DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

July 10, 2014

Annesley Ignatius
San Bernardino Department of Public Works
Environmental Management Division
825 East Third Street
San Bernardino, California 92415-0835

DEPARTMENT OF THE ARMY

Dear Mr. Ignatius:

I am responding to your request (File No. SPL-2014-00405) dated July 7, 2014, for a Department of the Army Permit to discharge fill material into waters of the U.S., in association with the National Trails Highway-Frontier Road Emergency Repairs. The proposed work would take place in Wild Wash near the unincorporated community of Helendale, San Bernardino County, California.

Based on the information you have provided, the U.S. Army Corps of Engineers (Corps) has determined your proposed activity complies with the terms and conditions of Regional General Permit (RGP) No. 63-Emergency Authorizations.

As long as you comply with the general permit conditions of RGP No. 63, an individual permit is not required.

Specifically, you are authorized to conduct the following regulated activities:

1. Remove a 6-feet x 32-feet patch of existing asphalt (as shown on the attached drawings);
2. Temporarily discharge fill material onto 0.14 of non-wetland waters of the United States downstream of the existing culverts to excavate material to backfill the void under the roadbed and the shoulder using approximately 450 cubic yards (approximate dimensions 100-lf x 60-lf x 2-feet depth) of native material (as shown on the attached drawings);
3. Pave the road to match the existing road; and,
4. Clear the sediment and debris from the three existing 36-inch corrugated metal pipes (as shown on the attached drawings).

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The work authorized by this RGP must be underway no later than 14 calendar days from date of issuance of this letter of verification. All work must be completed no later than July 31, 2014. If the Permittee is unable to complete the authorized work by this date, the Permittee must request, in writing, an extension from the Corps Regulatory Division prior to the deadline.

2. As directed in RGP No. 63, any work authorized by this RGP must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction does not result in significantly increased impacts 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.

3. As directed in RGP No. 63, you shall provide a written report to this office (within 45 days of completing the project) after completion of any action conducted under this RGP. PROVIDING THIS REPORT IS MANDATORY. At a minimum the Report shall include the following:
   A. The name, address, and telephone number of the applicant and the applicant's agent (if appropriate)
   B. Full description of the activity including:
      i) description of the emergency and the potential for loss of life or property
      ii) purpose of the activity
      iii) final goal of the entire activity
      iv) location (e.g., latitude/longitude; section/township/range on appropriate USGS topographic map; Thomas Guide map, or other source to accurately portray project location)
      v) 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)
      vi) quantities of materials used
   C. information on receiving waterbody impacted including:
      i) name of waterbody
      ii) type of receiving waterbody (e.g., river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland type, etc.)
      iii) temporary/permanent adverse impact(s) in acres/cubic yards/linear feet
      iv) compensatory mitigation in acres/cubic yards/linear feet
      v) other mitigation steps (to avoid, minimize, compensate)
   D. information on federally listed or proposed endangered species or designated or proposed critical habitat (notification must be provided to the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service as appropriate) including:
      i) temporary/permanent adverse impacts
      ii) compensatory mitigation
      iii) other mitigation steps (to avoid, minimize, compensate)

A general permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, State, or local authorizations required by law.

Thank you for participating in the regulatory program. If you have any questions, contact Gerardo Salas at 213-452-3417 or via e-mail at Gerardo.Salas@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

