construction materials) shall be stored at least 50 feet from where it may enter waters of the U.S.
 - Construction access points.
 - Disturbance limits.
 - Locations where site dredging and placement of dredged material activities will occur.
 - Locations where dewatering activities will occur including as applicable locations of cofferdams, temporary berms, piling, and/or dikes.
 - Locations of undergrounding or directional drilling (including bore pits).
 - Locations where hazardous materials are stored. Identify where containment booms and/or absorbent materials are located for corrective action if needed. Hazardous materials shall be stored in leak-proof containers with appropriate secondary containment measures (e.g., spill berms, dikes, spill containment pallets, absorbent materials).
 - Any silt/sediment fencing.
 - Photo-reference sites. The project proponent shall indicate the directional view and location where photos were taken on the site map.
- A description of how the site will be restored to pre-construction conditions, as applicable, including measures that will be used to promote and maintain:
 - Stream hydrology and stability.
 - Aquatic resource composition.
 - Diversity of native species existing on site and as introduced via restoration activities.
 - Stability of soils.
 - Establishment of vegetation at the same percent cover as pre-construction activities.
- The timeframe/schedule for revegetation following completion of construction. Revegetation should occur at the earliest practicable date following completion of construction. Drill seeding is the preferred method, where applicable.
- Non-native and invasive species shall not be used for restoration activities.
- Includes the following, as applicable:
 - Cofferdams, temporary berms, pilings, and/or dikes: Describe installation and maintenance practices for any cofferdams, temporary berms, pilings, and/or dikes.
 - Dredging: Describe how contaminated materials will be managed (e.g., sediment testing

data and information to identify whether sediments are clean or contaminated), if included in the project dredged area. Describe methods for minimizing dredging impacts (i.e., sedimentation resuspension) in the water column.

- Erosion and sediment control: Identify the types and locations of sediment and erosion control features that shall be used onsite, including sediment control fences, haybales, heavy mud mats, and/or other structures. Biodegradable blankets and/or loose-weave mesh shall be used for erosion control matting. If using velocity dissipation structures (e.g., riprap aprons, check dams etc.), structures shall be constructed to include both peak flow rates and total stormwater volume, and provide protection from the erosive potential of high-velocity flows to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. The project proponent shall ensure all erosion and sediment control measures are in place prior to the onset of construction.
- Bank stabilization and channel modification. If the project requires bank stabilization or stream channel modification, include pre-construction cross sections. If the project includes steep bank slopes of 3:1 or greater, include revetment cross sections. Bioengineering techniques suitable for steep slope disturbances are preferred (e.g., vegetated toe, bioengineered boulder toe, etc.) Slopes of disturbed banks shall be designed and installed to not reduce the bottom width of the stream.
- Dewatering: Work shall be completed in the dry unless coordinated with EPA Region 8. Describe methods for dewatering, including the equipment that would be used to conduct the dewatering activities. Identify the locations and timing, including length of time the area is to be dewatered. Explain removal method of the temporary structures and/or fill and what measures will be taken to minimize downstream turbidity and adaptive management measures that will be taken and employed to prevent the draining of waters of U.S., including wetlands.
- Ditching and trenching: Explain ditching/trenching and material placement techniques and stabilization methods to be employed, as well as timing. In wetlands, the top 6 to 12 inches of the ditch/trench shall be backfilled with topsoil from the trench, unless other techniques are approved. Include activity timing needs for ditching and stabilization.
- Undergrounding or directional drilling: Describe measures taken to prevent, contain and cleanup any inadvertent return of drilling fluid to the surface (i.e., “frac-outs”).
- Submit the plan to EPA Region 8 at R8CWA401@epa.gov at least 30 days prior to commencing construction activities.

During construction, the project proponent shall:

- Visually inspect construction activities daily.
- Prevent sediment, debris, silt, sand, cement, concrete, oil or petroleum, organic materials, or other construction debris or wastes from entering waters of the U.S. The discharge of unset cement, concrete, grout, or water that has contacted uncured concrete or cement, or related washout to waters of the U.S. is prohibited.
- Maintain documentation onsite that all equipment was cleaned of dirt, mud, and other materials prior to arriving on the project site.
- Inspect all equipment daily and prior to entering any waters of the U.S. for oil, gas, diesel, anti-freeze, hydraulic fluid, and other petroleum leaks. If the project proponent detects a leak from any equipment, they shall immediately remove the equipment from waters of the U.S.; and within 24 hours of detection of a leak, repair the equipment in a staging area or move it offsite.

- Limit vegetation clearing and disturbance to waters. Limit the clearing and grubbing of vegetation and disturbance to areas demarcated on the site map submitted as part of the vegetation restoration and monitoring plan. The boundaries of vegetation to protect shall be flagged in the field prior to beginning construction activities.
- Limit restoration of the channel bed to pre-existing contours and conditions. Any proposed deviations must be specified in advance. For example, if any improvements will be made using natural channel design.
- Photo-document any failures or increased turbidity due to construction activities.
 - Within 24 hours of observing a failure or marked increase in turbidity associated with construction, the project proponent shall remedy and implement any additional adaptive management measures to stabilize the activity and prevent further unauthorized discharges into waters of the U.S. The project proponent shall photo-document the failure (i.e., 50 feet upstream of failure, at the incident site, and at least 100 feet downstream of the failure) and the adaptive management measures taken immediately following implementation. The project proponent shall take remediation condition photos at the same location(s) and direction(s) as in the failure condition photos.
 - Within 48 hours of observing any failure, the project proponent shall provide EPA Region 8 with the required photo-documentation, and descriptions of all observed failures and implemented remedies.
 - Within three weeks of observing a failure, the project proponent shall provide EPA Region 8 with a description of the impacts and effectiveness of the employed adaptive management measures.
- Carry out as applicable:
 - Erosion control: Inspect sediment and erosion control measures daily during project implementation and within 12 hours of precipitation events. After construction is complete, remove sediment and erosion control structures once vegetation is established to the same percent cover as pre-construction conditions, unless they are needed for long term stabilization purposes.
 - Dewatering: Assess all dewatering measures within 24 hours after a severe storm event.

Post construction, the project proponent shall, as applicable:

- Submit a post-construction report, as defined below, within 90 days of completing construction activity to EPA Region 8 at R8CWA401@epa.gov or, if the Corps requires a post-construction report for the project activity, the applicant may submit that report to EPA to fulfill this post-construction requirement. The project proponent shall include the following items in the post-construction report:
 - Construction dates.
 - As-built drawings.
 - Documentation of site restoration activities using photographs and any field data sheets showing that the site was restored to pre-existing conditions or better. Include photographs of the site restoration areas on a map.
 - Any water quality data gathered before, during, and post-construction and associated maps showing the sample locations.
 - A description of any adaptive management strategies that were employed during construction, with a focus on strategy effectiveness.

- Details on the removal of any sediment and erosion control structures, unless they are needed for long term stabilization purposes.
- Effectiveness of the plan developed and implemented as required under this condition, and recommendations to remedy any deficiencies in plan development and implementation where employed measures were ineffective.
- For activities that require dredging, submit a copy of the as-builts and a post dredged and disposal report within 45 days of each dredging or disposal event to EPA Region 8 at R8CWA401@epa.gov. The project proponent shall include the following items in the post-dredged and disposal report:
 - Dredging and disposal dates.
 - Updated site map displaying the disposal location(s).
 - Dredging and disposal volumes.
 - Water quality monitoring data.
 - Post-dredged bathymetry.
 - Updated site maps displaying any new ditches, spoil piles, widths, and depths.

Why these conditions are necessary: This condition is necessary to minimize suspended particulates/turbidity caused by construction activities and is necessary to ensure water quality is not degraded by toxic pollutants in toxic amounts, including construction materials, oil, grease, gasoline, or other types of fluids used to operate and maintain equipment used to complete the project, or discharges from dust abatement activities as well as contaminants in dredged material. This condition also appropriately minimizes impacts from access roads, staging areas, and stockpiling to further ensure that construction activities will result in no more than minimal individual and cumulative adverse environmental effects. This condition will protect water quality because it ensures that the project proponent is using planning and construction practices that will maintain the integrity of the site hydrology and maintain the aquatic resource functions and values, and ensures that appropriate revegetation measures are used to re-establish riparian/wetland vegetation to minimize the adverse impacts of discharges of sediment and pollutants that enter waterways. Limiting the amount of vegetation that is disturbed will minimize the adverse environmental impacts of any potential discharges. Monitoring for at least three growing seasons, or until replanted areas meet monitoring success criteria, will provide an adequate indication that the restoration effort is able to demonstrate restoration is successful.

Citations: 33 U.S.C. 1341(a)(4); 40 CFR 230.10(c)-(d); 40 CFR 230.10(d); 40 CFR 230.21(a); 40 CFR 230.70; 40 CFR 230.71; 40 CFR 230.72; 40 CFR 230.74; 40 CFR 230.75

Condition #2: Special Aquatic Resources

Projects or activities expected to have potential discharges into the below special aquatic resources areas are not covered by this certification and applicants must request a project-specific CWA Section 401 certification from EPA Region 8 consistent with 40 CFR 121.5.

- **Wetlands classified as peatlands:** For the purposes of this condition, peatlands are permanently or seasonally waterlogged areas containing organic soils classified as a Histosol with a specific thickness of an accumulation of peat (i.e., organic matter) and include fens, bogs and muskegs.⁵
- **Natural Springs:** Within 100 feet of the water source in natural spring areas. For the purposes of this condition, a spring water source is defined as any location where there is flow emanating from a distinct point at any time during the growing season. Some examples of spring-fed

wetlands are hanging gardens. Some examples of spring-fed headwater slopes are peat-accumulating wet meadows and fens (see above). These resources may be identified using U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, or other aquatic resource mapping tools.

- **Riffle and Pool Complexes:** For the purposes of this condition, riffle and pool complexes are steep gradient sections of streams recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. Pools are characterized by a slower stream velocity, a steaming flow, a smooth surface, and a finer substrate.

Why this condition is necessary: This condition is necessary to ensure a case-by-case review of any point source discharges into waters of the United States that are proposed in these specific aquatic resource site types which are inherently difficult to replace and have important ecological functions and values. Discharges into these systems have the potential to alter water circulation patterns and hydroperiods, release nutrients causing shifts in native to non-native species composition, release chemicals that adversely impact biota (plants and animals), increase turbidity levels, reduce light penetration and photosynthesis, or otherwise change the capacity of these systems to support aquatic life uses and other beneficial uses of these special aquatic sites, including impairing their diverse and unique communities of aquatic organisms, including fish, wildlife and the habitats upon which they depend. Project specific information is needed to ensure compliance with water quality requirements.

Citations: 40 C.F.R. 230.1(d); 40 C.F.R. 230.10(a)(3); 40 C.F.R. 230.10(c); 40 C.F.R. 230.10(d); 40 C.F.R. 230.20-24; 40 C.F.R. 230.21-22; 40 CFR 230.41; 40 C.F.R. 230.45; 40 C.F.R. 230.75(c)

If you have questions regarding this certification, please contact EPA Region 8 at R8CWA401@epa.gov. Thank you for your ongoing partnership and coordination in implementing CWA regulatory programs.

Sincerely,

Tanya Code
Watershed Section Supervisor

cc: Leah Fisher, USACE Sacramento District, Regulatory Division
Jason Gipson, USACE Sacramento District, Utah Regulatory Section



REGION 9

SAN FRANCISCO, CA 94105

U.S. Army Corps of Engineers
Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922
michael.s.jewell@usace.army.mil

Subject: Clean Water Act Section 401 Water Quality Certification for U.S. Army Corps of Engineers
Regional General Permit: "National Energy Emergency Activities" covering discharges that occur within Indian country in the states of California and Nevada and lands of exclusive federal jurisdiction in relevant respects (SPK-2025-00011) U.S. EPA File No. 2025-530

Dear Michael Jewell,

On November 21, 2025, the U.S. Environmental Protection Agency (EPA) Region 9 received a request for certification from U.S. Army Corps of Engineers (Corps), for the National Energy Emergency Activities RGP, authorizing discharges of dredged and fill material into waters of the U.S for certain activities related to the production, transportation, refining, and generation of domestic energy resources. EPA reviewed the draft permit and applicable conditions and has determined that any discharge from activities authorized by the RGP will comply with water quality requirements, as defined at 40 CFR 121.1(n), subject to the applicable enclosed conditions pursuant to Section 401(d). The enclosed water quality certification applies to Tribal Lands and lands of exclusive federal jurisdiction where EPA Region 9 is the certifying authority.¹ Consequently, EPA hereby issues the enclosed water quality certification consistent with Section 401 of the Clean Water Act (CWA) for the subject Regional General Permit (RGP).

Please provide this certification to any project proponent (or their designated contractor) with applicable projects that may be authorized under this regional general permit. If a project fails to meet the enclosed conditions, the applicant must contact EPA Region 9 at R9cwa401@epa.gov for a project-specific certification. This email may be used to submit pre-filing meeting requests, requests for certification, or for any certification-related questions.

¹ Please contact EPA Region 9 with questions regarding the jurisdictions where this certification decision applies.
R9cwa401@epa.gov.

EPA appreciates our long-standing partnership and coordination in implementing Section 401 of the CWA. If you have any questions, please contact Sahrye Cohen, Wetlands and Oceans Section Manager at (415) 972-3523 or cohen.sahrye@epa.gov.

Sincerely,

Tomás Torres
Director, Water Division

Enclosures

Enclosure: EPA Region 9 Clean Water Act Section 401 Certification Decisions for the Region General Permit for Executive Order 14156 “National Energy Emergency Activities” (SPK-2025-00011)

Clean Water Act (CWA) Section 401 requires applicants for Federal licenses or permits to conduct any activity which may result in any discharge into waters of the United States to obtain a certification or waiver from the certifying authority where the discharge originates or will originate. Where no state or tribe has authority to give such certification, the U.S. Environmental Protection Agency is the authority. 33 U.S.C. 1341(a)(1). In this case, EPA Region 9 is the certifying authority for all federally recognized Tribes that do not have treatment in a similar manner as a state in California and Nevada where activities are authorized under this Regional General Permit by the of the United States Army Corps of Engineers, Sacramento District. This certification also covers all lands of exclusive federal jurisdiction as well as any areas where there is no other authorized certification authority.

Project Description

The purpose of this RGP is to provide an expedited process for authorizing activities in waters of the U.S. that require USACE authorization related to energy and critical minerals production, transportation, refining, and generation. This RGP is in accordance with EO 14156, Declaring a National Energy Emergency.

This RGP authorizes work or structures in navigable waters of the U.S. and the permanent or temporary discharge of dredged or fill material into waters of the U.S. for activities related to the production, transportation, refining, and generation of domestic energy resources consistent with EO 14156. In accordance with 33 C.F.R § 322.2(f)(1) and 33 C.F.R § 323.2(h)(1), this RGP authorizes the activities that listed below are substantially similar in nature and cause only minimal individual and cumulative environmental impacts, when conducted under the terms and conditions of this permit. Activities covered under this RGP include, but are not limited to, the construction, expansion, modification, maintenance, and repair of:

- Mining and drilling facilities
- Electric, oil, and natural gas facilities
- Production, enrichment, and refining facilities
- Hydropower generation facilities
- Transmission pipelines
- Aerial transmission lines and poles
- Energy storage facilities, such as batteries and tanks
- Docks, piers, and terminals
- Access roads, rail lines, and canals
- Temporary construction, access, staging, and stockpile areas
- Temporary dewatering structures and fills
- Temporary return water from upland contained disposal areas

The EPA’s Public Notice Process

On November 21, 2025, the EPA Region 9 received a request for certification from the project proponent. EPA Region 9 issued a public notice on December 8, 2025, and provided the opportunity for the public to submit comments until January 30, 2026. No comments were received on the public notice.

General Information

The general information provided in this section does not constitute certification conditions.

- The project proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, or Tribal authorities.
- This certification is based on materials provided in the certification request, including a copy of the RGP.
- Project proponents should coordinate with Tribal governments regarding the presence of sensitive aquatic wildlife species.
- Copies of this certification should be kept on the job site and readily available for reference.
- Pursuant to CWA section 308(a), the EPA Region 9 is authorized to inspect the authorized activity and any mitigation areas to determine compliance with the terms and conditions of the USACE permit, including those conditions contained in this certification.
- Project proponents should notify the EPA Region 9 when submitting a pre-construction notification to the USACE for use of this RGP on Tribal lands or lands of exclusive federal Jurisdiction and, prior to construction, provide the EPA Region 9 and Tribal contacts with the most up-to-date construction timeframe and plans.

Conditions of Certification

The EPA has determined that the activity will comply with the applicable water quality requirements, including, consistent with 40 C.F.R. § 121.1(j), any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA; any Federal and state or Tribal laws or regulations implementing those sections; and any other water quality-related requirement of state or Tribal law, subject to the following condition pursuant to CWA section 401(d):

Condition 1: Plan Development and Implementation

Prior to construction, the project proponent shall develop a plan that includes a copy of the PCN and the following information (if not already included in the PCN):

- Time stamped photo-documentation of the baseline conditions (i.e., 50 feet upstream of the project area, within the project area, and 100 feet downstream of the project area).
- Identifies on a site map, as applicable:
 - Project site with all waters of the U.S. demarcated. Identify all locations where the project will cross jurisdictional waterbodies and identify the ordinary high-water mark and/or wetland boundaries; the planned work area where wetlands/aquatic resources will be removed, disturbed, and/or protected; buffer zones; and areas to be restored/reclaimed, as well as site access points and other approved work areas.
 - Staging areas and stockpiling of materials and equipment, including locations for containment booms and/or absorbent materials, and/or hazardous materials. Stockpiles (e.g., sediment, soil, or other construction materials) shall be stored at least 50 feet from where it may enter waters of the U.S.
 - Construction access points.
 - Disturbance limits.
 - Locations where site dredging and placement of dredged material activities will occur.
 - Locations where dewatering activities will occur including as applicable locations of cofferdams, temporary berms, piling, and/or dikes.
 - Locations of undergrounding or directional drilling (including bore pits).

