LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT NUMBER 63 FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS

SPONSOR AND ISSUING OFFICE: U.S. Army Corps of Engineers, Los Angeles District

PERMIT NUMBER: Regional General Permit No. 63 (File No. 995007000-BAH)

ISSUANCE DATE: December 22, 2008

PERMITTEE: Public agencies, businesses, or private parties (i.e., the public in general)

Note: The term "you" and its derivatives, as used in this permit, means the permittee. The term "this office" refers to the Los Angeles District office of the Corps of Engineers, which has jurisdiction over the permitted activity, or the appropriate official of this office acting under the authority of the commanding officer.

After you receive written approval that your project complies with the terms and conditions of this RGP from this office, you are authorized to perform work in accordance with the General Conditions and any project-specific conditions specified below.

PROJECT DESCRIPTION: This permit authorizes discharges of dredged or fill material into Waters of the United States, including wetlands, and/or work or structures in Navigable Waters of the United States for necessary repair and protection measures associated with an emergency situation. An "emergency situation" is present where there is a clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).

PROJECT LOCATION: Within those parts of the State of California subject to regulatory review by this office, including the coastal slopes of San Luis Obispo County, all of Santa Barbara except for the Carrizo Plain, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and Imperial counties, eastward of the crest of the Sierra Nevada in Inyo County, eastward of the crest of the Sierra Nevada in Mono County to the Conway Summit above Mono Lake, and the southern slopes of the Tehachapi Mountains in Kern County, and all of the State of Arizona. In the event of future modifications to District boundaries, this permit would also apply in any areas so revised.

GENERAL CONDITIONS OF THIS RGP:

1. **Time Period Covered**: The time limit for completing work authorized by this RGP ends on October 31, 2013.

2. **Notification/Communication**:
   a. **Timing**: The applicant must notify the District Engineer (DE) as early as possible and shall not begin the activity until notified by the DE that the activity may proceed under this RGP with any site-specific special conditions imposed by the District or Division Engineer. The Corps recognizes there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed from the DE. It is not the intention of this office to imply that one allows such threat to life or property result in actual loss. If one proceeds without such notice from the DE, one must ensure that prior notice of such a unilateral decision to proceed is made to this office by telephone, facsimile, e-mail, delivered written notice or other alternative means.
   b. **Contents of Notification**: The notification should be in writing and include the following information:
      (1) The name, address and telephone number of the applicant and the designated point of contact and their address and telephone number;
      (2) The location of the proposed project, including the identification of the waterbody(ies) (this should include a copy of a U.S. Geologic Survey [USGS] topographic map, Thomas Guide map, or hand-drawn location map with suitable landmarks; the map should have sufficient detail to clearly indicate the location and extent of the project, as well as detailed directions to the site);
      (3) A brief, but clear, description of the imminent threat to life or property and the proposed project's purpose and need;
      (4) A description of methods anticipated to be used to rectify the situation ("field engineering" is not an adequate description. It is presumed if one mobilizes matériel and a particular piece of equipment to a site, then one probably has a fairly well-defined intention for that matériel and equipment. Plans, drawings or sketches showing the area to be impacted, cross sections showing details of construction, if appropriate, and a short narrative describing how the work is to be completed should be provided as a minimum); and
      (5) A brief description of the project area's existing conditions and anticipated environmental impacts resulting from the proposed work (amount of dredge or fill material, acreage of disturbance, removal of significant vegetation, loss of habitat, etc.).
   c. **Form of Notification**: The standard Application for Department of the Army Permit (Form ENG 4345), available from the District's website at **http://www.spl.usace.army.mil/regulatory/eng4345.pdf**, may be used as the notification and must include all of the information required in General Condition 2.b. Items (1)-(5) above. A letter or facsimile transmission may also be used. In certain situations where there is an imminent threat to life or property and the applicant is unable to make direct contact with this office, a message shall be left on voice mail or an e-mail message shall be sent. Again, those messages should include the information identified in General Condition 2.b. Items (1)-(5) above. Formal written notification should be sent to this office as soon as possible.

d. **Agency Coordination**: Upon receipt of a notification, the DE will immediately provide (i.e., by facsimile transmission, overnight mail or other expeditious manner) a copy to the offices of the Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS), the NOAA Fisheries (NOAA), the Monterey Bay National Marine Sanctuary, the California Department of Fish and Game (CDFG), the California State Water Resources Control Board (SWRCB), the Arizona Department of Environmental Quality, the White Mountain Apache Tribe, the Navajo Nation, the Hualapai Tribe, the Hopi Tribe, the Big Pine Paiute Tribe of Owens Valley, the Bishop Paiute Tribe, or the Twenty-nine Palms Band of Mission Indians, the California Regional Water Quality Control Boards (RWQCB), the California Coastal Commission (CCC), and the State Historic Preservation Offices of California or Arizona, as appropriate. These agencies will be requested to telephone or facsimile transmit to the Corps Regulatory Branch Project Manager, as expeditiously as possible, a response indicating whether or not they intend to provide substantive, site-specific comments regarding the proposed project. If notified that comments will be provided by an agency or tribal representative, the DE will allow them to provide their comments in a short timeframe determined by the DE on a case-by-case basis to not likely result in loss of life or property before making a decision on the proposed project.

The DE will fully consider any comments received within the specified timeframe concerning the proposed activity's compliance with the conditions of their authority and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. The DE will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by electronic mail, facsimile transmission or other means.

e. **Mitigation**: Discharges of dredged or fill material into Waters of the United States must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Factors that the DE will consider when determining the suitability of appropriate and practicable mitigation will include, but are not limited to:

(1) The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, etc.;

(2) The permanence of the project's impacts on the resource; and

(3) The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource.