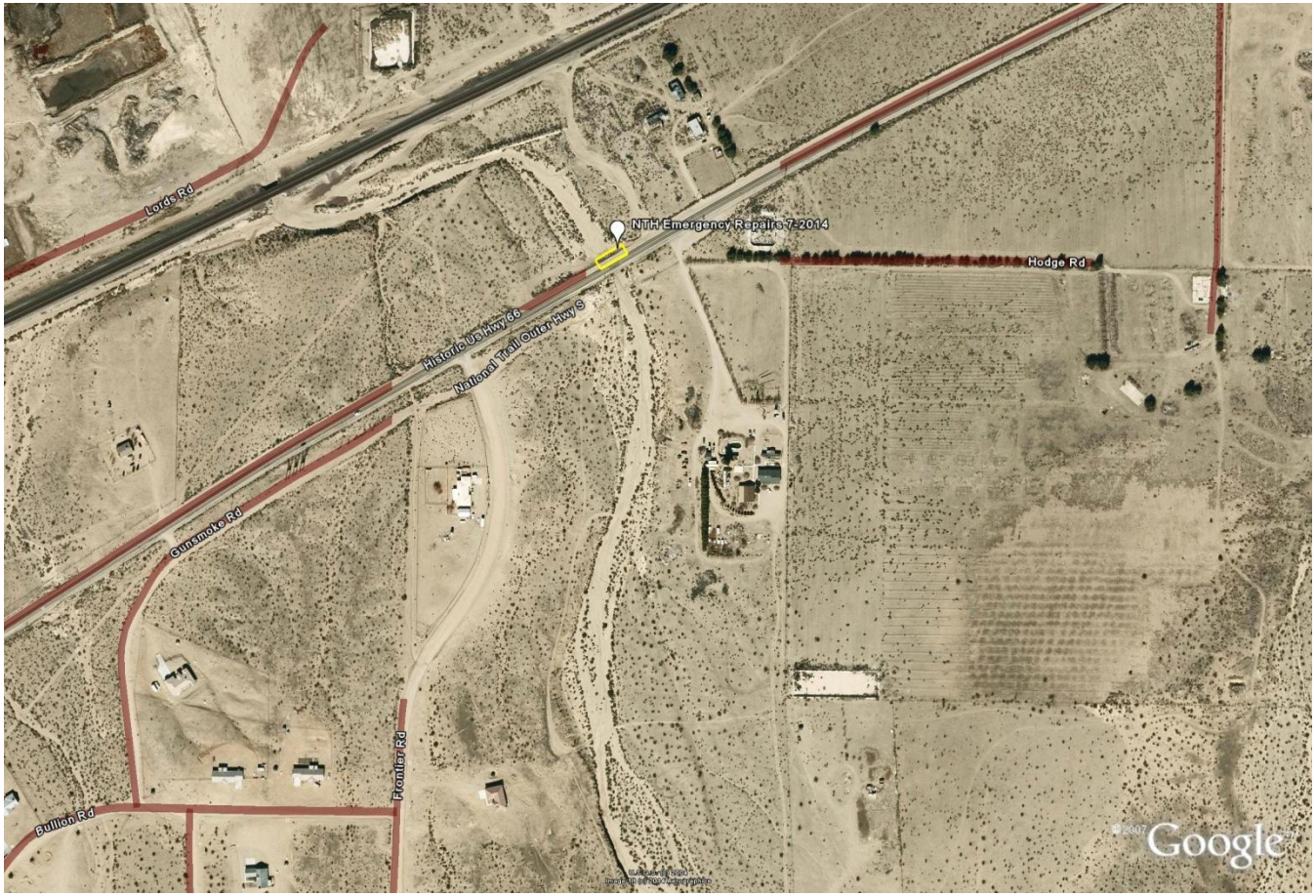
Sincerely,

SWENSON.DANIEL.PATTERSON.1081348363

Digitally signed by SWENSON.DANIEL.PATTERSON.1081348363
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=SWENSON.DANIEL.PATTERSON.1081348363
Date: 2014.07.10 16:56:44 -07'00'

Daniel P. Swenson, D. Env.
Chief, L.A. & San Bernardino Section
North Coast Branch
Regulatory Division

Enclosures



Vicinity Map for Emergency Repairs along National Trails Highway north of Frontier Road

Vicinity Map for Emergency Repairs along National Trails Highway north of Frontier Road

Storm Damages along the shoulder of National Trails Highway north of Frontier Road

Storm Damages along the shoulder of National Trails Highway north of Frontier Road

Storm Damages along the shoulder of National Trails Highway north of Frontier Road

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. SPL-2013-00609-BAH)

ISSUANCE DATE: November 29, 2013

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 County except for the Carrizo Plain, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego, Imperial and Inyo counties, Mono County to the Conway Summit above Mono Lake, 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**: This RGP shall expire on November 22, 2018.