- Locations where hazardous materials are stored. Identify where containment booms and/or absorbent materials are located for corrective action if needed. Hazardous materials shall be stored in leak-proof containers with appropriate secondary containment measures (e.g., spill berms, dikes, spill containment pallets, absorbent materials).
 - Any silt/sediment fencing.
 - Photo-reference sites. The project proponent shall indicate the directional view and location where photos were taken on the site map.
- A description of how the site will be restored to pre-construction conditions, as applicable, including measures that will be used to promote and maintain:
 - Stream hydrology and stability.
 - Aquatic resource composition.
 - Diversity of native species existing on site and as introduced via restoration activities.
 - Stability of soils.
 - Establishment of vegetation at the same percent cover as pre-construction activities.
- The timeframe/schedule for revegetation following completion of construction. Revegetation should occur at the earliest practicable date following completion of construction. Drill seeding is the preferred method, where applicable.
- Non-native and invasive species shall not be used for restoration activities.
- Includes the following, as applicable:
 - Cofferdams, temporary berms, pilings, and/or dikes: Describe installation and maintenance practices for any cofferdams, temporary berms, pilings, and/or dikes.
 - Dredging: Describe how contaminated materials will be managed (e.g., sediment testing data and information to identify whether sediments are clean or contaminated), if included in the project dredged area. Describe methods for minimizing dredging impacts (i.e., sedimentation resuspension) in the water column.
 - Erosion and sediment control: Identify the types and locations of sediment and erosion control features that shall be used onsite, including sediment control fences, haybales, heavy mud mats, and/or other structures. Biodegradable blankets and/or loose-weave mesh shall be used for erosion control matting. If using velocity dissipation structures (e.g., riprap aprons, check dams etc.), structures shall be constructed to include both peak flow rates and total stormwater volume, and provide protection from the erosive potential of high-velocity flows to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. The project proponent shall ensure all erosion and sediment control measures are in place prior to the onset of construction.
 - Bank stabilization and channel modification. If the project requires bank stabilization or stream channel modification, include pre-construction cross sections. If the project includes steep bank slopes of 3:1 or greater, include revetment cross sections. Bioengineering techniques suitable for steep slope disturbances are preferred (e.g., vegetated toe, bioengineered boulder toe, etc.) Slopes of disturbed banks shall be designed and installed to not reduce the bottom width of the stream.
 - Dewatering: Work shall be completed in the dry unless coordinated with EPA Region 8. Describe methods for dewatering, including the equipment that would be used to conduct the dewatering activities. Identify the locations and timing, including length of time the area is to be dewatered. Explain removal method of the temporary structures and/or fill and what measures will be taken to minimize downstream turbidity and adaptive management measures that will be taken and employed to prevent the draining of waters of U.S., including wetlands.

- Ditching and trenching: Explain ditching/trenching and material placement techniques and stabilization methods to be employed, as well as timing. In wetlands, the top 6 to 12 inches of the ditch/trench shall be backfilled with topsoil from the trench, unless other techniques are approved. Include activity timing needs for ditching and stabilization.
- Undergrounding or directional drilling: Describe measures taken to prevent, contain and cleanup any inadvertent return of drilling fluid to the surface (i.e., “frac-outs”).
- Submit the plan to EPA Region 9 at R9cwa401@epa.gov at least 30 days prior to commencing construction activities.

During construction, the project proponent shall:

- Visually inspect construction activities daily.
- Prevent sediment, debris, silt, sand, cement, concrete, oil or petroleum, organic materials, or other construction debris or wastes from entering waters of the U.S. The discharge of unset cement, concrete, grout, or water that has contacted uncured concrete or cement, or related washout to waters of the U.S. is prohibited.
- Maintain documentation onsite that all equipment was cleaned of dirt, mud, and other materials prior to arriving on the project site.
- Inspect all equipment daily and prior to entering any waters of the U.S. for oil, gas, diesel, anti-freeze, hydraulic fluid, and other petroleum leaks. If the project proponent detects a leak from any equipment, they shall immediately remove the equipment from waters of the U.S.; and within 24 hours of detection of a leak, repair the equipment in a staging area or move it offsite.
- Limit vegetation clearing and disturbance to waters. Limit the clearing and grubbing of vegetation and disturbance to areas demarcated on the site map submitted as part of the vegetation restoration and monitoring plan. The boundaries of vegetation to protect shall be flagged in the field prior to beginning construction activities.
- Limit restoration of the channel bed to pre-existing contours and conditions. Any proposed deviations must be specified in advance. For example, if any improvements will be made using natural channel design.
- Photo-document any failures or increased turbidity due to construction activities.
 - Within 24 hours of observing a failure or marked increase in turbidity associated with construction, the project proponent shall remedy and implement any additional adaptive management measures to stabilize the activity and prevent further unauthorized discharges into waters of the U.S. The project proponent shall photo-document the failure (i.e., 50 feet upstream of failure, at the incident site, and at least 100 feet downstream of the failure) and the adaptive management measures taken immediately following implementation. The project proponent shall take remediation condition photos at the same location(s) and direction(s) as in the failure condition photos.
 - Within 48 hours of observing any failure, the project proponent shall provide EPA Region 8 with the required photo-documentation, and descriptions of all observed failures and implemented remedies.
 - Within three weeks of observing a failure, the project proponent shall provide EPA Region 8 with a description of the impacts and effectiveness of the employed adaptive management measures.
- Carry out as applicable:
 - Erosion control: Inspect sediment and erosion control measures daily during project implementation and within 12 hours of precipitation events. After construction is complete, remove sediment and erosion control structures once vegetation is

established to the same percent cover as pre-construction conditions, unless they are needed for long term stabilization purposes.

- Dewatering: Assess all dewatering measures within 24 hours after a severe storm event.

Post construction, the project proponent shall, as applicable:

- Submit a post-construction report, as defined below, within 90 days of completing construction activity to EPA Region 9 at R9cwa401@epa.gov or, if the Corps requires a post-construction report for the project activity, the applicant may submit that report to EPA to fulfill this post-construction requirement. The project proponent shall include the following items in the post-construction report:
 - Construction dates.
 - As-built drawings.
 - Documentation of site restoration activities using photographs and any field data sheets showing that the site was restored to pre-existing conditions or better. Include photographs of the site restoration areas on a map.
 - Any water quality data gathered before, during, and post-construction and associated maps showing the sample locations.
 - A description of any adaptive management strategies that were employed during construction, with a focus on strategy effectiveness.
 - Details on the removal of any sediment and erosion control structures, unless they are needed for long term stabilization purposes.
 - Effectiveness of the plan developed and implemented as required under this condition, and recommendations to remedy any deficiencies in plan development and implementation where employed measures were ineffective.
- For activities that require dredging, submit a copy of the as-builts and a post dredged and disposal report within 45 days of each dredging or disposal event to EPA Region 9 at R9cwa401@epa.gov. The project proponent shall include the following items in the post-dredged and disposal report:
 - Dredging and disposal dates.
 - Updated site map displaying the disposal location(s).
 - Dredging and disposal volumes.
 - Water quality monitoring data.
 - Post-dredged bathymetry.
 - Updated site maps displaying any new ditches, spoil piles, widths, and depths.

Why these conditions are necessary: This condition is necessary to minimize suspended particulates/turbidity caused by construction activities and is necessary to ensure water quality is not degraded by toxic pollutants in toxic amounts, including construction materials, oil, grease, gasoline, or other types of fluids used to operate and maintain equipment used to complete the project, or discharges from dust abatement activities as well as contaminants in dredged material. This condition also appropriately minimizes impacts from access roads, staging areas, and stockpiling to further ensure that construction activities will result in no more than minimal individual and cumulative adverse environmental effects. This condition will protect water quality because it ensures that the project proponent is using planning and construction practices that will maintain the integrity of the site hydrology and maintain the aquatic resource functions and values, and ensures that appropriate revegetation measures are used to re-establish riparian/wetland vegetation to minimize the adverse impacts of discharges of sediment and pollutants that enter waterways. Limiting the amount of vegetation that is disturbed will minimize the adverse environmental impacts of any potential discharges. Monitoring for at least three growing

seasons, or until replanted areas meet monitoring success criteria, will provide an adequate indication that the restoration effort is able to demonstrate restoration is successful.

Citations: 33 U.S.C. 1341(a)(4); 40 CFR 230.10(c)-(d); 40 CFR 230.10(d); 40 CFR 230.21(a); 40 CFR 230.70; 40 CFR 230.71; 40 CFR 230.72; 40 CFR 230.74; 40 CFR 230.75

Condition #2: Special Aquatic Resources

Projects or activities expected to have potential discharges into the below special aquatic resources areas are not covered by this certification and applicants must request a project-specific CWA Section 401 certification from EPA Region 9 consistent with 40 CFR 121.5.

- **Wetlands classified as peatlands:** For the purposes of this condition, peatlands are permanently or seasonally waterlogged areas containing organic soils classified as a Histosol with a specific thickness of an accumulation of peat (i.e., organic matter) and include fens, bogs and muskegs.
- **Natural Springs:** Within 100 feet of the water source in natural spring areas. For the purposes of this condition, a spring water source is defined as any location where there is flow emanating from a distinct point at any time during the growing season. Some examples of spring-fed wetlands are hanging gardens. Some examples of spring-fed headwater slopes are peat-accumulating wet meadows and fens (see above). These resources may be identified using U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, or other aquatic resource mapping tools.
- **Riffle and Pool Complexes:** For the purposes of this condition, riffle and pool complexes are steep gradient sections of streams recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. Pools are characterized by a slower stream velocity, a steaming flow, a smooth surface, and a finer substrate.
- **Wild rice (*Manoomin*) waters.** Wild rice is especially sensitive to changes in water quality.¹ The species benefits from habitat protection and the maintenance of wetland hydrology, including the natural cycle of water fluctuations."

Why this condition is necessary: This condition is necessary to ensure a case-by-case review of any point source discharges into waters of the United States that are proposed in these specific aquatic resource site types which are inherently difficult to replace and have important ecological functions and values. Discharges into these systems have the potential to alter water circulation patterns and hydroperiods, release nutrients causing shifts in native to non-native species composition, release chemicals that adversely impact biota (plants and animals), increase turbidity levels, reduce light penetration and photosynthesis, or otherwise change the capacity of these systems to support aquatic life uses and other beneficial uses of these special aquatic sites, including impairing their diverse and unique communities of aquatic organisms, including fish, wildlife and the habitats upon which they depend. Project specific information is needed to ensure compliance with water quality requirements.

Citations: 40 C.F.R. 230.1(d); 40 C.F.R. 230.10(a)(3); 40 C.F.R. 230.10(c); 40 C.F.R. 230.10(d); 40 C.F.R. 230.20-24; 40 C.F.R. 230.21-22; 40 CFR 230.41; 40 C.F.R. 230.45; 40 C.F.R. 230.75(c)

¹ <https://www.itcml.org/wp-content/uploads/2025/03/Manoomin-Stewardship-Guide-FINAL-3.10.2025.pdf>, last visited 24 Sept 2025.

**STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH**

Section 401 Water Quality Certification No. DWQ-2025-11003

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

Project: The U.S. Army Corps of Engineers (USACE) Sacramento District proposes to issue a Regional General Permit (RGP) for National Energy Emergency Activities. This RGP was developed in response to Executive Order (EO) 14156, which declared a National Energy Emergency on January 20, 2025. The proposed RGP will authorize a range of activities, including but not limited to construction, maintenance, and repair of mining or drilling facilities, electric and gas facilities, transmission pipelines, energy storage sites, and related infrastructure such as access roads and docks. The permit applies within the Sacramento District's boundaries, which encompass the Central Valley and Sierra Nevada regions of California, as well as areas in Nevada and Utah. Once an individual activity is authorized, the proponent has three years to complete it. Each single and complete project must not result in a permanent loss exceeding 1.0 acre of wetlands, 2.0 acres of lakes or ponds, or 500 linear feet of stream. For permanent losses greater than 0.1-acre, compensatory mitigation at a 2:1 ratio is required. Proponents must submit a pre-construction notification (PCN) through the Regulatory Request System and may not begin work until receiving written verification from the Corps.

Location: State of Utah

Watercourse(s): Waters of the United States (WOTUS)

USACE Section 404: SPK-2025-00011

Effective Date: May 19th, 2026

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I. Definitions

- A. **Blue Ribbon Fishery:** status administered by the Utah Division of Wildlife Resources and the Blue Ribbon Advisory Council that indicates the waterbody has high quality in the following attributes: fishing, outdoor experience, fish habitat, and economic benefits.
- B. **Beneficial Use Classes** are how waters of the state are grouped and classified to protect against controllable pollution the beneficial uses designated within each class. UAC R317-2-6.
- C. **Category 1 Waters** are *“Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters.”* UAC R317-2-3.2
- D. **Category 2 Waters** *“are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality.”* UAC R317-2-3.3
- E. **Designated Beneficial Uses** means a water’s present most reasonable uses, grouped by use classes to protect the uses against controllable pollution. Beneficial uses designated within each class are described in Utah Administrative Code (UAC) R317-2-6 and waterbodies beneficial uses can be found in UAC R317-2-13. For the purposes of this document, the term “designated beneficial uses” will be used to describe all uses required to be protected by Utah water quality standards and antidegradation policy.
- F. **Director Notification** means submittal of the U.S. Army Corps of Engineers (USACE) application and any supplemental attachments to the Utah Department of Environmental Quality (DEQ), Director of the Utah Division of Water Quality (DWQ) for review.
- G. **Existing Uses** *“means those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the water quality standards.”* UAC R317-1-1. *“If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Director will apply the water quality standards and anti-degradation policy to protect the existing use.”* UAC R317-2-3.
- H. **Level I Antidegradation Review (ADR):** *“is conducted to insure that existing uses will be maintained and protected.”* UAC R317-2-3.5
- I. **Level II Antidegradation Review (ADR)** is conducted to insure that water quality degradation is necessary and that the proposed activity is documented to be both economically and socially important. Level II ADRs are required for any activity that’s impacts are not considered temporary and limited and is likely to result in degradation of water quality.
- J. **Project Proponent** *“means the applicant for license or permit or entity seeking certification.”* 40 CFR §121.1.
- K. **Total Maximum Daily Load (TMDL)** *“means the maximum amount of a particular pollutant that a waterbody can receive and still meet state water quality standards, and an allocation of that amount to the pollutant's sources.”* UAC R317-1-1

- L. **Waters of the United States (WOTUS)** means waterbodies subject to the provisions of the Clean Water Act.
- M. **303(d) list** is a state's list of impaired and threatened waters, including but not limited to; streams, lakes, and reservoirs adopted to implement the Clean Water Act Section 303(d).

II. Acronyms

AU – Assessment Unit
BMPs – Best Management Practices
CFR – Code of Federal Regulations
CWA – Clean Water Act
CY – cubic yards
DEQ – Utah Department of Environmental Quality
DWQ – Utah Division of Water Quality
EO – Executive Order
EIS – Environmental Impact Statement
EPA – Environmental Protection Agency
mg/L – milligrams per liter
MS4 – Municipal Separate Storm Sewer System
NEPA – National Environmental Policy Act
NOI – Notice of Intent
NTU – Nephelometric Turbidity Units
NWP – nationwide permit
PCN – pre-construction notification
RGP – regional general permit
SWPPP – stormwater pollution prevention plan
TMDL – Total Maximum Daily Load
TSS – total suspended solids
UAC – Utah Administrative Code
UPDES – Utah Pollutant Discharge Elimination System
USACE – U.S. Army Corps of Engineers
WQC – Water Quality Certification
WQS – Utah Water Quality Standards
WOTUS – Waters of the United States

III. Executive Summary

Pursuant to Section 401 of the CWA 33 U.S.C. Section 1251 et seq., the DWQ grants Water Quality Certification (Certification) to all USACE issued National Energy Emergency Activities Regional General Permit (RGP) in Utah proposed by 90 FR 26100 except those that involve dam maintenance/rehabilitation or reservoir dewatering. Certification is subject to the conditions outlined in this document and adherence to the Sacramento Districts Regional Conditions, and adherence to any conditions outlined in the proposed RGP. The conditions outlined in this Certification are necessary to assure compliance with effluent limitations, monitoring requirements, and/or other applicable laws and regulations adopted for state primacy of the CWA.

DWQ's conditions are based on and are necessary to comply with applicable state rules. Specifically, the following Utah rules represent overarching considerations that require the conditions outlined by this document to apply to the USACE Section 404 RGP: Utah's rules promulgating standards of quality for waters of the State affirm "*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in*

such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated” UAC R317-2-7.1.a. Additionally, “all actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses” UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6” UAC R317-15-6.1.A.1., “exceeds water quality criteria, either narrative or numeric, in Section R317-2-7” UAC R317-15-6.1A.2. or “fails to meet the antidegradation (ADR) requirements of Section R317-2-7” UAC R317-15-6.1. A.3.