To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource values by creating, restoring, or enhancing similar functions and values; or using bioremediation techniques in conjunction with other methods to offset project impacts. To the extent appropriate, applicants should consider mitigation banking and other forms of mitigation, including contributions to wetland trust funds or in-lieu fees to organizations such as State, county or other governmental or non-governmental natural resource management organizations, where such fees

contribute to the restoration, creation, replacement, enhancement, or preservation of aquatic resources.

f. **District Engineer's Decision**: In reviewing the notification for the proposed activity, the DE will determine whether the activity would likely result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. The applicant may, as an option, submit a proposed mitigation plan with the notification to expedite the process and the DE will consider any mitigation (See General Condition 2.e. above.) the applicant has included in the proposal in determining whether the net adverse environmental effects for the proposed work are minimal. If the DE determines the activity complies with the terms and conditions of this RGP and the adverse effects are minimal, this office will notify the applicant and include any situation-specific conditions deemed necessary.

If the applicant elects to submit a mitigation plan as part of the proposed project, the DE will expeditiously review the proposed plan also. However, the DE may approve the mitigation proposal after the work is approved and project work has commenced.

If the DE determines the adverse effects of the proposed work are more than minimal, the DE will notify the applicant either:

(1) That the project does not qualify for authorization under this RGP and instruct the applicant on the procedures to seek authorization under an individual permit or other general permit, or

(2) That the project is authorized under this RGP subject to the applicant submitting a mitigation proposal that would reduce the adverse effects to the minimal level.

3. **Authorized Work**: Any work authorized by this RGP must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction only results in very minor additional impact to aquatic resources and logistical concerns indicate such reconstruction is as expedient considering the condition of the project site and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered if the applicant wishes to use bioremediation or other environmentally sensitive solutions. The RGP may NOT be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources, except in very unusual and limited circumstances. Such upgrade projects are considered separate activities for which other forms of authorization will be required.

Work not described in permit application documentation but deemed necessary after a field assessment is not authorized unless coordinated with the Regulatory project manager and acknowledged by appropriate means (i.e., e-mail or facsimile transmission, memo to the record, etc.). These coordinated permit modifications must also be described in sufficient detail in the post-project report (see RGP 63 General Condition 26). RGP 63 also does not authorize work required by property owners as *quid pro quo* for access through private or public property where such access is contingent upon work conducted by the permittee in waters of the U.S. for the benefit of the property owner. This is absolutely inappropriate and such additional activities are violations of Section 404 of the Clean Water Act unless previously authorized. If a local agency needs to acquire such access from an otherwise uncooperative property owner, existing condemnation procedures should be utilized to acquire the temporary access or permanent easement.

4. **Start Work Date**: Any projects authorized under this RGP must be initiated within seven (7) days of receiving authorization to proceed. Projects that cannot be initiated within this immediate timeframe generally would not meet the definition of an "emergency." If the project start time can be delayed for more than a week, the imminent threat of impending loss may have diminished in magnitude as well as immediacy. However, there may be limited circumstances where, after notice to and input by the agencies, logistical considerations necessitate an extension of between 1 and 7 days. Further, this RGP cannot be used to authorize long-planned-for projects, nor shall it be used for projects that are likely to have been known to the applicant but for which an application was not submitted in a timely manner. That is, the applicant's failure to act in a timely manner prior to the storm season will not obligate the Corps or other agencies to authorize work because of an self-described emergency situation unless we agree that the situation qualifies as an emergency as defined on page 1.

5. **Access to Site**: You must allow representatives from this office and other agencies 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.

6. **Tribal Rights**: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

7. **Water Quality Certification**:

   For California Permittees on Non-tribal Land: The California State Water Resources Control Board issued a technically conditioned certification for the RGP dated December 22, 2008. Specifically, the California SWRCB noted that California water quality certification, subject to limitations and conditions (described below), for activities under RGP 63 is subject to the following standard conditions:

   1. *This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations (CCR 23).*
   2. *This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, CCR 23, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.*
   3. *This certification is conditioned upon total payment of any fee required under Chapter 28, CCR 23, and owed by the applicant.*

   The SWRCB also included the following additional conditions:

   1. ***Emergency definition***

      This certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) definition of an "emergency," which is defined as follows:

      A sudden, <u>unexpected</u> occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage

to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage. *[Public Resources Code, § 21060.3 (emphasis added).]*

Projects must meet the above definition of "emergency" and demonstrate an imminent threat to qualify for this water quality certification. For non-emergency projects, the applicant must contact either the State Water Resources Control Board (State Water Board) or the applicable Regional Water Quality Control Board (Regional Water Board) (collectively, Water Boards) to apply for an individual water quality certification.

2. ***Emergency exemption criteria***

This certification is limited to projects that satisfy one or more of the following exemption criteria as defined by the CEQA Guidelines [California Code of Regulations., Title 14, § 15269.]:

a. *Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code.*
b. *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.*
c. *Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.*
d. *Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.*
e. *Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.*

3. ***Scope and Time Frame***

This certification is limited ***<u>only</u>*** *to sudden, unexpected emergency situations defined in Additional Conditions 1 and 2 above that: (1) have occurred, or (2) have a high probability of occurring in the short term as a result of recently discovered factors or events not related to known or expected conditions. Additionally, the sudden, unexpected emergency situation must have the potential to result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.*

Emergency repairs and reconstruction must begin within seven (7) calendar days of receiving authorization to proceed and shall be completed within one year of enrollment pursuant to this water quality certification. There may be limited

circumstances in which, after notice to and input by the agencies, logistical considerations necessitate an extension of between 1 and 7 days. All repairs and reconstruction shall be kept to the minimum necessary to alleviate the immediate emergency and limited to in-kind replacement or refurbishment of on-site features. Minor upgrading may be considered if the applicant uses bioremediation or other environmentally sensitive solutions. Permanent restoration work other than that performed as an associated part of the emergency operations, including any minor upgrades, shall not be performed without prior approval and authorization by the Water Boards.