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, e-mail address and telephone number of the applicant and the designated point of contact and their address, e-mail 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, electronic map images, annotated photographs, 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. Photographs, visual renderings of the project, 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/Portals/17/docs/regulatory/Permit_Process/Eng4345_2012OCT.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, facsimile transmission or electronic mail 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, electronic 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 National Marine Fisheries Service (NMFS), the Monterey Bay National Marine Sanctuary, the California Department of Fish and Wildlife (CDFW), the California State Water Resources Control Board (SWRCB), the Arizona Department of Environmental Quality (ADEQ), the Arizona Game and Fish Department, the Navajo Nation, the Hopi Tribe, the Hualapai Tribe, the White Mountain Apache Tribe; the Big Pine Paiute Tribe of Owens Valley, the Bishop Paiute Tribe, and the Twenty-Nine Palms Band of Mission Indians (collectively, "Tribes"), the California Regional Water Quality Control Boards (RWQCB), the California Coastal Commission (CCC), and the State and Tribal Historic Preservation Offices of California or Arizona (SHPO/THPO), as appropriate. These agencies will be requested to provide a response to the Corps Regulatory Branch Project Manager as expeditiously as possible by telephone, facsimile transmission (fax) or e-mail, indicating whether 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 the agency's authority, the need to impose terms and conditions to avoid and minimize adverse effects on aquatic resources, 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 limited circumstances. Such upgrade projects shall be 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).

4. **Start Work Date**: Any projects authorized under this RGP must be initiated within fourteen (14) days of receiving authorization to proceed. If the project start time can be delayed for

more than two weeks, the imminent threat of impending loss may have diminished in magnitude, as well as immediacy, and generally would not meet the definition of an "emergency." However, there may be limited circumstances where, after notice to and input by the agencies, logistical considerations necessitate an extension beyond 14 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 Corps and other agencies are not obligated to authorize work for a 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**: Within Los Angeles District, water quality certifications pursuant to Section 401 of the Clean Water Act are administered by the California State Water Resources Control Board (SWRCB) and the Arizona Department of Environmental Quality (ADEQ) for non-tribal land, the U.S. Environmental Protection Agency for tribal lands of Tribes not treated as States, and seven Native American Tribes that are treated as States for Section 401 water quality certification. Section 401 water quality certification from the USEPA is pending as of the date of this permit. Permittees working on tribal land in Los Angeles District must receive individual Section 401 water quality certification from the EPA or one of the seven Tribes identified on page 3 as appropriate. Conditions of the pending water quality certification from the EPA will be incorporated when issued and the permit modified appropriately.

ARIZONA

The ADEQ issued its conditional certification (401 cert reading file rs313:041) on October 24, 2013. As with previous reissuances of the RGP, conditions within issued Section 401 certifications are included within the body of the RGP to facilitate dissemination of information to permittees regarding water quality certifications for work authorized under RGP 63. The ADEQ's water quality conditions are adopted within this permit as RGP 63 General Conditions.

> ***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 24, 2013 for all waters of the United States on non-tribal lands in the State of Arizona, with the following exceptions:*
>
> - *Impaired Waters, as defined under Clean Water Act Section 303(d);*
> - *Non-Attaining Waters*
> - *Outstanding Arizona Waters, or*
> - *if the remediation or repair activity is not started within 30 days of the event causing the damage.*

With the exception of these three categories of waters of the State and projects that cannot be initiated within 30 days of the event resulting in imminent threat to loss of life or property, the prospective permittee will be required to acquire an individual Section 401 water quality certification from the ADEQ.

ADEQ maintains a list of impaired and non-attaining waters at:
http://www.azdeq.gov/environ/water/assessment/assess.html

ADEQ maintains a list of outstanding waters at:
http://www.azdeq.gov/environ/water/standards/index.html

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

ADEQ CWA 401 Water Quality Certification of these activities to operate under the terms (including the conditions herein) of the applicable CoE CWA RGP does not affect or modify in any way the obligations or liability of any person for any damages, injury, or loss, resulting from these activities. This Certification is not intended to waive any other federal, state or local laws.