On August 6, 2025, Leah Fisher, the USACE Regional Permit Specialist, requested a pre-filing meeting with DWQ for the proposed RGP. DWQ attended a pre-filing meeting with Leah Fisher on August 30, 2025, for the proposed RGP. DWQ received a complete 401 Certification request on November 21, 2025, for the proposed RGP. The USACE determined the reasonable period of time (RPOT) for DWQ to act on the certification request is six months. The certification will be considered waived if DWQ does not act on the request by May 20, 2026.

IV. Background

The USACE, Sacramento District, is proposing to issue a Regional General Permit (RGP) to expedite authorizations for activities mandated by Executive Order (EO) 14156, “Declaring a National Energy Emergency.” The proposed RGP would apply to Central Valley and Sierra Nevada of California and to the States of Nevada and Utah. The proposed National Energy Emergency Activities RGP would authorize energy and critical minerals production, transportation, refining, and generation activities that involve the discharge of dredged or fill material into waters of the United States (U.S.) under Section 404 of the Clean Water Act and structures or work in or affecting navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act of 1899. RGPs from the USACE are streamlined, expedited permits for specific types of activities that cause only minimal individual and cumulative impacts. RGPs are issued regionally to reduce duplication of state and federal regulatory reviews. A public notice of the proposed RGP issuance was published by the USACE on July 23, 2025.

The proposed RGP would be valid for five years and authorizes work and or structures in navigable waters of the U.S., and discharges of dredged and or fill material into waters of the U.S., including wetlands, for energy and critical minerals production, transportation, refining, and generation activities, as described in Executive Order (EO) 14156. The USACE asserts that the new proposed RGP will accelerate energy and mineral projects, including mining, pipelines, and power generation, in response to EO 14156. Typical activities that will be covered under the proposed RGP will include, but are not limited to, the construction of mining and drilling facilities, electric oil and natural gas facilities, transmission pipelines, access roads, rail lines, canals, energy storage facilities, such as batteries and tanks, and the temporary construction of access staging and stockpile areas.

The time limit for projects authorized under the proposed RGP to complete the activity is 3 years from the date of issuance of the authorization letter. Terms for the RGP include that the emergency activity must not be related to a solar or wind project, and that the permanent loss of WOTUS resulting from a single, complete activity must not exceed 1.0 acre of wetland, 2.0 acres of lake/pond, or 500 linear feet of stream. Compensatory Mitigation of a 2:1 ratio is required for the permanent loss of 0.1 acre or more of WOTUS. A Preconstruction Notification (PCN) must be provided to the USACE to request authorization under the proposed RGP. Temporary fill must be removed and the area restored to pre-construction elevations within 30 days of project completion. Projects covered under the proposed RGP must adhere to all terms and conditions detailed in the RGP as well as this issued Section 401 Water Quality Certification.

V. Certification Conditions

- A. The prospective permittee applying for coverage under the RGP shall provide Director Notification by submission of the PCN prior to commencing construction for the following projects:
1. Any proposed project that will be within 500 feet of the existing water's edge of the Great Salt Lake, Utah Lake or Bear Lake;
 2. Any project with a potential to discharge to an impaired waterbody with an approved Total Maximum Daily Load (TMDL), where the project has the potential to discharge a pollutant identified/addressed by the TMDL;
 3. Any project with a potential to discharge to *Category 1* or *Category 2 waters*;
- B. All activities with a potential discharge to WOTUS must implement and maintain BMPs to fully protect the waterbodies assigned beneficial use(s).
- C. Hazardous and otherwise deleterious materials (e.g. oil, gasoline, chemicals, trash, sawdust, etc.) shall not be stored, disposed of, or accumulated or conveyed through adjacent to or in immediate vicinity WOTUS unless adequate measures and controls are provided to ensure those materials would not enter WOTUS in the State of Utah. **Any spill or discharge of oil or other substance which may cause pollution to WOTUS in the State of Utah, including wetlands, must be immediately reported to the Utah DEQ Hotline at (801) 536-4123, a 24-hour phone number.**
- D. All activities shall not cause further degradation of impaired waterbodies, as defined in DWQ's most recent 303(d) list, regardless of whether a TMDL has been completed. The Project Proponent must review impairments on the waterbodies where the Project has the potential to discharge and is responsible for ensuring that water quality standards are not exceeded and designated beneficial uses are not impaired.
- E. Waterbodies classified as beneficial use class 2B for recreation and 3A for cold water aquatic life cannot increase water turbidity by more than 10 Nephelometric Turbidity Units (NTUs). Project activities shall not cause an increase in water turbidity by more than 15 NTUS in waterbodies classified as beneficial use class 3D
- F. All activities conducted in WOTUS in the State of Utah shall be conducted in the "dry" to the maximum extent practicable, by diverting flow utilizing cofferdams, berms constructed of sandbags, clean rock (containing no fine sediment) or other non-erodible, non-toxic material. All diversion materials shall be removed at the completion of the work. The Project Proponent shall consider conducting instream work during low flow conditions and work shall not be conducted during spawning season. Additionally, construction machinery shall not be operated within WOTUS in the State of Utah unless it is unavoidable, in which case it shall be conducted in the "dry" as stated above. The work shall be conducted in a manner to minimize the duration of the disturbance, turbidity increases, substrate disturbance, and minimize the removal of riparian vegetation. Construction machinery shall be clean to prevent the transfer of aquatic invasive species.
- G. Project Proponents conducting activities in or immediately adjacent to WOTUS in the State of Utah with assigned beneficial use class 1C (domestic drinking water), that are upstream 2 miles or less from any

intake supply, must notify the water supply operator and the local health department prior to commencement of work. If the water supply operator or the local health department recommends additional BMPs or monitoring, the Project Proponent must consider those recommendations in their Project design.

- H. All activities conducted in or immediately adjacent to WOTUS in the State of Utah with assigned beneficial use class 3A (cold water fishery) or has blue ribbon fishery designation must avoid removal of native riparian vegetation that provides stream shading to the maximum extent practicable. Any Projects that approve removal of riparian vegetation that provides shade must require reestablishment of native vegetation that provides equal or greater shade. The Project Proponent shall provide successful reestablishment of native vegetation.
- I. Construction activities that disturb either greater than one acre of land, or less than one acre of land and is part of a larger common plan of development that would disturb greater than one acre, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities (Permit No. UTRC00000^[1]). The permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site, until final stabilization of the project. The SWPPP should include, but not be limited to, final site maps and legible plans, location of storm water outfalls/discharges, and information pertaining to any storm water retention requirements.
- J. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000^[2]) applies to the construction dewatering of uncontaminated groundwater or surface water sources due to construction activities; hydrostatic testing of pipelines or other fluids vessels; water used in disinfection of drinking water vessels; and other similar discharges in the State of Utah that have no discharge of process wastewater. The permit requires submission of a Notice of Intent (NOI); maintenance of a discharge log; development and implementation of a dewatering control plan; and monitoring for Flow, Oil & Grease, pH, Total Suspended Solids (TSS), and Chlorine (required when chlorinated water is used and discharged to a stream with a chlorine standard). Discharge Monitoring Reports (DMRs) are required to be submitted monthly, regardless of whether a site discharges in a particular month.

VI. Condition Justification and Citation

- A. Director Notification is a condition for projects identified in Part V (1) above which presents an increased likelihood of jeopardizing designated beneficial uses or otherwise causing a violation of WQS, promulgated pursuant to Utah Code Sections 19-5-104, 19-5-110 and Section 303 of the Clean Water Act. Director Notification is necessary to provide the DWQ with notice and information of projects that are issued a RGP that have a potential to result in a discharge which could threaten designated beneficial uses or cause a WQS violation. The Director Notification of specifically identified projects this is applicable to.

¹ <https://deq.utah.gov/water-quality/general-construction-storm-water-updes-permits#general-permit>

² <https://deq.utah.gov/water-quality/general-construction-storm-water-updes-permits#construction-dewatering-hydrostatic-testing>

- 1) Projects within 500 feet of the Great Salt Lake, Utah Lake and Bear Lake are conditioned on Director Notification. DWQ has determined that the Great Salt Lake, Utah Lake and Bear Lake are unique waterbodies that require special attention and are at a greater risk when projects are within 500 feet of their existing water's edge. Both Utah Lake and Bear Lake have recreation designated use 2A (frequent primary contact recreation) and aquatic wildlife designated uses associated with either 3A cold water species of game fish (Bear Lake) or 3B warm water species of game fish. Both types of designated uses could be impacted by turbidity increases. Water quality criteria for turbidity will be violated if there is an increase of 10 NTUs in waterbodies with designated uses related to recreation and if there is an increase of 10 NTUs in aquatic wildlife designated use classes 3A and 3B. UAC R317-2-14.1 and UAC R317-2-14.2. Significant turbidity spikes or sediment deposits could cause a waterbody not to meet all its designated beneficial uses or if large quantities of sediment are transported downstream, it could impact the downstream beneficial uses. Utah's rules promulgating standards of quality for waters of the State affirm "it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated" UAC R317-2-7.1.a.

Citation(s): UAC R317-2-14.1, UAC R317-2-14.2., UAC R317-2-7.1.a., UAC R317-15-6.1, UAC R317-15-6.1. A.1., UAC R317-15-6.1. A.2., UAC R317-15-6.1. A.3.

- 2) Projects with potential discharge to an impaired waterbody with an approved Total Maximum Daily Load (TMDL), where the project has the potential to discharge a pollutant identified/ addressed by the TMDL are conditioned on Director Notification. A total maximum daily load or TMDL "means the maximum amount of a particular pollutant that a waterbody can receive and still meet WQS, and an allocation of that amount to the pollutant's sources." UAC R317-1-1. When a waterbody is impaired and listed on the 303(d) list, states are required to create and implement TMDLs for the specific waterbody to restore water quality. Waters on Utah's most up to date 303(d) list are not currently meeting their designated beneficial uses. According to Utah's Final 2024 Integrated Report³ the waters identified as impaired are not meeting their designated beneficial uses because "the concentration of the pollutant- or several pollutants- exceeds numeric water quality criteria, or quantitative biological assessments indicate that the biological designated uses are not supported (Narrative water quality standards are violated)." TMDLs are created to limit discharges to the waterbody with the goal of meeting designated beneficial uses. If project proponents do not adhere to the BMPs and pollutant reduction requirements identified in approved TMDLs (as applicable) then there may be a violation of WQS, and designated beneficial uses could be further impacted. If the potential discharge contains pollutants/ parameters that are included in an approved TMDL, the project proponent must take extra precautions, as identified in the TMDL, to minimize and prevent discharges that could further degrade the waterbodies, and prevent the waterbodies from meeting its designated beneficial and existing uses. Director notification of projects with the potential to discharge to impaired water bodies with approved TMDLs will ensure consistency with TMDL requirements and goals.

Citation(s): UAC R317-1, UAC R317-2-7.1.a., UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- 3) Projects with potential discharges to Category 1 and Category 2 waters are conditioned on Director Notification in order to ensure that Utah DWQ's Antidegradation Policies are being implemented

³ <https://deq.utah.gov/water-quality/utahs-integrated-report>

effectively. Category 1 waters are “waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters.” UAC R317-2-3.2. Category 2 waters “are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality.” UAC R317-2-3.3. Discharges may be allowed in Category 1 and Category 2 waters “where pollution will be temporary and limited after consideration of the factors in UAC R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects.” UAC R317-2-3.2 and UAC R317-2-3.3.

Although RGPs are typically issued for projects with minimal impacts to water quality, the RGPs do not take into consideration the quality of the water affected. In order to comply with the Antidegradation Policy outlined by UAC R317-2-3.5.b.4, requiring that pollution to Category 1 and Category 2 waters be temporary and limited, the DWQ must review all projects with the potential to discharge to those waters. Without the ability to review the individual projects proposing to discharge to Category 1 and Category 2 waters, the DWQ cannot assure that they will meet the antidegradation policy or other applicable water quality requirements. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6” UAC R317-15-6.1.A.1., “exceeds water quality criteria, either narrative or numeric, in Section R317-2-7” UAC R317-15-6.1.A.2. or “fails to meet the antidegradation (ADR) requirements of Section R317-2-7” UAC R317-15-6.1.A.3 when making a certification decision.

Citation(s): UAC R317-2-3.2., UAC R317-2-3.3., UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- B. Implementation of BMPs. Project approval is conditioned on implementation of BMPs, which are required to be implemented by the antidegradation policy in UAC R317-2-3. Water quality standards could be violated unless appropriate BMPs are incorporated to minimize the erosion-sediment and nutrient load. Violations of water quality standards could cause a waterbody to fail to meet its designated beneficial uses. As required by Utah’s antidegradation policy UAC R317-2-3.1 “*Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.*” As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*” UAC R317-15-6.1.A.1., “*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*” UAC R317-15-6.1.A.2. or “*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*” UAC R317-15-6.1.A.3 when making a Certification decision. If appropriate BMPs are incorporated, there is assurance that the Project will not violate water quality standards or impair a waterbody’s beneficial use.

Citation(s): UAC R317-2-3.1, UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- C. Proper Storage of Hazardous and Otherwise Deleterious Materials. Project approval is conditioned on proper storage of hazardous and otherwise deleterious materials, and notification of any discharge of those materials, to assure that water quality and narrative standards are not violated. When projects are occurring in or around waterbodies, there is a chance for pollutants to inadvertently be spilled/discharged into

waterbodies due to increased risk from project related activities (e.g. presence of machinery, onsite chemical and gas storage, improper waste storage, and failure to use proper BMPs). To prevent or reduce the possibility that hazardous and otherwise deleterious materials are inadvertently discharged into a waterbody, Project Proponents must not store, dispose of, or accumulated such materials adjacent to or in immediate vicinity of WOTUS unless adequate measures and controls are provided to ensure those materials would not enter waters of the State. If there is a discharge to WOTUS in the State of Utah, it must be immediately reported to the DEQ, as stated in Utah Code Section 19-5-114. An inadvertent discharge of pollutants can cause violations with Utah's Narrative Standards, which states "*It shall be unlawful, and a violation of these rules, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3*" UAC R317-3-7.2. Utah's rules promulgating standards of quality for waters of the State affirm "*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*" UAC R317-2-7.1.a. Discharges of pollutants, even inadvertently, could cause both a violation of applicable water quality standards and possibly interfere with a waterbodies designated uses.

Citation(s): Utah Code § 19-5-114, UAC R317-3-7.2, UAC R317-2-7.1.A, UAC R317-15-6.1., UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2.

- D. Protection of Impaired Waterbodies. Waters that are impaired and conjunctively on Utah's most up to date 303(d) list are not currently meeting their designated beneficial uses. According to Utah's Final 2024 Integrated Report ⁴ the waters identified as impaired are not meeting their designated beneficial uses because "the concentration of the pollutant- or several pollutants- exceeds numeric water quality criteria, or quantitative biological assessments indicate that the biological designated uses are not supported (Narrative water quality standards are violated)." Utah's antidegradation policy states "existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses." UAC R317-2-3.1. In order to ensure that proposed Project meets Utah's antidegradation policy and that discharges do not further degrade water quality the Project Proponent needs to be aware of the waterbodies assessment, more specifically if the waterbody is impaired and listed on Utah's most current 303(d) list. If the potential discharge contains pollutants/parameters that the waterbody is listed as impaired for, the Project Proponent needs to take extra precautions to minimize and prevent discharges that could further degrade the waterbodies and prevent the waterbodies from meeting its beneficial and existing uses. Typical pollutants associated with USACE Section 404 permits (e.g. sediment), especially when a waterbody proposed for discharge is impaired, could cause applicable water quality standards to be violated, if appropriate measures are taken. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge "impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6" UAC R317-15-6.1.A.1., "exceeds water quality criteria, either narrative or numeric, in Section R317-2-7" UAC

⁴ <https://deq.utah.gov/water-quality/2024-integrated-report>

R317-15-6.1A.2. or “fails to meet the antidegradation (ADR) requirements of Section R317-2-7” UAC R317-15-6.1A.3. when making a Certification decision.

- E. Turbidity Increases. Beneficial uses associated with recreation and aquatic life have been assigned numeric criteria for turbidity. An increase of more than 10 NTUs in class 2B and 3A waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have recreation or aquatic life uses. Similarly, an increase of more than 15 NTUs in class 3D waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have aquatic life uses. UAC R317-2-14.1 and UAC R317-2-14.2. Therefore, turbidity increases above those allowed by this Certification could cause the waterbody to fail to meet its designated beneficial use classes. Utah’s antidegradation policy states “existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses” UAC R317-2-3.1. Failure to minimize turbidity increases that result in the failure to maintain beneficial use class 2B or 3A would be considered a violation of Utah’s rules and promulgated standards of quality for waters of the State, specifically Utah’s antidegradation policy found at UAC R317-2-3. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6” UAC R317-15-6.1.A.1., “exceeds water quality criteria, either narrative or numeric, in Section R317-2-7” UAC R317-15-6.1A.2.or “fails to meet the antidegradation (ADR) requirements of Section R317-2-7” UAC R317-15-6.1.A.3 when making a certification decision.