4. ***Forty-Eight Hour Notification***

The prospective permittee must notify the State Water Board and the applicable Regional Water Board at least 48 hours prior to initiating the emergency project, if feasible. Feasibility is to be determined by the State Water Board or the applicable Regional Water Board. This notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in ***Attachment C****.*

The Water Boards recognize there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed. If immediate, specific actions, as defined in the California Code of Regulations, Title 14, section 15269(c), are required by an applicant and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the applicant must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the action. As provided above, this notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in ***Attachment C****.*

Notification may be via telephone, facsimile, e-mail, delivered written notice, or other verifiable means.

- *A staff directory that includes contact information for the State and Regional Water Boards is found at: http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf*
- *For State Water Board, fax to (916) 341-5584 (Atten: DWQ 401 Unit), or leave a message at (916) 341-5506 (Regulatory Office).*
- *For Regional Water Board map boundaries, see http://maps.waterboards.ca.gov/webmap/rbbound.html*

5. ***Water Quality Standards Maintained***

Permitted activities must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Water Quality Control Plan (Basin Plan) by a Regional Water Board or the State Water Board. The Water Boards may impose monitoring requirements in order to ensure that permitted discharges and activities comport with any applicable water quality standards and/or effluent limitations.

6. ***Other Permits May Be Required***

This certification does not obviate the need to obtain other permits that may be required by federal, state, or local authorities.

7. ***California Endangered Species Act***

Permitted activities shall not result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of such a species unless the activity is authorized by the California Department of Fish and Game pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.

8. ***Compliance***

Failure to comply with any condition of this certification shall constitute a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Any such certification previously granted shall immediately be revoked, and any or all discharges shall cease. The permittee may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

9. ***Project Fees***

*The prospective permittee must provide to the State Water Board a fee for review and processing of the notice (Attachment C) in accordance with California Code of Regulations, Title 23, section 2200 (**$77** as of October, 2008; this amount is subject to change) within 48 hours of project initiation. Failure to promptly pay the correct fee amount may result in an inability to be enrolled pursuant to this water quality certification.*

10. ***Final Report***

*The permittee must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the U.S. Army Corps of Engineers to satisfy the requirements of RGP 63. In addition, the permittee must fill in and submit the form provided in **Attachment D**. This information must be sent to the following addresses within 45 calendar days of completion of any action conducted under RGP 63:*

Bill Orme, Chief
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

CWA Section 401 WQC Program
(Address of appropriate Regional Water Board, obtained from:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf)

Failure to submit Attachment D within 45 calendar days of completion of any action conducted under this water quality certification may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.

STATE WATER BOARD CONTACT PERSON:
*If you have any questions, please contact State Water Board Environmental Scientist Darren Bradford at (916) 341-5558 (**dbradford@waterboards.ca.gov**). You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (**borme@waterboards.ca.gov**).*

The SWRCB thereby issued an order certifying that any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), if all of the conditions listed in the certification action are met. The discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes this certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, § 13000 et seq.).

Further, the Board stated that "except insofar as may be modified by any preceding conditions, all certification actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description (Attachment A) and the enclosed Project Information Sheet (Attachment B), and (b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan."

For Arizona Permittees on Non-tribal Land: The Arizona Department of Environmental Quality (ADEQ) issued a conditional Section 401 water quality certification for RGP 63 dated October 16, 2008 for all waters of the state on non-tribal lands in the State of Arizona.

The following Section 401 Water Quality Conditions apply to all projects on non-tribal areas within Arizona approved by the Corps of Engineers under RGP 63, provided the remediation/repair activity is started within 30 days of event causing damage. (See RGP 63 General Condition 4 above) *Otherwise, an individual 401 certification would be required unless the project would be authorized by other Nationwide Permit and verified by the Corps of Engineers.*

1. *Any discharge occurring as a result of activities certified for the subject project shall not cause a violation of surface water quality standards. Applicability of this condition is as defined in A.A.C. R18-11-102.*

2. *This certification does not authorize the discharge of wastewater, process residues or other waste to any WUS* ["Waters of the United States"].

3. *Runoff and seepage from project activities shall not cause a violation of Arizona Surface Water Quality Standards for any WUS.*

4. *Work shall be conducted and monitored to ensure that pollution from the project activities including, but not limited to: earthwork, concrete mixing and placement and*

equipment maintenance and washing does not cause an exceedence of Arizona Surface Water Quality Standards in any WUS.

