



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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August 18, 2023

Ref: 8WD-CWS

SENT VIA EMAIL

Michael G. Nepstad
Acting Chief, Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, CA 95814-2922

RE: Clean Water Act § 401 Certification for the Reissuance of the U.S. Army Corps of Engineers Regional General Permit (RGP) 8 Affecting Waters of the U.S. Within Indian Country Lands in the state of Utah

Dear Mr. Nepstad:

The U.S. Environmental Protection Agency (EPA) received a request from the U.S. Army Corps of Engineers (Corps) for a Clean Water Act (CWA) § 401 Water Quality Certification (WQC) for the reissuance of RGP 8 titled, "Emergency Repair and Protection Activities," for projects associated with discharges into waters of the U.S., including wetlands, for repair and protection activities for which the Corps office has determined that an emergency exists. The Corps proposes to reissue the RGP for a period of five years.

Section 401(a)(1) of the Clean Water Act requires applicants for Federal permits and licenses that may result in discharges into waters of the United States to obtain certification that potential discharges will comply with applicable provisions of the CWA, including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has authority to give such certification, EPA is the certifying authority. Presently, 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, and the Ute Indian Tribes do not have the authority to provide CWA § 401 certification for discharges occurring within the Indian country lands of those Tribes; therefore, the EPA is making the certification decisions for discharges within those lands that may result from the proposed reissuance of RGP 8 within the state of Utah.

EPA considered all applicable provisions of the CWA, tribal water quality requirements, and the conditions associated with the proposed RGP when reviewing the potential impacts of this permit. On behalf of 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, and the Ute Indian Tribe, EPA is granting the certification request for the activities authorized under the Corp's RGP 8.

RGP Description:

The purpose of this RGP is to authorize 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 the Corps 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.

Permanent or temporary work or structures in navigable waters of the U.S., and/or the permanent or temporary discharge of dredged and/or fill material into waters of the U.S., including wetlands, for repair or protection activities for which the Corps 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.).

General Information:

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

- The project proponent for a project authorized under this RGP is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, or tribal authorities.
- If the project disturbs one acre or more in total within the tribal exterior boundaries, an EPA Construction General Permit is required. Please see EPA Region 8 webpage for additional stormwater permitting information: <http://www2.epa.gov/region8/stormwater>.
- Copies of this certification should be kept on the job site and readily available for reference.
- Pursuant to CWA section 308(a), EPA Region 8 is authorized to inspect the authorized activity and any mitigation areas to determine compliance with the terms and conditions of the Corps' permit, including any conditions contained in this certification.
- All sediment and erosion control measures should be in place prior to the onset of construction or prior to work in waterbodies to minimize turbidity and sedimentation in waterbodies and to fully maintain and protect all existing water uses throughout the duration of the project.
- Permanent work may not contribute to loss of uses, potential uses, or exceedance of water quality criteria to downstream aquatic resources.

This certification should be retained in your files as documentation of EPA certification action for the above-referenced project. This certification is specifically associated with the Corps RGP 8 and expires

concurrently with said permit expiration. If you have any questions, please contact Aaron Blair at 303-312-6883 or R8CWA401@epa.gov.

Sincerely,

Tanya Code, Supervisor
Watershed Section

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