Citations: UAC R317-2-3.1, UAC R317-2-3, UAC R317-2-14.1, UAC R317-2-14.2 R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1A.2., UAC R317-15-6.1.A.3

- F. Dry Conditions to the Maximum Extent Practicable. Project approval is conditioned on conducting activities under dry conditions to the maximum extent practicable to assure that water quality standards are not exceeded. Construction machinery used within a waterbody can cause significant impacts to water quality if adequate precautions are not taken. When it is unavoidable to operate construction machinery within the waterbody the Project Proponent should focus on minimizing the duration of the disturbance, turbidity increase, substrate disturbance, removal of riparian vegetation, and work shall be conducted in the “dry” to the maximum extent practicable. Minimizing the duration of impact reduces the chance that the impacts will accumulate and cause significant impacts to water quality. Minimizing turbidity increases is important because the State of Utah has numeric water quality criteria for turbidity in certain use designations, which could be violated if the Project Proponent does not take proper steps to minimize the increases. Water quality criteria for turbidity will be violated if there is an increase of 10 NTUs in waterbodies with designated uses related to recreation and if there is an increase of 10 NTUs (class 3A and 3B) or 15 NTUs (class 3C and 3D) in waterbodies with aquatic wildlife designated uses. UAC R317-2-14.1 and UAC R317-2-14.2. Conducting work in the “dry” to the maximum extent practicable will help reduce the risk of the numeric criteria for turbidity to be exceeded, as well as reduce the risk of a significant sediment load being transported downstream. Discharges of sediment can not only violate numeric criteria, but also, risk violating Utah’s narrative standard “*It shall be unlawful, and a violation of these rules, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with*

standard procedures; or determined by biological assessments in Subsection R317-2-7.3.” UAC R317-2-7.2. Violations of numeric and narrative criteria could cause a waterbody not to meet its designated beneficial use and a transport of sediment downstream could prevent a downstream waterbody from meeting its designated beneficial uses. As required by Utah’s antidegradation policy UAC R317-2-3.1 “Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses”. Additionally, “All actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses” UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6” UAC R317-15-6.1.A.1., “exceeds water quality criteria, either narrative or numeric, in Section R317-2-7” UAC R317-15-6.1.A.2. or “fails to meet the antidegradation (ADR) requirements of Section R317-2-7” UAC R317-15-6.1.A.3 when making a certification decision.

Citation(s): UAC R317-2-3.5., UAC R317-2-7.1.A., UAC R317-2-14.1, UAC R317-2-14.2., UAC R317-2-7.1.a., UAC R317-2-7.2., UAC R317-2-3.1, UAC R317-2-8. , UAC R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- G. Notification to water supply operators and local health departments is a condition of Project approval for all projects in or immediately adjacent to WOTUS with assigned class 1C for domestic drinking water upstream two miles or less from any intake supply. As stated in Utah’s antidegradation policy UAC R317-2-3.5.d “depending upon the locations of the discharge and its proximity to downstream drinking water diversions, additional treatment or more stringent effluent limits or additional monitoring, beyond that which may otherwise be required to meet minimum technology standards or in stream WQS [water quality standards], may be required by the Director in order to adequately protect public health and the environment. The additional treatment/effluent limits/monitoring which may be required will be determined by the Director after consultation with the Division of Drinking Water and the downstream drinking water users.” UAC R317-2-3.5.d. These additional requirements are necessary to ensure that beneficial use class 1C is maintained in the waterbody proposed for discharge or in some cases, protection of the downstream waterbodies designated beneficial use, when classified as 1C.

Citation(s): UAC R317-2-3.5.d, UAC R317-2-7.1.a, UAC R317-2-8., UAC R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3

- H. Vegetation Preservation and Reestablishment in Fisheries. Project approval is conditioned on avoiding native riparian vegetation removal that provides stream shading to the maximum extent practicable in or immediately adjacent to WOTUS used as fisheries in order to maintain existing beneficial use. Waterbodies with beneficial use class 3A (cold water fishery) or waterbodies with a blue-ribbon fishery designation rely heavily on the available stream cover/shade to maintain designated beneficial uses. Riparian vegetation supplies necessary shade to stabilize water temperatures in streams. Removal of riparian vegetation, without reestablishment, could cause a waterbody not to maintain beneficial use 3A or its blue-ribbon fishery designation. Utah’s antidegradation policy states “existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.” UAC R317-2-3.1. Failure to minimize riparian vegetation removal and failure to reestablish riparian vegetation which results in the failure to maintain beneficial use class 3A would be considered a violation of Utah’s rules promulgating standards of quality for waters of the State, more specifically Utah’s antidegradation policy found at UAC R317-2-3. Additionally, the loss of riparian vegetation could cause a violation of the instream numeric criteria for temperature, which is listed as 20°C with a maximum temperature change of 2°C for beneficial use class 3A. UAC R317-2-14.2. If the

temperature of the waterbody increases, there is a potential for instream water quality criteria for dissolved oxygen to be violated. Temperature and dissolved oxygen have an inverse relationship, where temperature increases then dissolved oxygen decreases, so an increase in temperature could cause a decrease in dissolved oxygen, and possibly a violation of the instream criteria for dissolved oxygen. The instream criteria for dissolved oxygen for beneficial use class 3A is a minimum of 8.0 milligrams per liter (mg/L) when early life stages are present and 4.0 mg/L when all other life stages are present. UAC R317-2-14.2. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*” UAC R317-15-6.1.A.1., “*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*” UAC R317-15-6.1.A.2. or “*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*” UAC R317-15-6.1.A.3 when making a certification decision.

Citation(s): UAC R317-2-3.1., UAC R317-2-3., UAC R317-2-14.2., UAC R317-2-14.2., UAC R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- I. UPDES Storm Water General Permit for Construction Activities (Permit No. UTRC00000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. According to UAC R317-8-3.9 (6)(d), construction activities that result in a land disturbance of equal to or greater than one acre, including clearing, grading, and excavation are “industrial activities” under UAC R317-8-3.9(1)(a) and are therefore required to obtain and comply with a UPDES Permit for storm water discharges. This only applies to projects that meet or exceed one acre of disturbance.

Citation(s): UAC R317-8-3.9(6)(d) and UAC R317-8-3.9(1)(a)

- J. UPDES General Permit for Construction Dewatering (Permit No. UTG070000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. Under the authority granted by UAC R317-8-2.5, the Director issued the General Permit for Construction Dewatering and Hydrostatic Testing, UPDES Permit No. UTG070000 renewed and effective as of February 1, 2020. UPDES Permit No. UTG070000 applies to construction dewatering of uncontaminated groundwater or surface water sources due to construction activities, hydrostatic testing of pipelines or other fluids vessels, water used in disinfection of drinking water vessels and other similar discharges in the State of Utah that have no discharge of process wastewater. This only applies to projects that require dewatering and discharge to surface water.

Citation(s): UAC R317-8-2.5

VII. Denials

Projects that involve dam maintenance/rehabilitation or reservoir dewatering are denied and must apply for individual certification from the Director because they have the potential to discharge massive amounts of sediment if not properly regulated and administered. As stated in justification VI.A., the DWQ has concerns with projects that have potential to discharge large quantities of sediment into waterbodies. Projects such as dam maintenance/rehabilitation or reservoir dewatering that involve potential release of large quantities of sediment, either as part of project activities or inadvertently, have potential for catastrophic impacts to water quality. For example, in August 2016, the Tibble Fork Dam had an unplanned release of approximately 8,700 cubic yards of sediment from the Tibble Fork Reservoir into the North Fork of the American Fork River, causing a fish kill of about 5,250 fish. Samples taken revealed sediment concentrations of heavy metals (arsenic, cadmium, lead, and Zinc) in excess of EPA Region 3 Freshwater Sediment Screening Values for aquatic life and human health-based concentration for lead. The project had been permitted under

a USACE Section 404 NWP, but the DWQ was unaware of the project. If the DWQ had the opportunity to review the project prior to Permit issuance, impacts may have been prevented or at least minimized by adding project-specific conditions or additional oversight to the project. To avoid future violations and catastrophic releases, the DWQ is requiring Individual Section 401 Certifications for these types of projects.

Citation(s): UAC R317-2-14.1, UAC R317-2-14.2., UAC R317-2-7.1.a., UAC R317-2-8. , UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

VIII. Disclaimers

- A. The Project Proponent must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project. This Section 401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
- B. This Section 401 Certification does not preclude the Project Proponent's responsibility of complying with all applicable Federal, State or local laws, regulations or ordinances, including water quality standards. Permit coverage does not release the project proponent from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.
- C. A Project within a Municipal Separate Storm Sewer System (MS4) jurisdiction must comply with all the conditions required in that UPDES MS4 Permit and associated ordinances. No condition of this Section 401 Certification shall reduce or minimize any requirements provided in the MS4 Permit. In the case of conflicting requirements, the most stringent criteria shall apply.

IX. Public Notice and Comments

As Stated in UAC R317-15-5., this Certification decision is subject to a 30 public notice period. Per UAC R317-15-5 draft certification decisions are subject to a thirty (30) day public notice. After considering public comments, the Director may execute the Certification issuance, revise it, or abandon it.

- A. Public Notice Dates: 4/10/2026 – 5/11/2026.
- B. Public Notice Comments/Response: No comments received.
- C. During finalization of the Certification certain dates, spelling edits, and minor language or formatting corrections may have been completed. Due to the nature of these changes, they were not considered major and the Certification will not be Public Noticed again.

X. Water Quality Certification

The Utah DWQ certifies that if the Project Proponent adheres to the conditions outlined in this Certification and adheres to any USACE Section 404 Permit Conditions, then the Project will comply with water quality requirements and applicable provisions of the CWA 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).



Candice A. Hasenyager P.E., Director

May 19, 2026

Date

**GENERAL CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION
ORDER NO. WQ 2026-0016-DWQ**

Effective Date: Effective Date of Regional General Permit (RGP) 5
for Energy Emergency Activities

Project: RGP 5 for Energy Emergency Activities

Project Identifiers: CIWQS Regulatory Measure ID: 464590
WDID: SB26013GN

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

Applicant Contact: Leah Fisher
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Water Board Contact Person:

If you have any questions, please contact State Water Resources Control Board (State Water Board) staff listed above or contact the applicable Regional Water Quality Control Board using the Clean Water Act Section 401 Program [Staff Directory](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf)

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Attachment A:	RGP 5 Coverage Area Map
Attachment B:	Notice of Intent Form
Attachment C:	Notice of Intent Instructions
Attachment D:	Reporting and Notification Requirements
Attachment E:	Signatory Requirements

I. Summary

This State Water Resources Control Board (State Water Board) Clean Water Act Section 401 Certification (Certification) conditionally certifies the U.S. Army Corps of Engineers' Regional General Permit (RGP) 5 for Energy Emergency Activities (SPK#-2025-00011).

On November 21, 2025, the State Water Board received a certification request for the U.S. Army Corps of Engineers' (Corps) Energy Emergency RGP. The Corps' Energy Emergency RGP authorizes activities involving the discharge of dredge or fill material into waters of the United States for energy and critical minerals production, transportation, refining, and generation activities as described in Executive Order (EO) 14156, Declaring a National Energy Emergency.

This Certification covers activities that discharge dredged or fill material to waters of the United States authorized under RGP 5. Discharges of dredged or fill material to only waters of the state outside of federal jurisdiction require separate Waste Discharge Requirement authorization.

Activity categories eligible for Certification coverage are listed in the Project Description (Certification Section V). To the extent a project does not meet the eligibility criteria of this certification, certification is denied.

II. Findings

- A.** This Certification is adopted pursuant to section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (Cal. Water Code § 13000, et seq.). The Certification also serves as waste discharge requirements in accordance with State Water Board Water Quality Order No. 2003-0017-DWQ. Discharges to waters of the state are prohibited except when in accordance with Water Code section 13264.
- B.** In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law, including the Clean Water Act and the Porter-Cologne Water Quality Control Act.
- C.** In response to a suspected violation of any condition of this Certification, the Water Board may require an enrollee of this Certification to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided 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.
- D.** This Certification and all 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.

- E.** This Certification does not provide coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order 2022-0057-DWQ; NPDES No. CAS000002 (Construction General Permit).
- F.** This Certification does not authorize any act which results in the take of a threatened, endangered or candidate species, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Certification held by the discharger, the discharger 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 discharger is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Certification.
- G.** This Certification includes monitoring and reporting requirements pursuant to Water Code section 13383. The burden of preparing these reports, including costs, are reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices (BMPs) required under this Certification are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting.

III. Project Location

Activities enrolled under this Certification may be located within 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 boundaries of the Sacramento District of the U.S. Army Corps of Engineers is found in Attachment A of this Certification.

IV. Receiving Waters Information

Activities authorized under this Certification may be located within the jurisdiction of the North Coast, Central Valley, Central Coast, or Lahontan Regional Water Quality Control Boards (collectively Regional Water Boards). Waters potentially impacted by proposed projects are protected in accordance with the applicable water quality control plans (Basin Plan). The Basin Plans for the regions and

other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) (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), the form for which is provided in Attachment B.

V. Project Description

- A.** RGP 5 authorizes work or structures in navigable waters of the United States and the permanent or temporary discharge of dredged or fill material into waters of the United States associated with the construction, expansion, modification, maintenance, repair of: electric, oil, and natural gas facilities; transmission pipelines; aerial transmission lines and poles; docks, piers, and terminals; and access roads, rail lines, and canals; and the ancillary activities associated with such activities that may also result in a dredge or fill discharge to waters (such as, access roads; staging areas; and stockpiles).

Only Projects that qualify for coverage under RGP 5, consist of one of the activities below, and meet the size and activity limitations in Section VII.A may be authorized under this Certification. The State Water Board or Regional Water Quality Control Boards (collectively Water Boards) shall determine whether the activity is eligible for enrollment under this Certification. Only the following activities are eligible for enrollment under this Certification:

- 1.** Maintenance, Repair, or Replacement of Existing, Currently Serviceable Structures or Fills;
- 2.** Activities required for the construction, maintenance, repair, and removal of oil and natural gas pipelines and associated facilities in waters of the state;
- 3.** Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques.
- 4.** Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g. roads, highways, railways, trails, driveways, airport runways, and taxiways) in waters of the state;
- 5.** Activities required for the construction, maintenance, repair, and removal of electric utility lines, telecommunication lines, and associated facilities in waters of the state.

6. For purposes of this Certification the following definitions from the Corps' RGP 5 apply:
 - a. **Energy** or energy resources: Crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals as defined by 30 U.S.C. §1606(a)(3).
 - b. **Production**: The extraction or creation of energy resources.
 - c. **Transportation**: The physical movement of energy resources, including through pipelines, rail, or other conveyance systems.
 - d. **Refining**: The physical or chemical conversion of energy resources into usable forms, including the creation of gasoline, diesel, ethanol, aviation fuel, or the beneficiation and purification of minerals.
 - e. **Generation**: The use of energy resources to produce electricity or thermal power and the transmission of electricity from its site of generation.
 - f. **Energy supply**: The combined activities of production, transportation, refining, and generation of energy resources.
 - g. **Single and complete project**: The total project proposed or accomplished by one entity.

VI. Excluded Activities

- A. The following activities are not eligible for coverage under this Certification and must seek individual certification or enrollment under another applicable order:
 1. Mining and drilling facilities for extraction of energy resources or critical minerals.
 2. Hydropower generation facilities requiring a Federal Energy Regulatory Commission (FERC) license or amendment. Activities involving the hydropower generation facility, but that also need coverage under RGP 5 in addition to the FERC license or amendment, may be covered pursuant to section VII.C.2.
 3. Energy storage facilities, including battery banks and large-scale tanks not directly associated with authorized transmission or distribution work.
 4. Production, enrichment, and refining facilities, including oil refineries, mineral beneficiation plants, and chemical processing facilities
 5. **Lahontan Water Board**: Any activity within the Lake Tahoe Hydrologic Unit (HUC; 634.00), the Truckee River HUC (635.00), and the Little Truckee River HUC (636.00) is prohibited.
 6. **Riparian Vegetation**: Repair, rehabilitation, or replacement is only authorized when trimming of riparian vegetation does not result in significant adverse effects to water quality or impair beneficial uses.

VII. Conditions

The Water Board will review each proposed project requesting authorization under this Certification to evaluate potential impacts to water quality and designated beneficial uses within the applicable watershed(s). Covered activities must also comply with all activity specific terms and conditions in the Corps' RGP.

If a proposed project does not meet the eligibility requirements of this Certification, the Water Board will not authorize under this Certification and will instead require the project proponent to apply for an individual certification or seek enrollment under another general order. Dischargers may also voluntarily apply for an individual certification.

Dischargers authorized under this Certification must comply with the following terms and conditions:

A. General Conditions

1. Designated Permanent Impacts

- a. **Facility Replacements for Oil and Natural Gas Pipelines:** such as underground lines, foundations, and other activities associated with pipelines or their access roads (e.g., wet crossings, culverts, bridge abutments) and appurtenances (e.g., valves, flanges, fittings, end modules, end terminals) located more than 30 feet from the original location. May also include structure removals.
- b. **Facility Replacements for Electric Utility Lines:** such as poles, underground lines, foundations for overhead utility line towers, and other activities associated with utility lines or their access roads (e.g., wet crossings, culverts, bridge abutments) and appurtenance (e.g., guy wires, anchors, grounding wires, valves, flanges, fittings, end modules, end terminals) located more than 30 feet from the original location. May also include structure removals.
- c. **Access Road Crossing Repair, Improvements, and Upgrades:** the replacement or repair of existing culverts and associated outlets/headwalls, bridge abutments, or other road crossings, repairs, or resurfacing in waters of the state. The repair of existing or installation of new minor non-grouted riprap, armoring or other erosion control measures to protect existing access roads or existing structures from scour or erosion.
- d. **New Access Road Crossings/Structures/Outfalls and Widening of Existing Roads:** includes new structures, outfalls, bridge abutments, road repairs or resurfacing, installation of new culverts or associated outlets, and erosion control/dissipation devices to protect the existing access roads. For example, the installation of concrete or non-grouted riprap on

an existing access road to create a low-water (Arizona) crossing. Also includes the minor widening of existing roads.