5. *Work shall be conducted and monitored to ensure that pollution from project activities including, but not limited to: earthwork, concrete mixing and placement, detention ponds, and equipment maintenance and washing does not drain into any WUS.*

6. *The applicant is responsible for ensuring construction material and/or fill (other than replacement of native fill or that necessary to support revegetation) including, but not limited to: rock, gabion fill or other uncemented channel-lining materials, placed within the Ordinary High Water Mark (OHWM) of any WUS, shall not include materials; e.g., pollutant-contaminated soil, that can cause or contribute to pollution of a surface water. Material used to support vegetation rooting or growth shall be protected from erosion. Any fill material washing must occur outside of the OHWM of any WUS prior to placement and the rinseate from such washing shall be contained and treated, or otherwise prevented from contributing sediment or causing erosion to any WUS. Other than replacement of native fill or material used to support vegetation rooting or growth, fill placed in locations subject to scour shall contain not more than ten percent (10%) on a dry weight basis of particles finer than 0.25 mm diameter (passing a No. 60 sieve).*

7. *Any dredged material is to be placed and retained in areas outside the OHWM of any WUS. Runoff from this material/area is to be settled, filtered or otherwise treated to prevent escape of pollutants (including sediment) to any WUS.*

8. *Upon completion of construction the applicant shall ensure no adverse change due to the subject project has occurred in the stability (with respect to stream hydraulics, erosion and sedimentation) of any WUS including upstream and downstream from the project. If such change has occurred, the applicant shall take steps to restore the pre-project stability of any impacted segments.*

9. *All disturbed areas shall be restored and (re)vegetated as soon as possible. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.*

10. *Permanent and temporary access roadways, staging areas and material stockpiles shall be designed or located to allow storm flows to pass unimpeded. Culverted and unculverted crossings and pads shall be constructed so as to accommodate the overtopping of the fill by streamflow and armored to prevent erosion of the fill.*

11. *Silt laden or turbid water resulting from construction activity shall be settled, filtered or otherwise treated prior to discharge to ensure no violation of Arizona Surface Water Quality Standards in any WUS.*

12. *Acceptable construction materials that will or may contact water in any WUS are: crushed stone, native fill (meeting the requirements in condition 6), concrete, steel, plastic, or aluminum and other materials specifically approved in writing by ADEQ.*

13. *Upon completion of the project activities, areas within the OHWM of all WUS at the project site shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions. Any debris including, but not limited to: soil, silt, sand, rubbish, cement, bituminous material, oil or petroleum products, organic materials, tires or batteries, derived from project activities shall not be stored at any site where it may be washed into a WUS and shall be properly disposed of after completion of the work.*

14. *The applicant must designate area(s) for equipment staging and storage located entirely outside of the OHWM of any WUS. Any equipment maintenance, washing or fueling that cannot be done offsite will be done here with the following exception: limited mobility equipment; e.g., large cranes, are allowed to be maintained and fueled within the OHWM. Material specifically manufactured and sold as spill adsorbent/absorbent will be on hand to control small spills. All equipment and workboats shall be inspected for leaks daily and prior to use within the OHWM of any WUS. All leaks shall be repaired immediately. All equipment and workboats will be steam cleaned prior to use in any WUS with flow.*

15. *The applicant shall have a spill containment plan onsite to ensure that pollutants are contained, removed and properly disposed of. In addition, the applicant must designate areas, located entirely outside of the OHWM of any WUS, for chemical and petroleum storage, and solid waste containment. All materials stored onsite will be stored in appropriate containers or packaging. Any pollutant produced by project activities shall be properly disposed of in accordance with applicable regulations. A spill response kit will be maintained in this (these) area(s) to mitigate a potential spill. The kit will include material specifically manufactured and sold as spill adsorbent/absorbent including booms. The applicant will ensure that whenever there is activity on the site, that there are personnel on site trained in the proper response to spills and the use of spill response equipment.*

16. *Permanent and temporary pipes, and culverted crossings and pads shall be adequately sized to handle expected flow and properly set with end section, splash pads, or headwalls that dissipate water energy to control erosion. Culverted and unculverted crossings and pads shall be constructed so as to accommodate the overtopping of the fill by streamflow and armored to prevent erosion of the fill.*

17. *If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete planks or slabs, applicant will take steps; e.g., sheet piling or temporary dams (earth-filled cofferdams are not allowed), to prevent contact between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or otherwise cease to be available; i.e., are no longer a pollutant threat.*

ADEQ contact information:
Mailing address:
Arizona Department of Environmental Quality
Surface Water Section, 401 Certifications, mailstop 5415A-1
1110 W. Washington St.
Phoenix, AZ 85007
Telephone:
(602) 771-4502

For Permittees on Tribal Lands, water quality certification must be received from the appropriate certifying agency or tribal representative. In Los Angeles District, seven Native American tribes have been approved by the U.S. Environmental Protection Agency (EPA) for "treatment as states" regarding administration of the Water Quality Standards (WQS) program:

- The Navajo Nation in Arizona;
- The Hualapai Indian Tribe of the Hualapai Indian Nation, Arizona;
- The White Mountain Apache Tribe of the Fort Apache Reservation, Arizona;
- The Hopi Tribe of Arizona;
- The Big Pine Band of Owens Valley Paiute Shoshone Indians of Big Pine Reservation, California;
- The Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; and
- The Twenty-Nine Palms Band of Luiseño Mission Indians of California.

For projects on tribal lands of these identified tribes, the prospective permittee must receive individual Section 401 certification to ensure that proposed actions do not exceed tribal water quality standards.