ADEQ's issuance of this Section 401 water quality certification for RGP 63 does not imply or suggest that requirements for other state permits including, but not limited to Aquifer Protection Permits, Arizona Pollutant Discharge Elimination System permits, or Reclaimed Water permits are met or superseded. Prospective permittees should contact the ADEQ to ensure all applicable permits are obtained. Furthermore, ADEQ's certification relies on the following definitions:

- *Waters of the U.S. (WUS) are defined by the Corps of Engineers and the U.S. Environmental Protection Agency under the Clean Water Act. ADEQ's certification applies only to activities in any WUS.*
- *Temporary means not longer than the period of any project schedule.*
- *Native material/fill is defined as pollutant-free soil, sand, gravel, etc. that constitutes the streambed or banks in the immediate area of the permitted work.*
- *Emergency vehicles and emergency responders are not restricted by the conditions in this certification.*

This State Water Quality Certification is issued by ADEQ under the authority of Section 401(a) of the federal CWA (33 U.S.C. §1251 et seq.) and A.R.S. 49-202. The conditions listed below are in addition to conditions in pending CWA 404 RGP 63 SPL-2013-00609-BAH to be issued by the U.S. Army Corps of Engineers (CoE). These conditions are enforceable by CoE. Civil penalties up to a maximum of$25,000 per day of violation may be levied if these certification conditions are violated. Criminal penalties may also be levied if a person knowingly violates any provision of the CWA.

This certification is only for the activities described in the subject RGP and is valid for five years or the same period as the RGP, whichever is shorter. Any extensions or other modifications of the RGP will also require ADEQ review and may require modification of the 401 Certification.

- *The permittee shall provide a copy of these State 401 Water Quality Certification Conditions to all appropriate contractors and subcontractors. The permittee shall also post and maintain a legible copy of this certification letter in a weather-resistant location at the construction site where it may be seen by the workers.*
- *The permittee shall notify ADEQ of completion within 30 days after project completion.*
- *The permittee is responsible for all activities certified herein and any exceedences of water quality standards (WQS) in any WUS that such activities may cause or contribute to.*

Specific Conditions

1) *Any discharge occurring as a result of activities certified for the subject project shall not cause an exceedence of WQS. 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.*

3) *Runoff and seepage from activities certified herein shall not cause an exceedence of Arizona WQS for any WUS.*

4) *Work shall be conducted and monitored to ensure that pollution from the activities certified herein does not cause an exceedence of Arizona WQS in any WUS.*

5) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, activities herein certified shall be performed during periods of low flow (baseflow or less) in any perennial WUS, or no flow in the case of ephemeral and intermittent WUS. No work shall be done, nor shall any equipment or vehicles enter any WUS while flow is present, unless all conditions in this certification are met.*

6) *The effectiveness of all pollution control measures, including those preventing erosion and sedimentation, shall be reevaluated after each flow event and repaired/modified as needed.*

7) *Permittee must minimize clearing, grubbing, scraping or otherwise limit exposure of erodible surface to the minimum necessary for each construction phase or location.*

8) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, if activities certified herein are likely to cause or contribute to an exceedence of water quality standard, or create an impediment to the passage of fish or other aquatic life - operations shall cease until the problem is resolved or until control measures have been undertaken.*

9) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, erosion control, sediment control*

and/or bank protection measures shall be installed before construction and pre-operation activities, and shall be maintained during construction and post-construction periods to minimize channel or bank erosion, soil loss and sedimentation. Control measures shall not be constructed of uncemented or unconfined imported soil, or other materials easily transported by flow.