- e. **Structure Upgrades for Oil and Natural Gas Pipelines:** includes the installation of similar facilities with upgrades (e.g., new caissons), upgrades to larger facilities or facilities of different composition. Also includes the installation of new caissons, non-grouted riprap, or other armoring to protect existing structures from scour and erosion.
 - f. **Structure Upgrades for Electrical Facilities:** includes the installation of similar poles with upgrades (e.g., new caissons), upgrades to larger poles or poles of different composition, conversion of overhead to underground, etc. Also includes the installation of new caissons, non-grouted riprap, or other armoring to protect existing structures from scour and erosion, and new minor line extensions.
 - g. **Underground Linear Activities:** excavation for inspection or repair of underground facilities, installation of new pipes/cables across streams, placement of structures or erosion control to protect under-stream pipes, and installation of new valves or other appurtenances.
 - h. **Streambank Stabilization Structures:** Includes the installation, repair, or replacement of permanent bank stabilization features such as riprap toe protection, vegetated soil lifts, coir logs, brush mattresses, and other biotechnical treatments designed to prevent erosion or channel migration.
 - i. **Channel Regrading and Keyways:** Permanent regrading of eroded or unstable banks to achieve stable slope geometry (e.g., 2:1 slope), including excavation of keyways for anchoring stabilization materials such as rock toes, coir logs, or live plant installations.
 - j. **Native Vegetation Establishment:** Includes permanent revegetation of streambanks with native riparian trees, shrubs, and herbaceous species for the purposes of long-term erosion control, aquatic resource restoration, and water quality protection.
 - k. **Other:** Includes facility drainage system repair, maintenance, or installation of existing facilities and other bank stabilization efforts.
- 2. Designated Temporary Impacts**
- a. **Poles or Culvert Relocation:** Relocating poles or culverts within 30 feet of the original location is considered a temporary impact if the new replacement structure does not expand the footprint beyond ten (10) percent of the original footprint, and the original footprint is completely restored.
 - b. **Roadside Ditches:** Impacts to roadside ditches are considered temporary if the roadside ditch has the following characteristics:
 - i. The feature is artificially constructed (i.e., man-made).

- ii. The feature is not in or part of a stream channel or other waters of the state, or in a stream channel or other waters of the state that has been relocated upland.
- iii. The feature would not cause or contribute to an impairment of downstream beneficial uses; and
- iv. The feature is restored following construction such that the pre-construction course, condition and capacity are retained to the maximum extent practicable.

c. Temporary Dewatering and Channel Access: Use of cofferdams, diversion channels, or temporary stream crossings for construction access or isolation of work areas

3. Impact Size Limits: Permanent and temporary impacts to waters of the state are activity-specific and subject to the project size limits and restrictions below. These project impact size limits are consistent with the State Water Board's certification of the Corps' Nationwide Permits and are intended to ensure that projects authorized under this Certification remain consistent with the minimal impact thresholds established for similar activities. Impacts are evaluated per single and complete project; cumulative impacts across multiple crossings or segments may require individual certification.

a. Individual project impact size limits to waters of the state for oil and natural gas pipelines, electric utility lines, telecommunication lines, and associated activities are as follows.

- i. **Permanent Impact Acreage:** The project shall not result in more than five thousandths (0.005) of an acre of permanent impacts to waters of the state.
- ii. **Temporary Impact Acreage:** The project shall not result in more than one half (0.5) of an acre of total impacts to waters of the state.
- iii. **Permanent Impact Length:** The project shall not result in more than 50 linear feet of permanent impacts to waters of the state.
- iv. **Temporary Impact Length:** The project shall not result in more than 400 linear feet of total impacts to waters of the state.
- v. **Vehicle Travel Through Dry Wash:** Vehicle travel through dry washes or other ephemeral waters of the state for the purpose of site access may be included in the calculation of total project impacts. However, these impacts will not be considered for the purpose of the impact limits defined in sections VII.A.2.a.i through iv., above.

b. Individual project impact size limits to waters of the state for linear transportation projects (e.g., roads, highways, railways, trails, driveways, airport runways, and taxiways), and associated activities are as follows:

- i. **Permanent Impact Acreage:** The project shall not result in more than one hundredth (0.01) of an acre of permanent impacts to waters of the state.
 - ii. **Total Impact Acreage:** The project shall not result in more than two-tenths (0.2) of an acre of total impacts to waters of the state.
 - iii. **Permanent Impact Length:** The project shall not result in more than 100 linear feet of permanent impacts to waters of the state.
 - iv. **Total Impact Length:** The project shall not result in more than 300 linear feet of total impacts to waters of the state.
- c. Individual project impact size limits to waters of the state for bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, stream barbs, and bulkheads, or combinations of bank stabilization techniques are as follows:
- i. **Permanent Impact Acreage:** The project shall not result in more than one hundredth (0.1) of an acre of permanent impacts to waters of the state.
 - ii. **Total Impact Acreage:** The project shall not result in more than two-tenths (0.2) of an acre of total impacts to waters of the state.
 - iii. **Permanent Impact Length:** The project shall not result in more than 200 linear feet of permanent impacts to waters of the state.
 - iv. **Total Impact Length:** The project shall not result in more than 300 linear feet of total impacts to waters of the state.

B. General Compliance

1. Permitted actions must not cause a violation of any applicable water quality objectives or water quality control plans, including impairment of designated beneficial uses for receiving waters as adopted in any applicable Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
2. Activities enrolled under this Certification must conform to the engineering plans, specifications, and technical reports submitted with the Notice of Intent to enroll. Water Code section 13264 prohibits any discharge that is not specifically authorized in the Notice of Applicability.
3. Activities within the Carson River, Lake Tahoe, Little Truckee River, Truckee River, or Walker River Hydrologic Units must comply with Lahontan Regional Water Quality Control Board Basin Plan section 4.1 Waste Discharge Prohibition requirements. Dischargers with work within these hydrologic units

should contact Regional Water Board staff to determine if they must apply for a Basin Plan Prohibition Exemption to seek coverage under this Certification.

C. Standard Conditions

1. This Certification action is subject to remand, amendment, or vacatur by judicial or administrative adjudication, including review pursuant to Water Code section 13330, and California Code of Regulations, Title 23, chapter 28, Article 6 commencing with section 3867.
2. This Certification is not intended and shall not be construed to apply to any hydroelectric facility activity requiring a FERC license or an amendment to a FERC license, unless: coverage under RGP 5 is sought; a separate 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 the related FERC license or amendment to a FERC license for a hydroelectric facility was being sought; the project proponent notified the State Water Board Division of Water Rights that the proposed activities might involve a FERC-licensed facility; and the Deputy Director for the Division of Water Rights or their designee provided written approval for coverage under the Certification. Project proponent shall notify the State Water Board Division of Water Rights whenever the proposed activities may involve a FERC-licensed facility. Where the activities may involve a FERC-licensed facility, coverage under this General Order shall not apply unless the Deputy Director for the Division of Water Rights or their designee provides written approval.
3. Certification is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations.
4. Nothing in this Certification shall be construed as Water Board approval of the validity of any water rights, including pre-1914 claims. The State Water Board has separate authority under the California Water Code to investigate and take enforcement action, if necessary, to prevent any unauthorized or threatened unauthorized diversions of water.
5. Activities permitted under this Certification shall not result in adverse environmental impacts as defined under Public Resources Code Division 13, section § 21082.2 that are cumulatively significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
6. Activities authorized under this Certification shall be designed to avoid and minimize impacts to waters of the state to greatest practicable extent.
7. This Certification does not apply to projects for which any RGP conditions have been waived by the Corps' District Engineer.

8. This Certification does not apply to projects requiring compensatory mitigation for permanent impacts to waters except as provided in Section VII.G.
9. Activities impacting histosols, fens, bogs, peatlands, in wetlands contiguous with fens and vernal pools are prohibited.
10. If issued, the discharger shall submit a signed copy of the Department of Fish and Wildlife's lake and streambed alteration agreement to the Water Board prior to any discharge to waters of the state.
11. Unless granted by a variance by the Lahontan Regional Water Board Executive Officer or there is an emergency that threatens the public health or welfare, there shall be neither removal of vegetation nor disturbance of existing ground surface conditions between October 15 of any year and May 1 of the following year. This prohibition period applies to the Lake Tahoe Hydrologic Unit and above the 5,000-foot elevation in Mono County within the Lahontan Region. If stated in the NOA, this prohibition period will also apply to the Truckee River, Little Truckee River, East Fork Carson River, West Fork Carson River, East Walker River, and West Walker River Hydrologic Units and above the 5,000-foot elevation in Alpine, and Inyo Counties within the Lahontan Region.

D. Administrative

1. Signatory requirements for all document submittals required by this Certification are included in Certification Attachment E.
2. **Site Access:** The discharger shall grant Water 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:
 - i. Enter upon the project premises where a regulated facility or activity is located or conducted, or where records are kept.
 - ii. Have access to and copy any records that are kept and are relevant to the project or the requirements of this Certification.
 - iii. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated under this Certification .
 - iv. Sample or monitor for the purposes of determining Certification compliance.
3. The discharger is responsible for work conducted by any consultants, contractors, or subcontractors working on the project. A copy of this Certification shall be provided to any consultants, contractors, and subcontractors working on this project. Copies of this Certification (or electronic access) shall remain at the project site for the duration of authorization under this Certification. All personnel performing work on the

project shall be familiar with the contents of this Certification and how to access it at the project site.

E. Construction Conditions

1. All materials and supplies necessary for implementing effective BMPs under this Certification must be on-site and ready for use at the start of the activity and must remain in supply and ready for implementation throughout the project. All non-structural BMP materials (e.g., training documents, compliance tracking procedures) must be ready for use at the start of the activity.
2. Construction material, debris, rubbish, spoils, soil, silt, sawdust, rubbish, steel, welding slag, welding rods, waste material, waste containers, other organic or earthen material, or any other substances which could be detrimental to water quality or hazardous to aquatic life are prohibited from being discharged into waters of the state. Spoils from excavations shall not be stored in waters of the state.
3. Environmentally sensitive areas and environmentally restricted areas, including any avoided waters of the state, must be clearly identified (e.g., fencing, flagging) in the field for exclusion from disturbance prior to the start of project activities. Such identification must be properly maintained until construction is completed and the soils have been stabilized.
4. The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goal. Routes and work area boundaries must be clearly demarcated.
5. Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow are not impeded. Appropriate design criteria, practices and materials must be used in areas where access roads intersect waters of the state.
6. Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location, and all temporary roads must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.
7. A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary crossing structure.
8. Unless authorized for restoration in writing in an NOA, material excavated to prepare a site for placement of the permitted fill material must be properly disposed of in an upland area. The disposal site must be located at a sufficient distance away from flowing or standing water such that the excavated material does not erode or move in any way into any water of the state. The disposal area shall be identified in the project NOI.

- 9. Topsoil:** For any excavation, including utility line trenches, the top 6 to 12 inches of topsoil shall be removed and stockpiled separately during construction. Following installation, the topsoil shall be replaced and seeded with native vegetation.
- 10.** Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in Fish and Game Code section 45) exist or may exist, must be designated, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of aquatic life, or cause an avoidance reaction by fish due to impedance of their upstream or downstream movement. This includes, but is not limited to, maintaining the supply of water and maintaining flows at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the discharger shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.
- 11. Dust Abatement:** Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, are detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented, and product-specific application plans are approved by Water Board staff.
- 12. Use of Mechanized Equipment:** Activities permitted under this Certification shall be conducted in a manner that minimizes ground disturbance, soil compaction, rutting and other mechanical impacts. Equipment shall be operated and maintained in a manner that reduces the risk of spills or the accidental exposure of fuels or hazardous materials to water bodies or wetlands. Appropriate project specific BMPs shall be specified by the Discharger and shall be provided as part of the project description included in the NOI.
- 13. Piers or Piles:** Piers or piles placed in the stream channel to support a linear transportation structure over a creek channel must be aligned parallel with the direction of flow to prevent erosive eddies.
- 14. Riparian Tree Removal:** Project designs shall avoid removal of mature riparian trees to the extent practicable, but if removal cannot be avoided, adverse effects to water quality shall be minimized and may require compensatory mitigation. Any necessary removal of riparian trees must be documented in the NOI with species, Diameter at Breast Height (DBH), and functional context (overstory/understory).
- 15. Roads:** Maintenance of access roads under this Certification shall be confined to the previously existing road prism, except for minor, targeted

widening or improvements. Grading of through cut roads (any road having a running surface lower than the surrounding terrain on both sides of the road) is prohibited.

16. Access routes: The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goal. Routes and work area boundaries must be clearly demarcated.

17. Armoring Facilities: Placement of in-stream armor above streambed elevation is prohibited, except as otherwise authorized in an NOA by the applicable Water Board.

18. Gabions: Use of gabions ("rock gabions" and similar wire basket structures) in or along waters of the state is prohibited.

19. Grouted Riprap: Use of grouted riprap in waters of the state is prohibited.

20. Geotextiles: Gravel filters/blankets are preferred over geotextiles. If geotextiles are used, only 100% biodegradable geotextiles shall be used within waters of the state. Biodegradable geotextiles shall not contain synthetic materials, including photodegradable plastics or nylon.

21. Hydromodification: Dischargers that propose bank stabilization projects shall provide information analyzing potential upstream and downstream hydromodification impacts. The discussion must address potential effects on channel stability, sediment transport, and the potential to cause, worsen, or fail to reduce channel incision. If the analysis shows that the project will have significant impacts on the hydrology and geomorphology of the stream, the project is ineligible for Certification coverage.

22. Culvert Replacement and Maintenance

a. Cured in Place Pipe (CIPP) is prohibited where it could cause detrimental physiological responses to human, plant, animal, or aquatic life, or cause discharges to waters of the state that do not comply with water quality objectives or goals.

b. Replacement of culverts acting as grade control structures is prohibited. A vertical gap between the outlet of the culvert and the immediate downstream invert of the stream channel indicates that the culvert likely functions as a grade control structure.

c. Projects proposing to replace culverts must repair any existing scour or head-cutting actively discharging sediment, caused by prior culvert design.

d. Any replacement or existing culvert left in place by a repair or maintenance project shall be in alignment and at the same grade and orientation with the stream channel upstream and downstream of the culvert to ensure hydrologic connection of the stream channel and reduce plugging, overtopping and scour potential.

- e. Replacement of a culvert with a similarly sized culvert is allowable unless there is visual indication that the existing culvert is undersized. Visual indications of undersized culverts include, but are not limited to: sediment aggradation upstream of the culvert; evidence of flow over the top of the culvert (e.g., erosional rills in dirt road surfaces or erosion of shoulders adjacent to paved road surfaces), erosion of the fill cell between the culvert and the road surface, scour pools at the culvert outlet, or erosion of creek banks immediately downstream of the culvert.
- f. Culverts with solid bottoms (e.g., cylindrical culverts or box culverts) may be replaced with arch culverts or free-span bridges, if the existing culvert is not acting as a grade control structure.
- g. The culvert must not be located in a meander bend of the stream channel.
- h. Replacement culverts must be sized to convey a 100-year flow event with debris, without pressurizing flow passing through the culvert. The 100-year flow event should be modeled under climate change projections, if available.

23. Toxic and Hazardous Materials

- a. Activities permitted under this Certification shall not discharge toxic substances in concentrations that produce detrimental physiological responses to human, plant, animal, or aquatic life.
- b. Discharge of unset cement, concrete, grout, damaged concrete spoils, or water that has contacted uncured concrete or cement, or related washout to surface waters, ground waters, or land is prohibited. If concrete washout is necessary at the site, washout containment shall be used to prevent any discharge. Wastewater may only be disposed of by delivery to a sanitary waste-water collection system/facility (with authorization from the facility's owner or operator) or a properly licensed disposal or reuse facility.
- c. Appropriate BMPs must be implemented throughout project activities to prevent and control potential leaks/spills/drainage of potentially hazardous materials such as: non-petroleum hydraulic fluid; epoxies; paints and other protective coating materials; cement concrete or asphalt concrete; and washings and cuttings thereof.
- d. Activities permitted under this Certification shall not discharge waste classified as "hazardous" as defined in California Code of Regulations title 22, section 66261 and Water Code section 13173. Appropriate BMPs for hazardous substances shall be included in project plans provided in the NOI. These BMPs shall include, at a minimum:

- i. All personnel handling fuels and other hazardous materials shall be properly trained.
 - ii. Adequate spill prevention and cleanup equipment and materials shall be present on site at all times during project implementation.
 - iii. All mechanized equipment shall be maintained in good operating order and inspected on a regular basis.
 - iv. All on site fuel trucks or fuel containers shall be stored in an area where risk of contamination of water bodies by leaks or spills is minimized.
 - v. Unless approved by the Water Boards, all equipment shall be fueled, maintained, and/or parked overnight in an upland area at least 100 feet from any delineated waters of the state.
 - vi. Unless approved by the Water Boards, hazardous materials, including chemicals, fuels, and lubricating oils, shall not be stored within 100 feet of any delineated waters of the state, and shall be stored in appropriate containers with appropriate secondary containment.
 - vii. Pumps or other stationary equipment operating within 100 feet of a waterbody or wetland shall utilize appropriate secondary containment systems to prevent spills.
 - viii. Any spills or leaks of hazardous materials, chemicals, fuels, lubricants, or any other potential pollutants shall be promptly and completely treated using appropriate materials and equipment.
 - ix. Spill containment supplies shall be on site in all work areas in sufficient quantities to allow immediate remediation of fuel, oil, hydraulic fluid or similar leaks and spills.
 - x. A staging area for equipment and vehicle fueling and storage shall be designated at least 100 feet away from waters of the state, in a location where fluids or accidental discharges cannot flow into waters of the state.
- e. Projects that affect existing wetland areas shall be designed to include features or management measures to reduce the production of methylmercury in the wetland, including minimizing the wetting and drying of soils by keeping wetlands flooded and sediment control measures to reduce the transport of total mercury or methylmercury out of the wetland.