The U.S. Environmental Protection Agency issued a conditioned Section 401 certification for all other tribal lands in Los Angeles District on November 20, 2008. However, inclusion of restrictions in the certification on the Corps' implementation of the RGP unrelated to water quality considerations requires the Corps to consider it a denial of certification pursuant to regulations at 33 C.F.R. § 330.4(c)(2) and (3) and Regulatory Guidance Letter 92-04. Therefore, for all projects on tribal lands in Los Angeles District other than those of the seven tribes noted above must be individually certified by the EPA pursuant to Section 401 of the Clean Water Act. Requests for Section 401 water quality certification must be sent to the appropriate EPA Section 404 Permit Review staff (list below) for the county in which the project would occur, and to:

David W. Smith, Chief
Wetland Regulatory Office (WTR-8)
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105
smith.davidw@epa.gov
(415) 972-3464 phone
(415) 947-3537 fax

EPA Section 404 Permit Review Personnel

California

Santa Barbara, Ventura and Los Angeles Counties
Eric Raffini 415-972-3544 raffini.eric@epa.gov

Kern County
Erin Kleeman 916-557-5253 foresman.erin@epa.gov

San Diego and Imperial Counties
Elizabeth Goldmann 415-972-3398 goldmann.elizabeth@epa.gov

San Luis Obispo County
Rob Leidy 415-972-3463 leidy.robert@epa.gov

Mono, Inyo, San Bernardino, Riverside and Orange Counties
Jorine Campopiano 213-244-1808 campopiano.jorine@epa.gov

Arizona

Mohave, La Paz, Yuma, Pima, Santa Cruz and Cochise Counties
Elizabeth Goldmann 415-972-3398 goldmann.elizabeth@epa.gov

Coconino, Yavapai, Maricopa, Pinal, Gila, Navajo, Apache, Greenlee and Graham Counties
Melissa Scianni 415-972-3821 scianni.melissa@epa.gov

8. **Coastal Zone Management**: For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the permittee obtain concurrence from the California Coastal Commission that the project is consistent with the State's certified Coastal Management Program. For activities within the coastal zone that require a coastal development permit from the commission, the permittees should contact the Commission office to request an emergency permit, and no additional federal consistency review is necessary. For activities within the coastal zone that require a coastal development permit from a local government with a certified local coastal program, the permittee should contact the appropriate local government. Because a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the CZMA, the permittee should also contact Mark Delaplaine, (415) 904-5289, Federal Consistency Coordinator for the Commission to determine the appropriate emergency procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, or for any activity conducted by a federal agency, the permittee should contact Mark Delaplaine, (415) 904-5289, Federal Consistency Coordinator for the Commission to determine the appropriate emergency procedures.

Due to the often limited time constraints with emergency actions, the Corps would not require the permittee to provide proof of review by the Commission, if such an action would result in undue harm to life or property. However, the Corps will require the permittee to provide evidence of consistency upon completion of the project unless the Corps is already

aware that a particular project, class of projects, or projects in a particular area described by the Commission, have received such determinations or waivers.

Disposal of flood-delivered sediments into the marine environment is not authorized under RGP 63 due to potential adverse effects to the habitat and water quality. If such activity is proposed, it shall be addressed through other permitting procedures.

9. 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 under the Federal Endangered Species Act (ESA). Authorization of an activity by the RGP does NOT authorize the "take" of a listed threatened or endangered species, as defined under the Federal ESA. The U.S. Fish and Wildlife Service and/or National Marine Fisheries Service may provide project-specific recommendations to avoid or minimize potential take of listed species or adverse modification of designated critical habitat. The Corps would remain the final arbiter regarding the degree to which the recommendations would be incorporated into the emergency authorization.

   Information on the location of listed or proposed threatened or endangered species and their designated or proposed critical habitat can be obtained directly from the FWS or NOAA or from their websites at:

   USFWS – http://www.fws.gov/endangered/
   NOAA – http://www.nmfs.noaa.gov/pr/species/

10. **Historic Properties**: Impacts to historic properties listed, proposed for listing, or potentially eligible for listing in the National Register of Historic Places will be avoided to the maximum extent practicable. If such resources are impacted because of actions authorized under this RGP, the permittee shall provide a full report of the action and the impacts incurred by the resource to this office within 45 days after completion of the action. The Corps, the SHPO and/or the Advisory Council for Historic Preservation will then jointly make a determination as to appropriate procedures and/or mitigation to be addressed.

    If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify the Corps Regulatory Branch who will initiate the Federal and State coordination 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.

11. **Regional and Case-by-Case Conditions**: The activity must comply with any regional conditions added by the Division Engineer (see CFR Part 330.4(e)) and with any case-specific conditions added by the District Engineer.

12. **Erosion and Siltation Controls**: Every effort must be made to ensure any material dredged or excavated from Waters of the United States is not likely to be washed back into any Waters of the United States. When feasible, erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw bales or other means designed to minimize turbidity in the watercourse above background levels existing at the time of construction, shall be used and maintained in effective operating condition during construction unless conditions preclude their use, or if conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work. All exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must

be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation.

13. **Equipment**: When feasible, and if personnel would not be put into any additional potential hazard, heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance, such as use of wide-treaded equipment or floatation devices.

14. **Suitable Material**: No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts. (See Section 307 of the Clean Water Act)

15. **Wild and Scenic Rivers**: No activity may 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 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 effect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., FWS, National Park Service, USDA Forest Service, Bureau of Land Management). Currently the only designated Wild and Scenic River systems in the Los Angeles District are the main stem of Sespe Creek from its confluence with Rock Creek and Howard Creek downstream to where it leaves Section 26, T5N, R20W, and the Sisquoc River from its origin to the Los Padres National Forest boundary in California; and the Verde River from the section line between Sections 26 and 27, T13N, R5E, Gila-Salt River meridian to the confluence of Red Creek with the Verde River within Section 34, T9 1/2N, R6E.

16. **Aquatic Life Movements**: No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.

    For coastal watersheds in Los Angeles District known to harbor one or more life stages of anadromous salmonid fishes (e.g., steelhead or salmon), all projects requiring replacement of culverts under road crossings shall consider a bridge crossing design that ensures passage and/or spawning of these species is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources important to anadromous salmonids, including migration of adults and smolts, or rearing and spawning.