10) *For portions of the project utilizing potable water or groundwater for irrigation or dust control, direct runoff of such water shall be limited to the extent practicable and shall not cause downstream erosion or flooding.*

11) *The permittee is responsible for ensuring construction material and/or fill (other than native fill or that necessary to support revegetation) placed in any WUS, shall not include materials that can cause or contribute to pollution of the WUS. Examples of prohibited fill include pollutant-contaminated soil and materials defined as pollutants or hazardous in Arizona Revised Statutes (A.R.S.) § 49-201. Fill used to support vegetation rooting or growth shall be protected from erosion.*

    Any washing of fill material must occur outside of any WUS prior to placement and the rinseate from such washing shall be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) or from 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 must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

    Acceptable construction materials that will or may contact water in any WUS are: untreated logs and lumber; natural stone (crushed or not), crushed clean concrete (recycled concrete); native fill; precast, sprayed or cast-in-place concrete (including soil cement and unmodified grouts); steel (including galvanized); plastic and aluminum. Use of other materials may be allowed, but require written approval from ADEQ.

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

13) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, upon completion of construction the permittee 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 permittee shall take steps to restore the pre-project stability of any impacted segments.*

14) *All disturbed areas shall be restored and revegetated as soon as physically practicable. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.*

15) *If retention/detention basins are included in a project, permittee will complete the grading necessary to direct runoff towards retention/detention basins no later than immediately following initial land clearing or rough grading.*

    Retention/detention basins shall be sized to accept storm runoff and capture sediment prior to it entering any WUS. Detention basins will provide detention through the use of controlled outflow spillways and shall cause no significant change to the hydraulic conditions of the upstream or downstream WUS outside of the project boundaries.

    The basins shall be maintained; e.g., have sediment removed, as required to maintain their function.

16) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, when flow is present in any WUS within the project area, the permittee and any contractor will not alter the flow by any means except to prevent erosion or pollution of any WUS.*

17) *Silt laden or turbid water resulting from activities certified herein shall be settled, filtered or otherwise treated to ensure no violation of Arizona WQS in any WUS.*

18) *When flow in any WUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:*
    - *the flow decreases below the point where sediment movement ceases, or*
    - *control measures have been undertaken; e.g., equipment and materials easily transported by flow are protected with non-erodible barriers or moved outside the flow area.*

19) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, the permittee will erect any barriers, covers, shields and other protective devices as necessary to prevent any construction materials, equipment or contaminants/pollutants from falling, being thrown or otherwise entering any WUS.*

20) *The permittee must designate area(s) for equipment staging and storage located entirely outside of any WUS. In addition, the permittee must designate areas, located entirely outside of any WUS, for fuel, oil and other petroleum product storage and for solid waste containment. All precautions shall be taken to avoid the release of wastes, fuel or other pollutants to any WUS.*

    Any equipment maintenance, washing or fueling that cannot be done offsite will be performed in the designated area with the following exception: equipment too large or unwieldy to be readily moved; e.g., large cranes, may be fueled and serviced in the WUS (but outside of standing or flowing water) as long as material specifically manufactured and sold as spill containment is in place during fueling/servicing. All equipment shall be inspected for leaks, all leaks shall be repaired and all repaired equipment will be cleaned to remove any fuel or other fluid residue prior to use within (including crossing) any WUS.

The permittee shall have a spill containment plan onsite to ensure that pollutants are prevented from entering any WUS. Any pollutant generated by activities certified herein shall be properly disposed of in accordance with applicable regulations.

A spill response kit will be maintained in this (these) area(s) to mitigate any spills. The kit will include material specifically manufactured and sold as spill adsorbent/absorbent and spill containment. The permittee 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.

21) *Except as specified in the application and supporting documents and allowed, specified or not prohibited in the RGP or elsewhere in this certification, permanent and temporary pipes and culverted crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, headwalls or other structures that dissipate water energy to control erosion.*

22) *All temporary structures constructed of imported materials and all permanent structures, including but not limited to, access roadways; culverted and unculverted crossings; staging areas; material stockpiles; berms, dikes and pads, shall be constructed so as to accommodate overtopping and must resist washout of the feature by stream flow.*

    Any temporary crossing, other than fords on native material, shall be constructed in such a manner so as to provide armoring of the stream channel. Materials used to provide this armoring shall not include anything easily transportable by flow. Examples of acceptable materials include steel plates, untreated wooden planks, pre-cast concrete planks or blocks; examples of unacceptable materials include clay, silt, sand and gravel finer than cobble (roughly fist-sized). The armoring must, via mass, anchoring systems or a combination of the two, resist washout.