24. Invasive Species and Soil Borne Pathogens

- a. The discharger is responsible for ensuring that all project personnel follow proper weed control practices, and that appropriate weed prevention measures are included in project plans.
- b. Any straw, hay or other unprocessed plant material used for any purpose must be certified or documented as being weed free.
- c. Soil borne pathogens are any nematodes, or any bacterial, protozoan, viral or fungal pathogens that can cause disease or death to native plants, agricultural crops or ornamental plants (e.g., *Phytophthora ramorum*, the cause of sudden oak syndrome, and *Phytophthora lateralis*, the cause of Port Orford cedar root disease). Any equipment entering or leaving the project area from an area of known soil borne pathogen infestation shall be thoroughly cleaned using methods appropriate for the known pathogen before entering or leaving the project area. The fungus that causes Valley Fever, *Coccidioides* spp., is not considered a soil borne pathogen in this Certification.

25. Work in Waters of the State

- a. Work in waters of the state must not cause an exceedance of water quality objectives and comply with water quality control plans. Work in waters commences at the onset of the regulated activity and continues until the activity is finished and all restoration of the affected work area is complete. The term "work in waters" means any activities in any waters of the state that are permitted under this Certification, regardless of the presence or absence of flowing or standing water.
- b. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to waters of the state.
- c. Except for the following conditions, equipment must not be operated in standing or flowing waters without site-specific approval in an NOA:
 - i. All construction activities must be effectively isolated from water flows to the greatest extent possible. This may be accomplished by working in the dry season or dewatering the work area in the wet season. When work in standing or flowing water is required, structures for isolating the in-water work area and/or diverting the water flow must not be contaminated by construction activities. All open flow temporary diversion channels must be lined with filter fabric or other appropriate liner material to prevent erosion. Structures used to isolate the in-water work area and/or diverting

the water (e.g., coffer dam, geotextile silt curtain) must not be removed until all disturbed areas are stabilized.

- ii. Cofferdam and water barrier construction must be adequate to prevent seepage into or from the work area to the greatest extent feasible.
 - iii. Flow diversions must be conducted in a manner that prevents pollution and/or siltation and in a manner that restores pre-project flows (except for variation in flows due to seasonality, upstream diversions, etc.) upon completion of the activity. Diverted flows must be of sufficient quality and quantity, and of appropriate temperature, to support existing fish and other aquatic life both above and below the diversion. Diversions must be designed, installed, and maintained to reduce erosion. Pre-project flows must be restored to the affected surface water body upon completion of work at that location.
- d. All temporary dewatering methods shall be designed to have the minimum necessary impacts to waters of the state. All dewatering methods shall be installed such that natural flow is maintained upstream and downstream of the diversion area. Any temporary dams or diversions shall be installed such that the diversion does not cause sedimentation, siltation, or erosion upstream or downstream of the diversion area. All dewatering methods shall be removed immediately upon completion of activities for which diversions are needed.
- e. If groundwater dewatering is required for the project, the discharger shall consult with the Water Board to determine if additional permits are required. If additional Water Board permits relating to dewatering are required, the designated Water Board staff contact identified in the project's NOA must be notified and copied on pertinent correspondence pertaining to those other required permits.
- f. Temporary diversions or impoundments of water, cofferdams, or similar structures used to temporarily dewater work areas may be authorized provided that the project description submitted by the discharger in the NOI includes a draft dewatering plan and complies with the following conditions:
- i. The draft dewatering plan shall describe the dewatering design, methods, and equipment; identify the location of intake and discharge points; specify the anticipated duration of dewatering activities; identify appropriate BMPs to protect water quality during installation, operation, maintenance, and removal of dewatering structures; and demonstrate compliance with Section VII.E.25.

- ii. The discharger shall submit any revisions to the dewatering plan to the Water Board for acceptance at least thirty (30) days prior to any discharge to the affected water body.
- iii. All temporary dewatering activities shall comply with the reporting and monitoring conditions in Section VII.H.11.

26. Stormwater: Dischargers that are required to enroll in the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-DWQ; NPDES No. CAS000002) shall maintain compliance with that Order. Compliance with that Order constitutes compliance with Erosion and Sediment Control Conditions 26.a.i-ii and Stormwater Management Condition 26.b.i-ii, below.

For ground disturbing activities that do not require enrollment in Order No. 2022-0057-DWQ, project plans included with the NOI shall include the appropriate erosion and sediment control and stormwater management conditions described below.

a. Erosion and Sediment Control:

- i. No later than 24 hours prior to the start of a likely rain event, the discharger shall ensure that disturbed areas that drain to waters of the state are protected with correctly installed erosion control measures (e.g., jute, straw, coconut fiber erosion control fabric, coir logs, straw) or revegetated with propagules (seeds, cuttings, divisions) of locally collected native plants. The likely rain event is defined as any weather pattern that is forecast to have a fifty (50) percent or greater probability of producing precipitation in the project area, as predicted by the National Weather Service. The discharger shall obtain a copy of the precipitation forecast information (printed or electronic) daily and keep it on record for the duration of soil disturbing activities.
- ii. The timing for installation of the post-construction stormwater BMP subdrains, soils, mulch, and plants shall be scheduled to ensure that the installed bioretention areas do not receive runoff from exposed or disturbed areas that have not been landscaped. The constructed post-project stormwater BMPs shall not receive site runoff until all project landscaping is planted, and effective erosion control measures implemented to ensure that the stormwater features are protected from sediment accumulation.

b. Stormwater Management:

- i. Disturbed areas must be temporarily stabilized to prevent erosion and accidental discharge into waters of the state no later than 24 hours prior to any likely precipitation event. A likely precipitation

event is any weather pattern that is forecast to have a fifty (50) percent probability of producing precipitation in the project area, as predicted by the National Weather Service. If commencement of a precipitation event is predicted to begin less than 24 hours after the forecast is issued, temporary stabilization of the disturbed in-water work areas must begin immediately.

- ii. No construction activity that could discharge sediment or other pollutants may be initiated if that activity and its associated erosion control measures cannot be completed prior to the onset of precipitation. After any rain event, the discharger shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sedimentation problems and take corrective action as needed. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted prior to start-up of any phase of the project that may result in sediment-laden runoff to the project site, and construction plans made to meet this condition.

27. Undergrounding and Drilling

- a. The discharge of bentonite, drilling muds, lubricants, or any drilling compounds into waters of the state is prohibited.
- b. An environmental monitor shall provide monitoring for compliance with the Horizontal Directional Drilling (HDD) or drilling plan throughout drilling operations under waters of the state.
- c. Any HDD or other drilling operation shall be designed and implemented to minimize the risk of any spills and discharges including the frac-out release of drilling lubricants through fractures in the streambed or bank substrates. In substrates where frac-outs are likely to occur, HDD contractors shall employ all reasonable means and methods available to minimize potential for frac-out.
- d. All drilling muds or compounds shall be contained and properly disposed of after drilling activities are completed.
- e. If bore pits are excavated to support drilling operations, spoils shall be stored a minimum of 25 feet from waters of the state, where feasible; if site specific conditions warrant constructing pits or storing spoils less than 25 feet from waters of the state this request must be provided in the HDD or drilling plan submitted to the Water Board prior to any drilling activities with potential impacts to waters of the state. Spoils shall be stored behind a sediment barrier and covered with plastic or otherwise stabilized (i.e., tackifiers, mulch, or detention).
- f. A draft HDD or drilling plan shall be prepared submitted to the Water Board for review at least 30 days before drilling activities under waters of

the state. The drilling plan must describe how compliance with Certification sections VII.E.27.a. through e. will be maintained and include:

- i. Release of bentonite, drilling muds, lubricants through fractures in the streambed or bank substrate during drilling is referred to as a "frac-out." Because of the potential for frac-outs to occur, the HDD or drilling plan shall include a frac-out response plan. The frac-out response plan shall specify all measures to be initiated if frac-outs should occur during HDD operations;
- ii. A drill path at least 10 feet below the streambed;
- iii. Constant monitoring of drill fluids for loss of pressure or returns;
- iv. Use of an onsite vacuum truck during drilling or other suitable means to capture and contain fluids that reach the surface;
- v. Contact information of those responsible for drilling activity monitoring;
- vi. Daylight hour drilling to enable visual monitoring for potential frac-outs;
- vii. Use of clean gravel bags instead of sandbags to contain a frac-out; and
- viii. For all HDD and other drilling sites, a means of containment (e.g., damming, fluming) or screening capable of capturing all of the potential discharge shall be described in the HDD plan. The downstream end of any such containment structure shall be capable of containing all bentonite or other drilling muds or debris that may be released during boring or drilling. Any drilling mud and spoils must be completely removed from the streambed prior to removal of the containment structure (e.g., dam, flume, and screen).

F. Mitigation for Temporary Impacts

1. The discharger shall restore all areas of temporary impacts to waters of the state and all project site upland areas of temporary disturbance which could result in a discharge of waters of the state as described in an approved restoration plan. The restoration plan shall be submitted with the NOI for written approval by Water Board staff. The restoration plan shall provide the following: a schedule; plans for grading disturbed areas to pre-project contours; a planting palette with plant species native to the project area; seed collection location; invasive species management; performance standards; and maintenance requirements (e.g., watering, weeding, and replanting).
2. In cases where implementation actions in the restoration plan cannot be reasonably conducted within one year, or where the adverse temporary impacts result in temporary loss of aquatic resource function(s), Dischargers may be required to provide compensatory mitigation to offset temporal loss of

waters of the state. Examples of additional mitigation include, but are not limited to, enhancement activities such as increasing the presence of native species and reducing dominance of non-native/invasive species, planting native willow cuttings, planting of native riparian vegetation and trash removal.

3. The Water Board may extend the monitoring and maintenance period beyond requirements of the restoration plan upon a determination by Water Board staff that success criteria have not been met or are not likely to be met within the monitoring period.

G. Compensatory Mitigation for Permanent Impacts to Waters of the State

1. Linear transportation activities (e.g. roads, highways, railways, trails, driveways, airport runways, and taxiways) shall provide compensatory mitigation to offset permanent impacts to waters of the state, unless the discharger has demonstrated that the project authorized by this Certification was designed to restore or improve the ecological function of the impacted aquatic resource. When compensatory mitigation is required, the discharger shall provide the following:
 - a. A draft compensatory mitigation plan at a level of detail sufficient to accurately evaluate whether compensatory mitigation offsets the adverse impacts attributed to the project considering the overall size and scope of impact.
 - b. Compensatory mitigation at a minimum of a one-to-one mitigation ratio, measured in area or length. The Water Board will require a higher overall mitigation ratio where necessary to ensure replacement of lost aquatic resource functions.
 - c. Subject to Water Board approval, the mitigation may be satisfied using any of the following compensatory mitigation methods: restoration, enhancement, establishment, and/or preservation.
 - d. Compensatory mitigation shall be provided through a mitigation bank or in-lieu fee program, where feasible. If no mitigation bank or in-lieu fee program options are available, mitigation may be provided through on-site or off-site permittee responsible mitigation, subject to Water Board approval.
 - e. No discharge of dredged or fill material to waters of the state shall occur prior to Water Board approval of a final mitigation plan.
2. Oil and natural gas pipelines, electric utility lines, telecommunication lines, and associated facilities activities shall adhere to the process below for any proposed projects that would result in permanent impacts to waters of the state:
 - a. By January 30 of each year, the discharger shall submit to the State Water Board a draft mitigation plan that includes elements as outlined in Dredge

or Fill Procedures, § IV.A.1.h; Appendix A: State Supplemental Dredge or Fill Guidelines, Subpart J, § 230.94(c)(5)-(6) and the following:

- i. A report of permanent impacts incurred through December 31 of the previous year as detailed in Attachment D; and
- ii. Proposed mitigation bank or in-lieu fee program credit purchase to offset the previous year's permanent impacts. The following mitigation ratios apply towards the purchase of establishment or reestablishment credits. If enhancement or preservation credits are proposed, mitigation ratios will be determined on an individual project basis:
 1. In-kind, in watershed = 1:1 mitigation ratio
 2. In-kind, outside of watershed = 2:1 mitigation ratio
 3. Out-of-kind, in watershed = 3:1 mitigation ratio
 4. Out-of-kind, outside of watershed = 4:1 mitigation ratio

These ratios apply only if credits are purchased within eighteen months of permanent impacts, otherwise mitigation ratios may be increased to account for temporal loss.

- iii. By June 1, the discharger shall submit to the State Water Board proof of credit purchase that offset the previous year's permanent impacts.
3. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques may require mitigation to offset adverse impacts to waters of the state. When using a fully bioengineered approach, including native plantings, wood habitat structures, rock and other approved materials, mitigation may not be required, upon Water Board approval. When mitigation is required, the discharger shall provide the following:
 - a. A draft mitigation plan at a level of detail sufficient to accurately evaluate whether mitigation offsets the adverse impacts attributed to the project considering the overall size and scope of impact.
 - b. No discharge of dredged or fill materials to waters of the state shall occur prior to Water Board approval of a final mitigation plan. The discharger shall implement the approved final mitigation plan.

H. 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 Attachment D including specifications for photo and map documentation during the project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in

Attachment D, which must be signed by the discharger or an authorized representative.

1. **Request for Authorization:** The NOI shall be submitted to the Regional Board for the region in which the discharge may occur. Where the discharge falls under the jurisdiction of more than one Regional Board, the NOI shall be submitted to the State Water Board. Proposed activities that may involve a FERC-licensed facility are not eligible for coverage under this Certification unless the Deputy Director for the Division of Water Rights or their designee provides written approval. Otherwise, an individual certification is necessary.
2. Dischargers shall submit an NOI for certification at least 45 days before the proposed construction start date. If the proposed activities might involve a FERC-licensed facility, the Discharger must contact the State Water Board Division of Water Rights before filing an NOI to confirm eligibility. The NOI shall describe all proposed direct project impacts and project design steps taken to first avoid, and then minimize, impacts to waters of the state to the maximum extent practicable. The NOI shall also include a jurisdictional delineation of all impact sites. The NOI must justify why the activity is energy related and provide supportive documentation. Notices of Intent for activities unrelated to energy will be excluded from enrollment. Detailed instructions for NOI submission are listed in Attachment C.
3. The NOI must also comply with the instructions set forth in Attachment C.
 - a. **NOI Review Process:** NOIs will be reviewed for completeness by Water Board staff within 30 days from the NOI receipt date.
 - b. Incomplete NOIs will be returned with a description of information needed to satisfy deficiency(ies).
 - c. After receipt of a complete NOI, the Water Board will issue one of the following:
 - i. A Notice of Exclusion (NOE) that describes the reason the project is ineligible for Certification enrollment. Dischargers that receive a NOE may not proceed with project activities until certification or WDR is obtained.
 - ii. A Notice of Applicability (NOA). Dischargers may not proceed with project activities until a Notice of Applicability has been issued by the Water Board.
 - iii. If the Water Board does not issue an NOA or NOE within 45 days of receiving a complete NOI, the discharger may proceed with the project according to all applicable Certification conditions.
 - d. For an application to be determined complete, the following items must be provided in sufficient detail to inform a permitting decision:

- i. Information required in the NOI Form (Attachment B), including applicant information, the location of the proposed project and a description of impacts;
 - ii. Proof of payment of the applicable fee (Section VIII.);
 - iii. NOI signed by the Legally Responsible Party;
 - iv. A delineation report; pre-project photos of the project area and proposed impact sites; maps which clearly identify the project site and proposed impacts;
 - v. A restoration plan for projects which propose temporary impacts (Section VII.F);
 - vi. Mitigation information to offset proposed permanent impacts (Section VII.G);
 - vii. A discussion of hydromodification impacts for bank stabilization projects (VII.E.21); and
 - viii. A dewatering plan for any projects which propose site dewatering (Section VII.E.25.f).
- 4. Commencement of Construction:** Dischargers shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities and, if applicable, corresponding Waste Discharge Identification Number (WDID) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2022-0057-DWQ).
- 5. Annual Reporting:** Dischargers shall submit an Annual Report by June 1 of each year unless a NOA specifies a different due date for this report. Annual reporting shall continue until the Water Board issues a Notice of Project Complete to the discharger. Dischargers shall provide at least one annual report, if the event the project is completed in less than one year.
- 6. Notice of Project Completion:** A request for a Notice of Project Completion shall be submitted to the Water Board within thirty (30) days following completion of all project activities including post-construction monitoring of restoration sites. Upon approval of the request, the Water Board will issue a Notice of Project Complete to the discharger. Dischargers are responsible for payment of annual fees until the Water Board issues a Notice of Project Completion. Because of the timing of the annual billing cycle, a final invoice may be issued after the Notice of Project Completion, depending on the billing date and the date of notice issuance.
- 7. Transfer of Property Ownership:** Authorization by this Certification is not transferable in its entirety or in part to any person or organization except in accordance with the following terms:
 - a. The discharger 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 discharger and purchaser must sign and date the notification and provide such notification to the Water Board at least fourteen (14) days prior to the transfer of ownership. The purchaser must also submit a written request to the Water Board to be named as the discharger in a revised NOA.