17. **Shellfish Production**: No discharge of dredged or fill material may occur in areas of concentrated natural or commercial shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by the Corps' Nationwide Permit (NWP) 4.

18. **Spawning Areas**: Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

19. **Waterfowl Breeding Areas**: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

20. **Navigation**: No activity may cause more than a minimal adverse effect on the course or capacity of a navigable water. The permittee shall 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, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expenses to the United States. No claim shall be made against the United States on account of any such removal or alteration.

21. **Water Supply Intakes**: No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

22. **Obstruction of High Flows**: To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water except within the existing river plain (unless the primary purpose of the fill is to impound waters).

23. **Adverse Effects from Impoundments**: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

24. **Proper Maintenance**: Any structure or fill authorized by this RGP shall be maintained, including maintenance to ensure public safety, unless it is later determined that the structure is further contributing to other adverse conditions to private or public property. In such situations, corrective measures will be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate mitigation as determined through coordination with you and the appropriate Federal and State agencies. Temporary levees constructed to control flows shall not be maintained beyond the current storm season (i.e., maintenance of temporary levees is not authorized after the storm season in which the need arose).

25. **Removal of Temporary Fills**: Temporary fills shall be removed in their entirety and the affected areas returned to pre-existing elevations and revegetated with appropriate native riparian or wetland vegetation common to the area. If an area impacted by such a temporary fill is considered likely to naturally re-establish native riparian or wetland vegetation to a level similar to pre-project or pre-event conditions within two years, you will not be required to do so.

26. **Reports**: You shall provide a concise written report to this office as soon as practicable (within 45 days of completing the project) after completion of any action conducted under this RGP. **PROVIDING THIS REPORT IS MANDATORY.** This office has additional responsibilities pursuant to consultation with the FWS and NOAA under Section 7 of the ESA. Further, these reports enable us to track the use of this RGP to verify that the minimal effects determination is being met as required by Section 404(e) of the CWA. Failure to provide timely reports following responses to emergencies is non-compliance with the General Conditions of this RGP and would be considered a violation (33 CFR Part 326.4(d)).

At a minimum the Report shall include the following:

I. The name, address, and telephone number of:
   (a) the applicant
   (b) the applicant's agent (if appropriate)

II. Full description of the activity including:
   1. description of the emergency and the potential for loss of life or property;
   2. purpose of the activity;
   3. final goal of the entire activity;
   4. location (e.g., latitude/longitude or UTM coordinates; section/township/range on appropriate USGS topo map; Thomas Guide map, or other source to accurately portray project location);
   5. size and description of project area (include maps or drawings showing the areal and lineal extent of the project, and pre- and post-construction photographs);
   6. quantities of materials used;
   7. information on receiving waterbody impacted including:
      a) name of waterbody
      b) type of receiving waterbody (e.g., river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland type, etc.)
      c) temporary/permanent adverse impact(s) in acres/cubic yards/linear feet
      d) compensatory mitigation in acres/cubic yards/linear feet
      e) other mitigation steps (to avoid, minimize, compensate); and
   8. information on federally listed or proposed endangered species or designated or proposed critical habitat (notification must be provided to FWS and/or NOAA as appropriate) including:
      a) temporary/permanent adverse impacts
      b) compensatory mitigation
      c) other mitigation steps (to avoid, minimize, compensate).

If there are a substantial number of projects and this requirement would consume large quantities of your staff resources, you may, as an option, submit a comprehensive report providing all of the information required in the notification condition (Item 2.b.) above. The report shall include a description of the emergency and the potential for loss of life or property, maps to the project location, maps or drawings showing the areal and lineal extent of the project, quantities of material used, and pre- and post-construction photographs, if available. If the project was conducted in an area known to harbor Federally listed or proposed endangered species or designated or proposed critical habitat, you must include a list of measures taken to minimize harm to the species and/or habitat and include an additional a copy of the report for the FWS and/or the NOAA, as appropriate. If mitigation was determined to be appropriate for

a specific project or group of projects, a mitigation proposal must be submitted to this office for review and approval.

FURTHER INFORMATION:

1. **Congressional Authorities**: Activities conducted under this RGP are authorized pursuant to:
   (X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
   (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. **Limits of authorization under RGP 63**:
   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 project.

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 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 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 verification under RGP 63 is not contrary to the public interest was made in reliance on the information provided by the permittee.

5. **Reevaluation**: This office may reevaluate its decision to issue this RGP, or on the verification that any particular activity qualifies for this RGP, at any time 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 verification request or after-action report proves to have been false, incomplete, or inaccurate. See Item 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 to 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 CFR 209.170), accomplish the corrective measures by contract or otherwise and bill you for the cost.

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

David J. Castanon

DAVID J. CASTANON
Chief, Regulatory Division

12-22-08

DATE

State Water Resources Control Board

Executive Office

Linda S. Adams
Secretary for Environmental Protection

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • http://www.waterboards.ca.gov

Arnold Schwarzenegger
Governor

ACTION ON REQUEST FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR REGIONAL GENERAL PERMIT 63 FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS

PROJECT: Regional General Permit 63 (RGP 63) for Repair and Protection Activities in Emergency Situations

APPLICANT: Mr. David Castanon, Chief
Regulatory Branch
Los Angeles District
U.S. Army Corps of Engineers
911 Wilshire Boulevard
Los Angeles, CA 90053-2325

This Order responds to your request for Water Quality Certification for the subject project. This certification is intended to streamline the approval process for dredge and fill activities necessary to prevent an emergency.

