



REGION 9

SAN FRANCISCO, CA 94105

U.S. Army Corps of Engineers
Sacramento District
Attn: Leah Fisher
1325 J Street, Room 1350
Sacramento, California 95814-2922
Leah.M.Fisher@usace.army.mil

Subject: Clean Water Act (CWA) Section 401 Certification for the reissuance of Regional General Permit 8 for Emergency Repair and Protection Activities (SPK-1997-00652), U.S. EPA File No. 2023-506

Dear Leah Fisher,

I am pleased to grant with conditions the subject water quality certification consistent with Section 401 of the Clean Water Act (CWA). On June 26, 2023, the U.S. Environmental Protection Agency (EPA) Region 9 received a request for certification from the U.S. Army Corps of Engineers (Corps), for discharges of dredged and fill material into waters of the U.S., including wetlands, and/or structures or work in, or affecting navigable waters of the United States, for the purpose of emergency repair and protection activities. EPA reviewed the application and supplemental information and posted a public notice of the proposed project on the EPA Region 9 website from July 19, 2023, through August 21, 2023. No responses were received. Based on the project description, EPA has determined that any discharge from activities authorized by the proposed RGP will comply with water quality requirements, as defined at 40 C.F.R. § 121.1(n), subject to the enclosed conditions pursuant to Section 401(d). The enclosed CWA section 401 water quality certification applies to Tribal Lands listed in Appendix A and lands of exclusive federal jurisdiction in relevant respects where EPA is the certifying authority.

Please provide this certification to any project proponent (or their designated contractor) contacting the Corps 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.

In accordance with the Notification Procedures in RGP 8, upon receipt of notification the Corps will provide an electronic copy to EPA Region 9. EPA strongly encourages additional coordination with adjacent and surrounding Tribes of project areas to address cultural and water quality concerns of transboundary impacts.

EPA appreciates our long-standing partnership and coordination in implementing Section 401 of the CWA. Please contact me at (415) 972-3337 or torres.tomas@epa.gov should you have any questions, or your staff may contact our Wetlands Section Manager, Sahrye Cohen at (415) 972-3523 or cohen.sahrye@epa.gov.

Sincerely,

Tomás Torres
Director, Water Division

ENCLOSURES

401 Water Quality Certification
List of Tribes

cc: Hillary Regnart, USACE Project Manager

**Enclosure: U.S. Environmental Protection Agency Region 9's Clean Water Act Section 401
Certification of the U.S. Army Corps of Engineers Regional General Permit (RGP) 8 for Emergency
Repair and Protection Activities**

This Clean Water Act (CWA) Section 401 water quality certification (WQC) applies to any potential point source discharges from projects authorized under Regional General Permit 8 (SPK-1997-00652) into waters of the U.S. that occur within Tribal Lands and lands of exclusive federal jurisdiction in the States of California and Nevada where the U.S. Environmental Protection Agency (EPA) is the certifying authority.¹

Section 401(a)(1) of the CWA requires applicants for Federal permits and licenses that may result in discharges into waters of the United States, to obtain certification that any such discharges will comply with applicable provisions of the CWA including Sections 301, 302, 303, 306 and 307. Where no state agency or tribe has the authority to give such certification, EPA is the certifying authority.

Scope of Authorized Activities:

This certification covers 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 authorized under RGP 8. 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.).

Authorized projects and activities must be completed in accordance with the project description provided in the application and any supplemental information submitted to and authorized by the Corps. Material changes to the project or activity described in the application as well as any activity not authorized by the Corps are not covered by this certification. The project applicant is responsible for obtaining and complying with all other permits, licenses, and certifications that may be required by federal, state, or tribal authorities.

EPA Conditions for Certification

For lands of exclusive federal jurisdiction in relevant respects and on behalf of the tribes without "treatment in a similar manner as a state" (TAS) for section 401, EPA has determined that any discharge from the proposed project will comply with water quality requirements, as defined at 40 CFR 121.1(n), subject to the following conditions pursuant to section 401(d):

¹ Please contact EPA Region 9 with questions regarding the jurisdictions where this certification decision applies. R9cwa401@epa.gov. This certification applies to RGP-8 and is likewise applicable where EPA is the certifying authority in all counties in the States of Nevada 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.