    Permittee will take measures necessary to prevent approaches to any WUS crossing from causing erosion or contributing sediment to any WUS.

    No vehicles or equipment shall ford any unarmored WUS crossing when flow greater than baseflow is present.

    Any ford, other than fords on native material, shall be designed, and maintained as necessary, to carry the proposed traffic without causing erosion or sedimentation of the stream channel while dry or during a flow event equal to or less than the crossing's design event.

    No unarmored ford shall be subject to heavy-truck or equipment traffic after a flow event until the stream bed is dry enough to support the traffic without disturbing streambed material to a greater extent than in dry conditions. Light vehicles (less than 14,000 pounds gross weight) are not restricted by this condition.

23) *Temporary structures constructed of imported materials are to be removed no later than upon completion of the permitted activity.*

24) *Temporary structures constructed of native materials, if they provide an obstacle to flow or can contribute to or cause sedimentation or erosion, are to be removed no later than upon completion of the permitted activity.*

25) *Upon completion of the activities certified herein (except as noted in condition 26 –concrete curing), areas within any WUS shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions.*

    Washout of concrete handling equipment must not take place within any WUS and any washout runoff shall be prevented from entering any WUS.

26) *If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, permittee will take steps; e.g., sheet piling or temporary dams, 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. Where possible, construction work will be during extreme low water conditions or at a time and season with the highest probability of ensuring work is done in "the dry".*

27) *Any permanent WUS crossings other than fords, shall not be equipped with gutters, drains, scuppers or other conveyances that allow untreated runoff (due to events equal to or lesser in magnitude than the design event for the crossing structure) to directly enter a WUS if such runoff can be directed to a local stormwater drainage, containment and/or treatment system.*

28) *Permittee will clear debris as needed from culverts, ditches, dips and other drainage structures in any WUS to prevent clogging or conditions that may lead to washout.*

END OF ADEQ SECTION 401 WATER QUALITY CERTIFICATION CONDITIONS

CALIFORNIA

The SWRCB issued its conditional certification (File No. SB13006IN) on November 25, 2013. As with previous reissuances of the RGP, conditions within issued Section 401 certifications are included within the body of the RGP to facilitate dissemination of information to permittees regarding water quality certifications for work authorized under RGP 63. The SWRCB's water quality conditions are adopted within this permit as RGP 63 General Conditions.

For California Permittees on Non-tribal Land: *The State Water Resources Control Board (SWRCB) issued a conditional Section 401 water quality certification for RGP 63 dated November 25, 2013 for all waters of the United States on non-tribal lands Los Angeles District in the State of Arizona, with the following exception:*

> *The State's certification does not apply to any discharge from 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 title 23 of the California Code of Regulations subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.*

The SWRCB's certification for Regional General Permit No. 63 for Emergency Situations, SB13006IN,is contingent on all of the conditions listed below being met, and any discharge from an authorized project being in compliance with 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). Discharges covered under this certification are also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes the State's certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act. (Wat. Code, § 13000 et seq.)

Except as modified by any of the certification conditions below, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of the certification and the attachments to the certification, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies and the Regional Water Boards' Water Quality Control Plans and Policies.

Regional Water Quality Control Plan Information

Water quality standards and control measures for the Regional Water Quality Control Boards (Regional Water Board) are contained in the Water Quality Control Plan (Basin Plan) for each region. The Basin Plan designates the beneficial uses for all surface and ground waters within the Regional Water Board's jurisdiction and is the master water quality control planning document. The beneficial uses of water specifically identified in the Basin Plan generally apply to all of its tributaries. The receiving waters and beneficial uses of waters potentially impacted by this Project are located on the appropriate Regional Water Board website. The Basin Plan information may be obtained from the State Water Board's website: http://www.waterboards.ca.gov/.