ACTION

- ☐ Order for Standard Certification
- ☒ Order for Technically Conditioned Certification
- ☐ Order for Denial of Certification
- ☐ Order for Waiver of Waste Discharge Requirements

STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and Article 6 (commencing with section 3867) of Chapter 28, Title 23 of the California Code of Regulations.

2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to subsection 3855(b) of Chapter 28, Title 23 of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. This certification is conditioned upon total payment of any fee required under Chapter 28, Title 23 of the California Code of Regulations and owed by the applicant.

ADDITIONAL CONDITIONS:

1. **Emergency definition**
   This certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) definition of an "emergency," which is defined as follows:

   A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage.
   [Public Resources Code, § 21060.3 (emphasis added).]

   Projects must meet the above definition of "emergency" and demonstrate an imminent threat to qualify for this water quality certification. For non-emergency projects, the applicant must contact either the State Water Resources Control Board (State Water Board) or the applicable Regional Water Quality Control Board (Regional Water Board) (collectively, Water Boards) to apply for an individual water quality certification.

2. **Emergency exemption criteria**
   This certification is limited to projects that satisfy one or more of the following exemption criteria as defined by the CEQA Guidelines [California Code of Regulations., Title 14, § 15269.]:

   a. Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code.

   b. Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.

   c. Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

   d. Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

   e. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.

3. **Scope and Time Frame**
This certification is limited **only** to sudden, unexpected emergency situations defined in Additional Conditions 1 and 2 above that: (1) have occurred, or (2) have a high probability of occurring in the short term as a result of recently discovered factors or events not related to known or expected conditions. Additionally, the sudden, unexpected emergency situation must have the potential to result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

Emergency repairs and reconstruction must begin within seven (7) calendar days of receiving authorization to proceed and shall be completed within one year of enrollment pursuant to this water quality certification. There may be limited circumstances in which, after notice to and input by the agencies, logistical considerations necessitate an extension of between 1 and 7 days. All repairs and reconstruction shall be kept to the minimum necessary to alleviate the immediate emergency and limited to in-kind replacement or refurbishment of on-site features. Minor upgrading may be considered if the applicant uses bioremediation or other environmentally sensitive solutions. Permanent restoration work other than that performed as an associated part of the emergency operations, including any minor upgrades, shall not be performed without prior approval and authorization by the Water Boards.

4. **Forty-Eight Hour Notification**
The prospective permittee must notify the State Water Board and the applicable Regional Water Board at least 48 hours prior to initiating the emergency project, if feasible. Feasibility is to be determined by the State Water Board or the applicable Regional Water Board. This notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in **Attachment C**.

The Water Boards recognize there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed. If immediate, specific actions, as defined in the California Code of Regulations, Title 14, section 15269(c), are required by an applicant and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the applicant must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the action. As provided above, this notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in **Attachment C**

Notification may be via telephone, facsimile, e-mail, delivered written notice, or other verifiable means.

- A staff directory that includes contact information for the State and Regional Water Boards is found at: http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf
- For State Water Board, fax to (916) 341-5584 (Atten: DWQ 401 Unit), or leave a message at (916) 341-5506 (Regulatory Office).
- For Regional Water Board map boundaries, see http://maps.waterboards.ca.gov/webmap/rbbound.html

5. **Water Quality Standards Maintained**
Permitted activities must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Water Quality Control Plan (Basin Plan) by a Regional Water Board or the State Water Board. The Water Boards may impose monitoring requirements in order to ensure that permitted discharges and activities comport with any applicable water quality standards and/or effluent limitations.

6. **Other Permits May Be Required**
This certification does not obviate the need to obtain other permits that may be required by federal, state, or local authorities.

7. **California Endangered Species Act:** Permitted activities shall not result in the taking of any State endangered species, threatened species, or candidate species, or the habitat of such a species unless the activity is authorized by the California Department of Fish and Game pursuant to a permit, memorandum of understanding, or other document or program in accordance with Fish and Game Code sections 2081, 2081.1, or 2086.

8. **Compliance**
Failure to comply with any condition of this certification shall constitute a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Any such certification previously granted shall immediately be revoked, and any or all discharges shall cease. The permittee may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

9. **Project Fees**
The prospective permittee must provide to the State Water Board a fee for review and processing of the notice (Attachment C) in accordance with California Code of Regulations, Title 23, section 2200 (**$77** as of October, 2008; this amount is subject to change) within 48 hours of project initiation. Failure to promptly pay the correct fee amount may result in an inability to be enrolled pursuant to this water quality certification.

10. **Final Report**
The permittee must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the U.S. Army Corps of Engineers to satisfy the requirements of RGP 63. In addition, the permittee must fill in and submit the form provided in **Attachment D**. This information must be sent to the following addresses within 45 calendar days of completion of any action conducted under RGP 63:

Bill Orme, Chief
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

CWA Section 401 WQC Program
(Address of appropriate Regional Water Board, obtained from:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf)

Failure to submit Attachment D within 45 calendar days of completion of any action conducted under this water quality certification may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.

STATE WATER BOARD CONTACT PERSON:

If you have any questions, please contact State Water Board Environmental Scientist Darren Bradford at (916) 341-5558 (**dbradford@waterboards.ca.gov**). You may also contact Bill Orme, Chief of the 401 Certification and Wetlands Protection Unit, at (916) 341-5464 (**borme@waterboards.ca.gov**).

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), if all of the conditions listed in this certification action are met. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes this certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description (Attachment A) and the enclosed Project Information Sheet (Attachment B), and (b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan.