- b. Until such time as the NOA has been modified to name the purchaser as the discharger, the discharger named on the NOI shall continue to be responsible for all requirements set forth in this Certification.

8. Transfer of Long-Term Best Management Practices Maintenance:

If maintenance responsibility for post-construction best management practices is legally transferred, the discharger must submit to the Water Board a copy of such documentation and must provide the transferee with a copy of a Long-Term Best Management Practices Maintenance Plan that complies with manufacturer or designer specifications. The discharger must provide such notification to the Water Board with a Transfer of Long-Term Best Management Practices Maintenance Report at least fourteen (14) days prior to the transfer of best management practices maintenance responsibility.

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

- a. As soon as (A) discharger 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:
 - i. First call – 911 (to notify local response agency)
 - ii. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
 - iii. Lastly, follow the required OES procedures as set forth in:
[Summary of Laws and Regulations for Hazardous Material Spill / Release Reporting \(https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/Summary-Spill-Release-Feb2014.pdf\)](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/Summary-Spill-Release-Feb2014.pdf)
- b. Following notification to OES, the discharger shall notify the Water Board as soon as practicable (ideally within 24 hours). Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- c. Within seven (7) days of notification to the Water Board, the discharger must submit an Accidental Discharge of Hazardous Material Report to the Water Board.

10. Violation of Compliance with Water Quality Standards: The discharger shall notify the 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.

- a. 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.
- b. This notification must be followed within four (4) days by submission of a Violation of Compliance with Water Quality Standards Report.

11. In-Water Work

- a. The discharger shall notify the Water Board at least forty-eight (48) hours prior to initiating work in flowing or standing water or stream diversions. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means.
- b. Within ten (10) days following completion of in-water work or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to the Water Board.

12. Modifications to Project: Project modifications may require an amendment to an enrolled project's NOA. The discharger shall provide advance notice to the Water Board if project changes, as described in the application materials, affect compliance with this Certification or the NOA, including changes that result from subsequent permit conditions imposed by any local, state or federal regulatory authority, by submitting a Modifications to Project Report.

13. Water Quality Monitoring

- a. **General:** If surface water is present within the project area, visual monitoring shall be conducted during active construction to detect discharge of construction related pollutants (e.g., oil and grease, sediment and earthen materials, uncured concrete).
- b. **Accidental Discharges/Noncompliance:** Dischargers shall notify the Water Board when the discharge includes hazardous materials or may cause or contribute to an exceedance of water quality objectives or water quality control plans. Water Board staff may require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.
- c. **In-Water Work or Diversions:** For projects involving planned work in water or stream diversions, a water quality monitoring plan shall be submitted to the Water Board for acceptance at least 30 days in advance of any discharge to the affected water body. Water quality monitoring shall be conducted in accordance with the approved plan.

- d. Post-Construction:** If the proposed project includes ground disturbance, the discharger shall visually inspect the project site at least once during the rainy season (October 1 – April 30) until a Notice of Project Completion is issued to ensure excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the project site. If water quality pollution occurs, the discharger shall contact the Water Board staff member overseeing the project within three (3) days. The Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required for any necessary site remediation.

VIII. Application Fees

Certification enrollment is conditioned upon total payment of any fee required under California Code of Regulations, title 23. A fee calculator can be found online at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/#fees. The calculator is useful to estimate fees, but dischargers must confirm the correct fee amount through consultation with the approving Water Board. Appropriate fees will be determined by the current fee regulations at the time of NOI submittal. Dischargers should confirm the correct fee amount prior to submitting an NOI. Fees are periodically adjusted, and annual fees may apply.

IX. Public Notice

The State Water Board provided public notice of the request for certification pursuant to California Code of Regulations, title 23, section 3861, from February 19, 2026, to April 6, 2026. The State Water Board did not receive any comments during the comment period.

X. California Environmental Quality Act (CEQA)

Each covered Project must meet a California Code of Regulations, title 14, categorical exemption (e.g., §15301 Existing Facilities; §15302 Replacement of Reconstruction) to which an exception does not apply or be eligible for a statutory CEQA exemption. Because this Certification applies to only projects that are exempt from CEQA, the State Water Board has accordingly determined that the issuance of this Certification is exempt from CEQA pursuant to California Code of Regulations, title 14, section 15061. The State Water Board also concludes that no exceptions to the CEQA exemptions apply to the issuance of this Certification and will file a Notice of Exemption with the State Clearinghouse within five (5) working days from the issuance of this Certification (Cal. Code Regs., tit 14 § 15062).

XI. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Certification 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 Certification. A petition regarding the issuance of an NOE or NOA may be filed pursuant to Water Code section 13330.

XII. Water Quality Certification

I hereby issue this water quality certification for the Regional General Permit 5 for Energy Emergency Activities, State Water Board I.D. No. SB26013GN, for eligible projects certifying that as long as all of the conditions listed in this Order are met, eligible projects 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). This certification also serves as waste discharge requirements in accordance with State Water Board Water Quality Order No. 2003-0017-DWQ. To the extent a project does not meet the eligibility criteria, water quality certification is denied.

Authorization is contingent on: (a) 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, and the Regional Water Boards' Water Quality Control Plans.

Date

Phillip Crader 
Digitally signed by Phillip Crader
Date: 2026.05.18 16:39:49 -07'00'
Water Boards

Phillip Crader, Deputy Director
Division of Water Quality

REGIONAL WATER QUALITY CONTROL BOARDS WITHIN THE US ARMY CORPS OF ENGINEERS SACRAMENTO DISTRICT





Certification of the Sacramento District Corps' Regional General Permit 5: **Notice of Intent**

NOTICE OF INTENT (NOI) FORM

Section 1: Project Eligibility and Activity¹

Does your project qualify under Sacramento District Corps' Regional General Permit 5?

- ☐ Yes
☐ No

If "No", your project is not eligible for Certification coverage. Please work with Water Board staff on the appropriate permitting pathway.

Select the Proposed Project Activity Type(s):

- ☐ Electric, oil and natural gas facilities
☐ Transmission pipelines
☐ Docks, piers, and terminals
☐ Access roads, rail lines, and canals

Does the project meet the activity limitations and size limits described in Sections VII.A.1, 2 and 3 of the Certification?

- ☐ Yes
☐ No

Section 2: Legally Responsible Party (Applicant) and Duly Authorized Representative Information

Information	Legally Responsible Party	Duly Authorized Representative (optional)
Company/Agency Name		
Name of Contact		
Title		
Address		
City, State, Zip		
Phone Number(s)		
Email Address		

¹ Refer to Attachment C of the Certification for instructions on how to fill out this Notice of Intent.

Section 3: Fees

Pay the application fee online or include a check, money order or cashier check, payable to the State Water Board, with your NOI.

Information on how to pay fees is available on the State Water Board's program [website](https://www.waterboards.ca.gov/water_issues/programs/cwa401/#fees) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/#fees).

Section 4: Other Agency Permits, Licenses, Agreements, Plans

Attach application if final action not yet taken.

Permit	Have you applied? (yes/no)	If yes, have you received the permit? (yes/no)	Permit Type	ID Number (e.g. Corps file number)
US Fish and Wildlife Service Incidental Take Permit				
National Marine Fisheries Service Incidental Take Permit				
Other Federal Permits				
California Department of Fish and Wildlife Lake and Streambed Alteration Agreement (LSAA)				
Coastal Development Permit				
Other State Permits				
Local Permit(s)				
State Water Board Construction Stormwater General Permit				

Section 5: California Environmental Quality Act Compliance

Does the project meet a statutory or categorical CEQA exemption?	
If Yes, enter the proposed exemption number: If No, the project does not qualify for coverage under the Certification.	

Section 6: Project Information

Project Name:
Project Address (Include city, zip code, county, and Assessor's Parcel Number):
Coordinates (decimal degrees):

Construction Timeframe (Provide approximate start and end dates):

Entire Project

In-water work

Project Description/Purpose:

Section 7: Avoidance, Minimization, and Cumulative Impacts

Avoidance and Minimization:

Cumulative Impacts:

Section 8: Temporary Impacts, Permanent Impacts, and Compensatory Mitigation

Riparian Tree Removal: Would your project result in the removal of trees in the riparian area ?
If yes, use the table below for each adult tree proposed for removal (or attach a similar table if additional rows are needed).

Table 1: Riparian Tree Removal

Species	Common Name	Diameter Breast Height	Indicate whether the tree is part of the Overstory or Understory

Please ensure that the project meets the impact size limits described in Section VII.A.3. of the Certification.

Temporary Impacts: Would your project result in temporary impacts to aquatic resources ?
If yes, attach the restoration plan.

Total Temporary Impacts: _____ acres; _____ linear feet

Permanent Impacts: Would your project result in permanent impacts to aquatic resources?
If yes, attach a plan to offset these new impacts.

Total Permanent Impacts: _____ acres; _____ linear feet

Table 2: Receiving Waters Information²

Impact Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303(d) Listing Pollutant	eCRAM ID

Table 3: Individual Direct Impact Information

Impact Site ID	Latitude	Longitude	Permanent or Temporary Impact?	Acres	Cubic Yards	Linear Feet	Dredge or Fill/Excavation?

² Attach additional tables or add rows to the tables as needed. For receiving waters information (e.g., beneficial uses, watershed identification, etc.) refer to the Regional Water Basin Plans on the applicable Regional Water Board website or the [State Water Board's Plans and Policies website](https://www.waterboards.ca.gov/plans_policies/) (https://www.waterboards.ca.gov/plans_policies/).

Section 9: Documentation

Check any of the following documents that are applicable to your project and attach copies to your NOI.

- ☐ Fee Check or Online Payment Receipt
- ☐ Riparian Trees Proposed for Removal
- ☐ Other Agency Correspondence, Permits and Permit Applications
- ☐ Aquatic Resource Delineation Report
- ☐ Drawings, or Design Plans
- ☐ Temporary Impact Restoration Plan
- ☐ Map(s)
- ☐ Pre-Project Photographs
- ☐ Proposed Dewatering Plan
- ☐ Hydromodification Impacts
- ☐ Additional Pages and/or Supplemental Information

Section 10: Legally Responsible Party and Duly Authorized Representative Signature

See NOI Instructions in Attachment E for Legally Responsible Party eligibility.

Legally Responsible Party Attestation

I certify under penalty of law that this application and all attachments were prepared under my direction or supervision in accordance with a process designed to assure that qualified personnel properly gather and evaluate the information submitted. 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 for knowing violations.

Print Legally Responsible Person Name (Not the Duly Authorized Representative)

X

Legally Responsible Person's Signature

Duly Authorized Representative assignment is as follows (optional):

The authorization shall specify that a person designated as a Duly Authorized Representative has responsibility for the overall operation of the regulated facility or activity, such as a person that is a manager, operator, superintendent, or another position of equivalent responsibility, or is an individual who has overall responsibility for environmental matters for the company.

Optional Duly Authorized Representative Assignment

I hereby authorize [Print Duly Authorized Representative's Name] to act on my behalf as the Duly Authorized Representative in the processing of this NOI, and to furnish upon request, supplemental information in support of this NOI.

Print Legally Responsible Person Name (not the Duly Authorized Representative)

X

Legally Responsible Person's Signature

For Internal Water Board Use Only

Reviewer:

Date Received:

Reg Measure ID:

WDID:

Check Number:

Attachment C – Notice of Intent Instructions

How to Apply

Applicants seeking Certification authorization are required to submit a Notice of Intent (NOI) to the appropriate Water Board. A [map showing regional water board jurisdictional boundaries](http://www.waterboards.ca.gov/waterboards_map.html) is available on the State Water Board's website (http://www.waterboards.ca.gov/waterboards_map.html). Addresses and contact information can be found in the online [Staff Directory](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf).

Regional Water Board NOI Submission

Submit the NOI and application fee to the Regional Water Board with jurisdiction where the proposed project impacts would occur. For projects that cross regional board boundaries; seek authorization for a utility related project (oil, gas or electrical); or for activities that may involve FERC-licensed facilities, submit the NOI to the State Water Board as directed below.

State Water Board NOI Submission

For projects that cross regional board boundaries or seek authorization for a utility related project (oil, gas or electrical), submit the NOI to the State Water Board with the application fee. The appropriate Regional Board(s) should also be provided a copy of any NOI submitted to the State Water Board. Submit State Water Board NOIs by email (preferred) to SWBNWP@waterboards.ca.gov, or mail to:

State Water Resources Control Board, Division of Water Quality
1001 I Street; 15th Floor
Sacramento, CA 95814

Projects that May Involve FERC-Licensed Facilities: If the proposed project activities may involve a FERC-licensed facility, contact the State Water Board [Division of Water Rights' 401 Certification Program](#) to proceed with enrollment. Submit the NOI for activities that may involve a FERC-licensed facility and fees to the following address:

Eric Oppenheimer, Executive Director
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-2000

Notice of Intent Review Process

To avoid project delays, submit an NOI as early as possible and at least 45 days prior to the proposed construction date. Within 30 days¹ of NOI receipt, Water Board staff will determine if the NOI is complete.

- Incomplete NOIs will be returned to the applicant with a request to provide information needed for a complete NOI.
- If the NOI is determined complete, within 45 days of NOI receipt, the Water Board will either issue a Notice of Applicability (NOA) or a Notice of Exclusion (NOE).
 - If the Water Board does not issue an NOA or NOE within 45 days of receiving a complete NOI, the discharger may proceed with the project according to all applicable Certification conditions.
- An NOA authorizes the proposed activity for enrollment under the Certification. An NOE denies authorization and enrollment of the proposed activity under the Certification.

Definitions

Consider the following definitions while completing your NOI.

Permanent aquatic resource impacts will permanently change an aquatic resource to a non-aquatic habitat type or permanently changes the bottom elevation of an aquatic resource. Permanent impacts can result in physical loss of area and ecological degradation.

Temporary aquatic resource impacts are impacts that temporarily cause a physical loss or ecological degradation of an aquatic resource. The impact must be restored to pre-project conditions through natural ecological processes or active restoration in order to be classified as temporary. If the impact is not restored to pre-project condition, it is classified as permanent.

Form Instructions

Section 1: Project Eligibility and Activity

Answer the preliminary screening questions about the project eligibility and activity by checking the appropriate boxes. Note that if your project does not qualify under Sacramento District Corps' Regional General Permit 5 or does not meet the impact size

¹ Unless otherwise specified, all references to "days" in this Attachment refer to calendar days.

limits described in Certification Sections VII.A 1, 2 and 3, then it is not eligible for Certification coverage.

Section 2: Legally Responsible Party and Duly Authorized Representative Information

Legally Responsible Party, Contact Name, and Title: Provide the full, legal company name of the responsible party (applicant). Most commonly, the applicant is the property and/or facility owner. If the applicant is an individual and not a company, indicate that a company name is not applicable. If the applicant is an agency, company, corporation or other organization, a contact name (first, middle initial, last) of the main representative of the company and their title must be provided. The applicant will be the entity or individual responsible for compliance with state and federal regulations, including the Clean Water Act, California Water Code, applicable Water Quality Control Plans, and Certification Conditions.

Legally Responsible Party Contact Information: Telephone number, email address, and the company's mailing address (not the project address) including the street, city, state, and zip code must be provided. **Note that the company's mailing address will also be used for billing purposes.**

Duly Authorized Representative Name and Title: The Duly Authorized Representative (agent) is authorized to certify and submit applications or reports to the Water Boards on behalf of the Legally Responsible Party. Telephone number, email address, and the agent's mailing address (not the project address) including the street, city, state, and zip code must be provided. It is not a requirement to have an agent. If you choose to be represented by an agent, provide the agent's information in this section. If you choose to not be represented by an agent leave this section blank.

Section 3: Fees

Fee amounts are determined according to the [Cal. Code Regs., tit. 23, § 2200\(a\)\(2\) fee schedule](#) (<https://waterboards.ca.gov/resources/fees/stakeholder/docs/2025/wqcfeeschedule.pdf>).

- A [fee calculator](#) is available online and may be used to **estimate** fees (https://www.waterboards.ca.gov/resources/fees/water_quality/docs/dredgefillcalculator.xlsm)
- Include only the application fee with your NOI. Water Board staff will determine whether any additional project fees are required during NOI review.
- Fees may be paid online or by check, money order, or cashier check. Guidance on how to make an online payment is available at the State Water Board's [website](#). (https://www.waterboards.ca.gov/make_a_payment/). If fees are paid online prior to application submission, attach payment receipt to the NOI.

Although fees should be included with the NOI and submitted to the appropriate Water Board, **make all checks, money orders, and cashier checks payable to the "State Water Board."**

- The fee schedule is adopted annually and fees are subject to change.

Section 4: Other Agency Permits, Licenses, Agreements, Plans

Provide the following information for each permit from other agencies:

- **Have you applied?** Indicate yes if you have applied for the specified permit; indicate no if you have not.
- **Have you received the permit?** Indicate yes if you have received the permit; indicate no if you have not.
- **Permit Type:** Provide the name of the permit.
- **ID Number:** Provide the permit's identification number or unique identifier.

Section 5: California Environmental Quality Act

The project must be CEQA exempt to qualify for enrollment under the Certification. Provide the proposed exemption number. Note that if the project is not CEQA exempt, it does not qualify for enrollment under the Certification.