Condition 1: The project proponent² shall:

- Not allow debris, silt, sand, cement, concrete, oil or petroleum, organic materials, or other construction debris or wastes to enter into waters of the U.S., and shall not store these materials within 50 feet of where it may enter into waters of the U.S.
- Clean all equipment of excess dirt and debris in a decontamination area away from the project site prior to arriving on site. Project proponent shall inspect all equipment daily and prior to entering any waters of the U.S., for oil, gas, diesel, antifreeze, hydraulic fluid, and other petroleum leaks. Project proponent shall promptly repair all equipment detected with leaks or move the equipment offsite within 24 hours of leak detection.
- Place and secure containment booms and/or absorbent material onsite prior to beginning work. In the case of spills, project proponent shall immediately employ containment booms and/or absorbent materials to prevent discharges from reaching waters of the U.S.

If spills or unauthorized discharges occur during the project, the project proponent shall notify EPA Region 9 at Huddleston.russell@epa.gov within 6 hours of discovery. As part of the notice, the project proponent shall provide photographs and a written plan for remedying the spill or unauthorized discharge. For emergencies or after hours, call the EPA emergency spill response at 1-800-424-8802.

Why the condition is necessary to assure that any discharge will comply with water quality

requirements: The condition is necessary to prevent the unauthorized release of pollutants into waters of the United States. This condition is necessary to ensure water quality is not degraded by oil, grease, gasoline, or other types of fluids used to operate and maintain equipment used to complete the project. The condition allows for containment and clean-up of potential spills before entering waters. This condition also helps protect the water quality and native biology of the impacted waters by preventing the spread of invasive or nuisance species.

Citation: 40 CFR 230.10(d); 40 CFR 230.74(a); 40 CFR 230.74(b)

² Or a project proponent's designated contractor.

Appendix A. List of Tribes for which EPA is issuing this Certification

Alturas Indian Rancheria
Battle Mountain Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada
Berry Creek Rancheria of Maidu Indians of California
Big Sandy Rancheria of Western Mono Indians of California
Big Valley Band of Pomo Indians of the Big Valley Rancheria
Bridgeport Indian Colony
Buena Vista Rancheria of Me-Wuk Indians of California
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria
California Valley Miwok Tribe
Cedarville Rancheria
Chicken Ranch Rancheria of Me-Wuk Indians of California
Cold Springs Rancheria of Mono Indians of California
Duckwater Shoshone Tribe of the Duckwater Reservation
Elko Band of the Te-Moak Tribe of Western Shoshone Indians of Nevada
Ely Shoshone Tribe of Nevada
Enterprise Rancheria of Maidu Indians of California
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservations
Greenville Rancheria
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Habematolel Pomo of Upper Lake
Ione Band of Miwok Indians of California
Jackson Band of Miwuk Indians
Las Vegas Paiute Tribe
Lovelock Paiute Tribe of the Lovelock Indian Colony
Mechoopda Indian Tribe of Chico Rancheria
Middletown Rancheria of Pomo Indians of California
Moapa Band of Paiute Indians of the Moapa River Indian Reservation
Mooretown Rancheria of Maidu Indians of California
Northfork Rancheria of Mono Indians of California
Paiute-Shoshone Tribe of the Fallon Reservation and Colony
Paskenta Band of Nomlaki Indians of California
Picayune Rancheria of Chukchansi Indians of California
Pit River Tribe
Redding Rancheria
Reno-Sparks Indian Colony
Robinson Rancheria
Scotts Valley Band of Pomo Indians of California
Shingle Springs Band of Miwok Indians
Summit Lake Paiute Tribe of Nevada
Susanville Indian Rancheria
Tejon Indian Tribe

Te-Moak Tribe of Western Shoshone Indians of Nevada
Tule River Indian Tribe of the Tule River Reservation
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
United Auburn Indian Community of the Auburn Rancheria of California
Washoe Tribe of Nevada & California
Winnemucca Indian Colony of Nevada
Yocha Dehe Wintun Nation
Yomba Shoshone Tribe of the Yomba Reservation