Tam Howard for DR

Dorothy Rice, Executive Director
State Water Resources Control Board

12/22/08
Date

Attachments (4):
A. Applicant's Project Description
B. Project Information Sheet
C. 48-hour Notification Form
D. Final Report Form

48-HOUR NOTIFICATION FORM FOR TECHNICALLY-CONDITIONED WATER QUALITY CERTIFICATION REGIONAL GENERAL PERMIT 63 FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS (RGP 63)

Instructions for Attachment C

The prospective permittee must notify the State Water Board and the applicable Regional Water Board at least 48 hours prior to initiating the emergency project, if feasible. Feasibility is to be determined by the State Water Board or the applicable Regional Water Board. This notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in **Attachment C**.

The Water Boards recognize there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed. If immediate, specific actions, as defined in the California Code of Regulations, Title 14, section 15269(c), are required by an applicant and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the applicant must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the action. As provided above, this notification must be followed within three (3) business days by submission of all of the information in the 48-hour emergency notification form, provided in **Attachment C**

Notification may be via telephone, facsimile, e-mail, delivered written notice, or other verifiable means.

- A staff directory that includes contact information for the State and Regional Water Boards is found at: http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf
- For State Water Board, fax to (916) 341-5584 (Atten: DWQ 401 Unit), or leave a message at (916) 341-5506 (Regulatory Office).
- For Regional Water Board map boundaries, see http://maps.waterboards.ca.gov/webmap/rbbound.html

I. **Owner of the Land**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

II. **Discharger (if different from owner of the land)**

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person				

III. Site Location

Street (including address, if any)	
Nearest cross street(s)	
County:	Approximate size of site (acres):
Map attached? Yes ☐ No ☐	
Photos attached? Yes ☐ No ☐	

IV. Discharge Information

Subject	Notes
Name(s) and type(s) of receiving waters:	Receiving water types are: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland
Project description:	Description of emergency
	Proposed solution to emergency
Description of how Emergency Definition is satisfied. (i.e., unexpected; potential loss of life or property)	

Exemption Criteria	Which of the criteria does the project satisfy? (Circle one or more)	a. Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code. b. Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare. c. Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term. d. Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide. e. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq

Fill and Excavation Discharges: For each water body type listed below indicate in ACRES the area of the estimated discharge to waters of the state, and identify the impact(s) as permanent and/or temporary. For linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment, and channelization projects, ALSO specify the length of the proposed discharge to waters of the state IN FEET. For dredging activity, indicate total amount of dredged material for the project in cubic yards under permanent impacts.

Water Body Type	Permanent Impact			Temporary Impact	
	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet
Wetland					
Streambed					
Lake/Reservoir					
Ocean/Estuary/Bay					
Riparian					

V. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of these General WDRs will be complied with."

Signature of Discharger	Title
Printed or Typed Name	Date

FINAL REPORT FORM FOR TECHNICALLY-CONDITIONED WATER QUALITY CERTIFICATION REGIONAL GENERAL PERMIT 63 FOR REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS (RGP 63)

Instructions for Attachment D

Attachment D must be sent to the following addresses within 45 days of completion of any emergency action conducted under RGP 63:

Bill Orme, Chief
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

CWA Section 401 WQC Program
(Address of appropriate Regional Water Board, obtained from http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf)

I. Owner of the Land

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person	Email			

II. Billing Address

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person	Email			

III. Discharger (if different from owner of the land)

Name				
Mailing Address				
City	County	State	Zip	Phone
Contact Person	Email			

IV. Site Location

Street (including address, if any)	
Nearest cross street(s)	
County:	Total size of site (acres):

Latitude/Longitude (Center of Discharge Area) in degrees/minutes/seconds (DMS) to the nearest ½ second or decimal degrees (DD) to four decimals (0.0001 degree)

DMS: N. Latitude Deg. _____ Min. _____ Sec. _____

W. Longitude Deg. _____ Min. _____ Sec. _____

DD: N. Latitude _____

W. Longitude _____

Attach a map of at least 1:24000 (1" = 2000') detail of the discharge site (e.g., USGS 7.5 minute topographic map).

V. Discharge Information

Subject		Notes
Name(s) and type(s) of receiving waters:		Receiving water types are: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland
Identify all regulatory agencies having jurisdiction over this project.		For example: Dept. of Fish and Game Streambed Alteration Agreement, Coastal Commission permit
Project start date:	Project completion date:	
Project description:		For example: Discharge of riprap; discharge of fill; excavation for a utility line
Purpose of the entire activity:		For example: Stream-bank erosion control. Maintain, repair, or restore damaged property
Map attached? Yes ☐ No ☐		

Photographs attached? Yes ☐ No ☐	
Erosion protection measures employed	
Pollution prevention measures employed	
Was compensatory mitigation required? Yes ☐ No ☐	
Compensatory Mitigation for Impacts during Emergency Project (Include area/volume and linear feet)	

Fill and Excavation Discharges: For each water body type listed below indicate in ACRES the area of the discharge to waters of the state, and identify the impact(s) as permanent and/or temporary. For linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment, and channelization projects, ALSO specify the length of the proposed discharge to waters of the state IN FEET. For dredging activity, indicate total amount of dredged material for project in cubic yards under permanent impacts.

Water Body Type	Permanent Impact			Temporary Impact	
	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet
Wetland					
Streambed					
Lake/Reservoir					
Ocean/Estuary/Bay					
Riparian					

VI. CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In addition, I certify that the provisions of these General WDRs will be complied with."	
Signature of Discharger	Title
Printed or Typed Name	Date