



Regional General Permit 8

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

EMERGENCY REPAIR AND PROTECTION ACTIVITIES

EFFECTIVE: August 10, 2018

EXPIRES: August 10, 2023

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

Note: The term "you" and its derivatives, as used in this RGP, means the permittee or any future transferee. The term "this office" refers to the appropriate U.S. Army Corps of Engineers, Sacramento District office identified in the *Contacts and Additional Information* section below. After you receive written verification for your project under this RGP from this office, you are authorized to perform that work in accordance with the terms and conditions specified below, and any project specific special conditions included in the written verification.

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

ACTION ID: SPK-1997-00652

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

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

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

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

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

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

TERMS:

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

GENERAL CONDITIONS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Post-Review Discovery: If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify this office of what you have found. We will initiate Federal, Tribal, and state coordination, as required, to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

13. Best Management Practices: Unless determined to be not practicable or appropriate by this office, for activities that result in the discharge of dredged and/or fill material into waters of the U.S., you shall employ construction Best Management Practices (BMPs) on-site prior to the initiation of construction activities in waters of the U.S., to prevent degradation to on-site and off-site waters of the U.S. Methods and techniques shall include the use of appropriate measures to intercept and capture mobilized soil and sediment prior to their entering waters of the U.S., as well as erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. All BMPs shall be in place prior to initiation of any construction activities in waters of the U.S., and shall remain until construction activities are completed. You shall ensure all BMPs are inspected on a weekly basis and are maintained until construction activities are completed and site soils are stabilized.

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

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

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

17. Wild and Scenic Rivers: Activities shall not be conducted within a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the System while that river is in an official study status, unless the appropriate

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

18. Aquatic Life Movements: No activity authorized under this RGP may substantially disrupt the migration of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts may only be used if they are essential to the success of the emergency project, and must not impede expected water flows. Temporary fills, and culverts installed on a temporary basis to alleviate further damage, must be removed and any affected stream reaches must be restored to pre-project contours and conditions once the emergency has subsided, using BMPs, locally native vegetation, and/or bioengineering.

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

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

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

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

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

c. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from this office, to remove, relocate, or alter the structural work or obstructions caused hereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTIFICATION PROCEDURES:

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

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

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

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

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

e. Plan-view and cross-section view drawings with approximate existing and proposed contours, showing the project area and approximate acreage and/or linear feet of potential disturbance to waters relative to the ordinary high water mark, high tide line and/or limit of wetlands; and other construction details, including type and quantity of materials and equipment proposed to be used for the project and the approximate amount of time required to complete the work;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FURTHER INFORMATION:

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

2. Limits of this authorization.

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

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

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

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

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

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

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

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

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

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

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

5. Reevaluation of RGP Decision. This office may reevaluate its decision on this RGP at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this RGP.

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

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your RGP and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

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

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

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

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

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

CONTACTS AND ADDITIONAL INFORMATION:

- 1. For Alameda, Contra Costa, Sacramento, San Joaquin, Solano, Stanislaus, and Yolo Counties in California:** Chief, California Delta Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922; e-mail *SPKRegulatoryMailbox@usace.army.mil*; telephone (916) 557-5250.
- 2. For Butte, Colusa, Glenn, Lake, Nevada, Placer, Sierra, Sutter, and Counties in California:** Chief, California North Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922; e-mail *SPKRegulatoryMailbox@usace.army.mil*; telephone (916) 557-7731.
- 3. For Lassen, Modoc, Plumas, Shasta, Yuba, and Tehama Counties in California:** Redding Regulatory Field Office, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 310 Hemsted Drive, Suite 310, Redding, California 96002-0935; e-mail *SPKRegulatoryMailbox@usace.army.mil*; telephone (530) 223-9534.
- 4. For Alpine, Amador, Calaveras, El Dorado, Fresno, Kern, Kings, Madera, Mariposa, Merced, Mono, and Tulare Counties in California:** Chief, California South Section, Sacramento District Regulatory Division, U.S. Army Corps of Engineers, 1325 J Street, Room 1350, Sacramento, California 95814-2922; e-mail *SPKRegulatoryMailbox@usace.army.mil*; telephone (916) 557-5250.
- 5. For the State of Nevada (including the Lake Tahoe Basin in California), except Clark, Lincoln, Nye, and White Pine Counties, to:** Reno Regulatory Field Office, Nevada-Utah Regulatory Branch, U.S. Army Corps of Engineers, C. Clifton Young Federal Building, 300 Booth Street, Suite 3050, Reno, Nevada 89509-1328; e-mail *SPKRegulatoryMailbox@usace.army.mil*; telephone (775) 784-5304.
- 6. For Clark, Lincoln, Nye, and White Pine Counties in Nevada, and Beaver, Garfield, Iron, Kane, Piute, San Juan, Washington, and Wayne Counties in Utah, to:** St. George Regulatory Field Office, Nevada-Utah Regulatory Branch, U.S. Army Corps of Engineers, 196 East Tabernacle, Suite 30, St. George, Utah 84770-3474; e-mail *SPKRegulatoryMailbox@usace.army.mil*; telephone (435) 986-3979.

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

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

ATTACHMENTS:

Attachment 1: Sacramento District Boundary

Attachment 2: Section 401 Water Quality Certifications:

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

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

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

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

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

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

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



Michael S. Jewell
Chief, Regulatory Division

10 August 2018

Date