Section 6: Project Information

Project Name: Provide the project name. The project name will be used in all correspondence referencing the project. Be sure the project name is consistent with other agency permits and applications for the same project, and is consistent on all maps, drawings, and reports. The project name should be clearly relevant to the project (e.g., Blue Creek Bridge Project; Jones Subdivision Road Widening Project).

Project Address: Provide the street address of the project location and the Assessor's Parcel Number (APN). If the proposed project does not have a physical street address, be as descriptive as possible in this section. For example, "Leisure Town Rd., 5.5 miles south of the intersection of I-80 and Leisure Town Rd."

Coordinates: Indicate the location for the center point of your project in decimal degrees (approximate location is acceptable). For long linear projects, enter the starting and ending coordinates. Assistance in determining a project's coordinates is widely available through various free online services and applications.

Construction Timeline: Provide the estimated start and end dates for the entire proposed project, and the in-water work.

Project Description/Purpose: Provide a detailed, technically accurate narrative description of the proposed project purpose, project design, and all activities planned to complete the design. Include total impacts, area of ground disturbance and area of impact to all aquatic resources on the site (i.e., any and all streams, wetlands, lakes, ponds, beaches, shorelines, etc.). If temporary diversions or impoundments of water, cofferdams, or similar structures are proposed, include a dewatering plan as required in Certification section VII.E.25.f. If trimming of riparian vegetation is proposed, describe the species impacted and explain why trimming is necessary to complete the project.

Section 7: Avoidance, Minimization, and Cumulative Impacts

Avoidance and Minimization: Describe steps taken to avoid impacts to waters and measures incorporated into the project design to minimize loss of, or significant adverse impacts to, beneficial uses of waters of the state, including on-site restoration of the project area. A description may include actions or methods proposed for erosion control, including winterization strategies to stabilize bare soils and revegetation proposals. A map may be included to indicate the approximate location and area of soil, land and vegetation disturbance, and proposed erosion and sediment control best management practices (BMPs) proposed to avoid and minimize project impacts to waters of the state, including BMPs for hazardous substances. Refer to the Procedures' state Supplemental Dredge or Fill Guidelines, subpart H, for actions to minimize adverse impacts to waters of the state. If the effects of impervious surfaces will be minimized through implementation of Low Impact Development treatments, describe those minimization treatments.

Cumulative Impacts: Include a discussion of any potential cumulative impacts. Provide a brief description, including estimated adverse impacts of any projects implemented by the project applicant within the last five years or planned for implementation by the applicant within the next five years that are in any way related to the proposed activity or that may impact the same receiving water body(ies) as the proposed activity. For this item, the waterbody extends to a named source or stream segment identified in the relevant Regional Water Quality Control Plan (Basin Plan). Water Board Basin Plans are found on the applicable Regional Board Basin Plan webpage, and also located on the [State Water Board's Plans and Policies website](https://www.waterboards.ca.gov/plans_policies/) (https://www.waterboards.ca.gov/plans_policies/).

Section 8: Temporary and Permanent Impacts

Riparian Tree Removal: Indicate yes if your project results in the removal of trees in the riparian area; indicate no if it will not. If yes, populate Table 1 with the requested information, or attach a similar table if additional rows are needed.

- Species name
- Common name

- Diameter at breast height (DBH)
- Indicate if the tree(s) are part of the riparian overstory or understory

Temporary Impacts: Indicate yes if your project will result in temporary impacts to waters of the state. Provide the total temporarily impacted area in acres, to the nearest thousandth of an acre. Provide the total temporarily impacted length to the nearest whole foot. These quantities must match the sum of the temporary impact quantities provided in Table 3. If you are proposing temporary impacts attach a restoration plan, that contains all Certification requirements (a schedule; plans for grading of disturbed areas to pre-project contours; a planting palette with plan species native to the project area; seed collection location; invasive species management; performance standards; and maintenance requirements (e.g., watering, weeding, and replanting). A restoration plan must be provided before your NOI may be determined complete.

Permanent Impacts: Indicate yes if your project would result in permanent impacts; indicate no if it would not. Provide the total permanently impacted area in acres, to the nearest thousandth of an acre. Provide the total permanently impacted length to the nearest whole foot.

Table 2: Receiving Waters Information: Populate Table 2 with the requested information as described below.

- **Impact Site ID:** Identify the impact site with a site ID. Site IDs should correspond to those used in project maps and other agency application materials.
- **Waterbody Name:** List the waterbody name found in the applicable Basin Plan. If the impact site ID occurs in an unnamed waterbody enter “unnamed” and provide the first named downstream receiving water. Contact Water Board staff for Basin Plan maps or general assistance completing this section, if needed. Regional Board Basin Plans are also located on the [State Water Board's Plans and Policies website](https://www.waterboards.ca.gov/plans_policies/) (https://www.waterboards.ca.gov/plans_policies/).
- **Impacted Aquatic Resource Type:** For each impact site ID, identify the impacted aquatic resource type from the following list: lake, ocean, bay, estuary, riparian zone, stream channel, vernal pool, or wetland. (More refined or precise resource classifications may be used in project plans and related documents.)
- **Water Board Hydrologic Units:** Identify the Water Board Basin Plan hydrologic unit code (HUC). Note that the Basin Plan HUC is not the same as a U.S. Geological Survey HUC. If unknown, indicate UNK and this information will be completed by Water Board staff.
- **Receiving Waters:** List the first downstream waterbody with beneficial use designation in the Water Board Basin Plan. If unknown, indicate UNK and this information will be completed by Water Board staff.

- **Receiving Waters Beneficial Uses:** List the beneficial use designation. If unknown, indicate UNK and this information will be completed by Water Board staff.
- **303d Listing Pollutant:** List pollutants for receiving waters that have a 303(d) impairment designation; if the water is not listed, indicate NA. If unknown, indicate UNK and this information will be completed by Water Board staff.
- **eCRAM ID:** If a California Rapid Assessment Method (CRAM) assessment has been performed at this location, provide the CRAM assessment area ID and attach the CRAM score sheet to the NOI.

Table 3 - Individual Direct Impact Information: Populate Table 3 with the requested information as described below. This table may be used for dredge or fill/excavation activities.

- **Impact Site ID:** Identify the impact site with a site ID; site IDs should correspond with those used in Table 2.
- **Latitude:** Provide the center coordinate of the impact site in decimal degrees.
- **Longitude:** Provide the center coordinate of the impact site in decimal degrees.
- **Permanent or Temporary:** Indicate if the impact at the impact site ID is permanent or temporary.
- **Acres, Cubic Yards, and Linear Feet:** Provide the area in acres, volume in cubic yards dredged (if applicable), and length in linear feet for each impact site. For acres, round to the nearest thousandth of an acre.
- **Dredge or Fill/Excavation?** For each impact site, identify if the impact is from dredging or from fill/excavation activities.

Section 9: Documentation

Use the checklist to confirm the necessary documentation is attached to your NOI. If you determine one of the listed items does not pertain to your project, leave the checkbox empty:

- **Fee Check or Online Payment Receipt**
- **Riparian Trees Proposed for Removal**
- **Other Agency Correspondence, Permits, and Permit Applications:** Attach other agency permits, applications, or correspondence as required in Section 4. If the Corps requires submittal of a Pre-Construction Notification (PCN), include a copy with the NOI.
- **Aquatic Resource Delineation Report**
- **Drawings, or Design Plans:** As applicable, attach drawings, including plan and cross-section views, clearly depicting the location, size, and dimensions of the proposed activity, as well as the location of delineated waters on the site. The drawings should contain a title block, legend and scale, amount (in cubic yards, if

applicable) and area (in acres) of fill, including both permanent and temporary impacts. The ordinary high-water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation and design plans. Maps prepared according to the description below may satisfy some or all of this information.

- **Temporary Impact Restoration Plan**

- **Map(s):** Submit maps of sufficient detail to clearly illustrate all project elements, site characteristics, and impacts, with a scale of at least 1:24000 (1" = 200').

Acceptable map formats, listed in order of preference, are:

- **GIS shapefiles:** Shapefiles must depict the boundaries of all project areas, site characteristics, and extent of aquatic resources impacted or avoided. Each shapefile 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 north American datum of 1983 (NAD 83) in the California Teale Albers projection in feet.
 - **KML or KMZ files:** Saved from online mapping services. 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 impacts. If this format is used, include a table 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):** Original or legible copies are acceptable. Maps must show 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.
- **Pre-Project Photographs:** 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.

- **Proposed Dewatering Plan:** If not included in project description.
- **Hydromodification Impacts:** Include a discussion analyzing potential upstream and downstream hydromodification impacts. The discussion must address potential effects on channel stability, sediment transport, and the potential to cause, worsen, or fail to reduce channel incision.
- **Additional Pages and/or Supplemental Information:** For example, if the requested information does not fit in the space provided on the form, or if you would like to provide supplemental information not requested in the NOI.

Section 10: Legally Responsible Party and Duly Authorized Representative Signature

The Legally Responsible Party (LRP) must comply with the eligibility requirements described below (and set forth in Attachment E). The LRP shall sign and submit the NOI to the appropriate Water Board. Water Board mailing addresses are located in the [Staff Directory](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf)

The attestation on the NOI form must be signed by the LRP. LRP eligibility is as follows:

1. For a corporation: The NOI must be signed by a responsible corporate officer of at least the level of vice-president.
2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
3. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. This includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of the U.S. EPA).

Attachment D – Report and Notification Requirements

Report Submittal Instructions:

1. Check the box on the Report and Notification Cover Sheet (pages 6 and 7, below) next to the report or notification you are submitting. See the Certification and Notice of Applicability (NOA) for report and notification requirements specific to your project.
2. Complete and sign the Report and Notification Cover Sheet and attach all information requested for the Report or Notification Type.
3. Submit the signed Report and Notification Cover Sheet and required information via email to the Water Board staff assigned to your project.
4. Include the Regulatory Measure ID from the NOA in the subject line of the email.

Map/Photo Instructions:

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 impacted aquatic resources. 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 (NAD83) in the California Teale Albers projection in feet.
- **Google KML/KMZ 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 attributed with the extent/type of each impacted aquatic resource.
- **Other electronic format** (CAD or illustration format) 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.
- 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.

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.

Annual Reports

Report Type 1 – Annual Reports

1. **Report Purpose** - Notify the Water Board staff of project status throughout the duration of the project.
2. **When to Submit** – If required in the NOA, the discharger shall submit an annual report each year by the date specified in the NOA until a Notice of Project Completion is issued to the discharger.
3. **Report Contents** - The annual report shall include all the topics below:
 - **Topic 1: Construction Summary**
 - **Topic 2: Mitigation for Temporary Impacts Status**
 - **Topic 3: Compensatory Mitigation for Permanent Impacts Status**
 - a. **Annual Report Topic 1 - Construction Summary** - Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.
 - i. Map showing project progress.
 - ii. Summary of Conditional Notification and Report Types 6 and 7 (Part C below), if applicable.
 - b. **Annual Report Topic 2 - Mitigation for Temporary Impacts Status**
 - i. Planned 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.
 - ii. If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.
 - c. **Annual Report Topic 3 - Compensatory Mitigation for Permanent Impacts Status - *If not applicable report "N/A."**
 - i. Include the following as required by the approved Compensatory Mitigation Plan:
Permittee Responsible:
 - a. If mitigation has not been installed, the planned installation date(s).
 - b. If installation is in progress, a map of what has been completed to date.
 - c. If installation is complete, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.

Mitigation Bank or In-Lieu Fee (ILF):

- a. Status or proof of purchase of credit types and quantities.
- b. The name of bank/ILF program and contact information.
- c. If ILF, project location and type, if known.

Project Status Notifications

Report Type 2 - Commencement of Construction

1. **Report Purpose** - Notify Water Board staff prior to the start of construction.
2. **When to Submit** - Must be received at least seven (7) days¹ prior to start of initial ground disturbance activities.
3. **Report Contents** -
 - a. Date of commencement of construction.
 - b. Anticipated date when discharges to waters of the state will occur.
 - c. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.
 - d. Construction Storm Water General Permit WDID No., if applicable.

Report Type 3 – Notice of Project Completion

1. **Report Purpose** - Notify Water Board staff that construction and/or any post-construction monitoring is complete, and no further project activity is planned. Water Board staff will review the request and send a Project Complete Letter to the discharger upon approval. Termination of annual invoicing of fees will correspond with the date of the Project Completion Letter.
2. **When to Submit** - Must be received by Water Board staff within thirty (30) days following completion of all project activities.
3. **Report Contents** -
 - a. **Part A: Stormwater Compliance**
 - i. Status of post-construction stormwater BMP installation, pursuant to the Certification.
 - b. **Part B: Mitigation for Temporary Impacts**
 - i. A report establishing that the performance standards outlined in the restoration plan have been met for project site upland areas of temporary disturbance which could result in a discharge to waters of the state.

¹ Unless otherwise specified, all references to “days” in this Attachment refer to calendar days.

- ii. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the state. Pre- and post-photo documentation of all restoration sites.

c. Part C: Permittee Responsible Compensatory Mitigation

- i. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.
- ii. Status on the implementation of the long-term maintenance and management plan and funding of endowment.
- iii. Pre- and post-photo documentation of all compensatory mitigation sites.
- iv. Final maps of all compensatory mitigation areas (including buffers).

Conditional Notifications and Reports

Report Type 4 - Accidental Discharge of Hazardous Material Report

1. **Report Purpose** - Notifies Water Board staff that an accidental discharge of hazardous material has occurred.
2. **When to Submit** - Within seven (7) days following the date of an accidental discharge. Continue reporting as required by Water Board staff.
3. **Report Contents** -
 - a. The report shall include the Office of Emergency Services (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.
 - b. If applicable, any required sampling data, a full description of the sampling methods including frequency/dates and times of sampling, equipment, and locations of sampling sites.
 - c. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

Report Type 5 - Violation of Compliance with Water Quality Standards Report

1. **Report Purpose** - Notifies Water Board staff that a violation of compliance with water quality standards has occurred.
2. **When to Submit** - The discharger shall report any event that causes a violation of water quality standards within four (4) days of the noncompliance event notification to Water Board staff.

3. **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 6 - In-Water Work and Diversions Water Quality Monitoring Report

1. **Report Purpose** - Notifies Water Board staff of the completion of in-water work.
2. **When to Submit** - Within ten (10) days following the completion of in-water work. Continue reporting in accordance with the approved water quality monitoring plan.
3. **Report Contents** - As required by the approved water quality monitoring plan.

Report Type 7 - Modifications to Project Report

1. **Report Purpose** - Notifies Water Board staff if project changes, as described in the application materials, affect compliance with the Certification or the NOA, including changes that result from subsequent permit conditions imposed by any local, state or federal regulatory authority.
2. **When to Submit** – In advance of implementing changes.
3. **Report Contents** - A description and location of any alterations to project implementation. Identification of any project modifications that will interfere with the discharger's compliance with the Certification or NOA.

Report Type 8 - Transfer of Property Ownership Report

1. **Report Purpose** - Notifies Water Board staff of change in ownership of the project or permittee-responsible mitigation area.
2. **When to Submit** - At least fourteen (14) days prior to the transfer of ownership.
3. **Report Contents** -
 - a. A statement that the discharger has provided the purchaser with a copy of the Certification and NOA, and that the purchaser understands and accepts:
 - ii. The Certification's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and
 - iii. Responsibility for compliance with any long-term BMP maintenance plan requirements in the Certification .
 - iv. A statement that the discharger has informed the purchaser to submit a written request to the Water Board to be named as the discharger in a revised NOA.

Report Type 9 - Transfer of Long-Term BMP Maintenance Report

- 1. Report Purpose** - Notifies Water Board staff of transfer of long-term BMP maintenance responsibility.
- 2. When to Submit** - At least fourteen (14) days prior to the transfer of BMP maintenance responsibility.
- 3. Report Contents** - A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

Report and Notification Cover Sheet

Project: [Project Name]
Discharger: [Applicant]
WDID/File Number: [Assigned File Number]
Reg. Meas. ID: [Assigned Reg Measure ID]
Place ID: [Assigned Place ID]
NOA Issuance Date:² [NOA Issuance Date]

Report Type Submitted

A. Annual Reporting

Report Type 1 ☐ Annual Report

B. Project Status Notifications

Report Type 2 ☐ Commencement of Construction

Report Type 3 ☐ Request for Notice of Project Completion

C. Conditional Notifications and Reports

Report Type 4 ☐ Accidental Discharge of Hazardous Material Report

Report Type 5 ☐ Violation of Compliance with Water Quality Standards Report

Report Type 6 ☐ In-Water Work/Diversions Water Quality Monitoring Report

Report Type 7 ☐ Modifications to Project Report

Report Type 8 ☐ Transfer of Property Ownership Report

Report Type 9 ☐ Transfer of Long-Term BMP Maintenance Report

² The date the NOA was issued. If an NOA or Notice of Exclusion (NOE) was not issued for the project, the effective date is 45 days from the date the discharger submitted a complete Notice of Intent (NOI) to the Water Boards.

"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 Name¹

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.

Signature

Date

*This Report and Notification Cover Sheet must be signed by a Duly Authorized Representative and included with all written submittals.
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ATTACHMENT E – SIGNATORY REQUIREMENTS

All documents submitted in compliance with this Certification shall meet the following signatory requirements:

- 1.** All applications, reports, or information submitted to the Water Board must be signed and certified by the legally responsible party 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. This includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of the U.S. EPA).
- 2.** A duly authorized representative of the legally responsible party may sign documents if:
 - a.** The authorization is made in writing by the legally responsible party.
 - 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 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.”