A. 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 section 3867 of title 23 of the California Code of Regulations.*

2. *This Certification action is not intended and must not be construed to apply to any discharge from 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 title 23 of the California Code of Regulations subsection 3855(b) 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 full payment of any fee required under California Code of Regulations, chapter 28, title 23, and owed by the Applicant.*

B. General Conditions

1. *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. (Pub. Resources Code, § 21060.3.)*

   Emergency actions must meet the above definition of "emergency" and demonstrate an imminent threat to qualify for this Certification. For actions that do not qualify for enrollment under this Certification, the discharger (i.e. the person or entity proposing to conduct actions which may result in a discharge to a water of the state) must contact either the State Water Board or the applicable Regional Water Board to apply for an individual water quality certification.

2. *This Certification is limited to emergency actions that satisfy one or more of the following exemption criteria as defined by the CEQA Guidelines (Cal. Code Regs., tit. 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. This Certification is limited only to sudden, unexpected emergency situations defined in General 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 is not undertaken within a time period less than the normal time needed to process an application under standard procedures.

4. Emergency repairs and reconstruction must begin within fourteen (14) calendar days of receiving authorization to proceed and shall be completed within one year of enrollment pursuant to this Certification. 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 a discharger uses bioremediation or other environmentally sensitive solutions. Permanent restoration work other than that performed as an associated part of the emergency actions, including any minor upgrades, shall not be performed without prior approval and authorization by the State Water Board or the applicable Regional Water Board.

C. Administrative Conditions

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

*2. **California Endangered Species Act***
Permitted actions 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 Wildlife 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.

*3. **Project Site Access***
Water Boards staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, shall be granted permission to enter the dischargers' site(s) at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the discharge may have on waters of the state.

4. ***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 activities enrolled pursuant to this Certification previously granted, shall immediately be revoked and any or all discharges shall cease. The Applicant and/or the discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

D. Best Management Practices (BMPs)

1. *At all times, appropriate types and sufficient quantities of materials shall be maintained on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or state.*

2. *Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment must not result in a discharge to any waters of the state, and shall be located outside of waters of the state in areas where accidental spills are not likely to enter or affect such waters.*

3. *If construction related materials reach surface waters, appropriate spill response procedures must be initiated as soon as the incident is discovered. In addition, the State Water Board and applicable Regional Water Board staffs shall be notified pursuant to subsection VII (C) of this Certification within twenty-four (24) hours of the occurrence.*

4. *Construction materials and debris from all construction work areas shall be removed following completion of the emergency actions.*

5. *Water diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.*

6. *All necessary BMPs to control erosion and runoff from areas associated with the emergency actions shall be implemented. All areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States and/or state shall be restored to pre-disturbance conditions. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.*

7. *The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at: http://www.cal-ipc.org/ip/inventory/weedlist.php.*

Mitigation

Permitted activities must first avoid and then minimize adverse impacts on aquatic resources to the maximum extent practicable. Any remaining unavoidable adverse impacts to the aquatic resources may be offset by compensatory mitigation requirements in accordance with the conditions of RGP 63.

Emergency Notification and Fee Requirements

A. *The State Water Board and the applicable Regional Water Board must receive notification by the discharger at least 48 hours prior to initiating emergency actions. This notification must be followed within three (3) business days by submission of all of the information in the Emergency Notification Form (**Attachment D**). The Certification fee must be submitted with Attachment D in accordance with California Code of Regulations, title 23, section 2200 ($132.00 as of October, 2013; this amount is subject to change annually). Failure to promptly pay the correct fee amount may result in an inability to be enrolled pursuant to this Certification.*

B. *The Water Boards recognize there may be situations where imminent threats to life or property occur and the discharger 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 a discharger and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the discharger must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the emergency action. This notification must be followed within three (3) business days by submission of all of the information in the Emergency Notification Form (**Attachment D**).*

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 Regional Water Board map boundaries, see:
http://www.waterboards.ca.gov/waterboards_map.shtml

For State Water Board
***Phone:** (916) 341-5455 (Division of Water Quality)*
***Fax:** (916) 341-5463 (Attention: Manager CWA Section 401 WQC Program)*
***Email:** Stateboard401@waterboards.ca.gov (Subject: RGP 63)*

Written notice should be sent to the following addresses:

ATTN: Manager
CWA Section 401 WQC Program
Division of Water Quality

State Water Resources Control Board
1001 I St. 15th Floor
Sacramento, CA 95814

ATTN: Manager
CWA Section 401 WQC Program
Insert address of appropriate Regional Water Board, obtained from:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf

Final Reporting Requirements

A. *The discharger must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 63. In addition, the discharger must fill in and submit the form provided in* ***Attachment E****. This information must be submitted within 45 calendar days of completion of any emergency actions conducted under RGP 63.*

B. *Failure to submit* ***Attachment E*** *within 45 calendar days of completion of any emergency actions conducted under this Certification may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.*

C. *Electronic submission of all reporting requirements is preferred, however the Final Report Form (Attachment E), must be completed and submitted as a pdf with a valid signature.*

END OF SWRCB SECTION 401 WATER QUALITY CERTIFICATION CONDITIONS

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 Larry Simon, Federal Consistency Coordinator for the Commission, at 415-904-5400 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 Larry Simon, Federal Consistency Coordinator for the Commission at 415-904-5400 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 NMFS or from their websites at:

   USFWS – http://www.fws.gov/endangered/
   NMFS – 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 State and Tribal Historic Preservation Officers, 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 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 Federal land management agency in the area (e.g., FWS, National Park Service, USDA Forest Service, Bureau of Land Management). Designated Wild and Scenic River segments in the Los Angeles District include the following:

CALIFORNIA

Bautista Creek, from the San Bernardino National Forest boundary in Section 36, T6S, R2E to the San Bernardino National Forest boundary in Section 2, T6S, R1E. (9.8 miles; USDA Forest Service)

Palm Canyon Creek, from the southern boundary of Section 6, T7S, R5E to the San Bernardino National Forest boundary in Section 1, T6S, R4E. (8.1 miles; USDA Forest Service)

Fuller Mill Creek, from the source of Fuller Mill Creek in the San Jacinto Wilderness to its confluence with the North Fork San Jacinto River. (3.5 miles; USDA Forest Service)

San Jacinto River (North Fork), from the source of the North Fork San Jacinto River at Deer Springs in Mt. San Jacinto State Park to the northern boundary of Section 17, T5S, R2E. (10.2 miles; USDA Forest Service)

Piru Creek, from 0.5 miles downstream of Pyramid Dam at the first bridge crossing to the boundary between Los Angeles and Ventura Counties. (7.3 miles; USDA Forest Service)

Sespe Creek, the main stem from its confluence with Rock Creek and Howard Creek downstream to where it leaves Section 26, T5N, R20W. (31.5 miles; USDA Forest Service)

Sisquoc River, from its origin downstream to the Los Padres National Forest boundary. (33.0 miles; USDA Forest Service)

Cottonwood Creek in the White Mountains, Inyo County, from its headwaters at the spring in Section 27, T4S, R34E to the northern boundary of Section 5, T4S, R34E. (21.5 miles; USDA Forest Service)

Owens River Headwaters, Deadman Creek from the two-forked source east of San Joaquin Peak to 100 feet upstream of Big Springs; the upper Owens River from 100 feet upstream of Big Springs to the private property boundary in Section 19, T2S, R28E; and Glass Creek from its two-forked source to its confluence with Deadman Creek. (19.1 miles; USDA Forest Service)

ARIZONA

Fossil Creek, from the confluence of Sand Rock and Calf Pen Canyons to its confluence with the Verde River. (16.8 miles; USDA Forest Service)

Verde River, from the section line between Section 26 and 27, T13N, R5E, Gila-Salt River meridian to the confluence of Red Creek with the Verde River in Section 34, T9 l/2N, R6E. (40.5 miles; USDA Forest Service)

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 NMFS 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, e-mail address and telephone number of:
   1. the applicant, and
   2. 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; electronic map images; 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 NMFS 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 requested above. 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 copy of the report for the FWS and/or the NMFS, 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.

CASTANON.DAVID.J.1231

E-Signed by CASTANON.DAVID.J.1231966150
VERIFY authenticity with ApproveIt

_____	29 Nov 2013
DAVID J. CASTANON Chief, Regulatory Division	DATE