

STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 88- 112

CONDITIONAL WATER QUALITY CERTIFICATION OF THE U.S.  
ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT NO. 26

WHEREAS:

1. The Department of the Army Corps of Engineers (Corps) issued regulations for the Regulatory programs of the Corps of Engineers including 26 nationwide permits for certain dredge and fill activities contained within 33 Code of Federal Regulations 330.
2. Nationwide Permit No. 26 (NWP-26) allows the discharge of dredge or fill material into ten acres or less of non-tidal waters, including wetlands located above headwaters and other isolated, non-tidal waters including adjacent wetlands of the United States.
3. On October 31, 1986, the State Board's Executive Director issued an Amended Decision which granted conditional 401 Water Quality Certification (Certification) to NWP-26. The Certification reserved authority to revoke certification, or set additional conditions of certification on a case-by-case, regional, or statewide basis.
4. The State Board received many comments expressing concerns with regards to the potential loss of wetlands and lack of adequate review as a result of the implementation of NWP-26.
5. On May 5, 1988, the State Board held a public hearing to receive testimony on whether the State should withdraw or condition the Certification for NWP-26 issued in 1986.
6. The State Board finds that the public interest can be best served by setting additional regional conditions to the State Board's Certification of NWP-26.

THEREFORE BE IT RESOLVED:

That the Amended Decision issued on October 31, 1986, providing conditional Certification for the Nationwide Permits, be amended further to include the following regional conditions as it pertains to activities authorized by NWP-26 within the San Francisco Bay Region and the the Los Angeles Region.

1. The Project Proponent shall notify the appropriate Regional Board, interested agencies, and members of the public, who request to be notified, of all NWP-26 related activities, impacting from one to ten acres, 20 days prior to the impending notification to the Corps. The Regional Board

shall maintain a list of interested agencies and members of the public, who have requested to be notified and shall make the list available upon request. If the project complies with California Environmental Quality Act (CEQA) Requirements and does not have any water quality impacts, the Regional Board may shorten or waive the 20-day period.

2. The proposed project description for projects impacting one to ten acres under NWP-26 shall describe the project, the location of the water body to be impacted, and an estimate of the area to be filled. The project description, including maps, pictures, or plans as necessary, shall identify the State or local agency to serve as lead agency for purposes of CEQA and include a copy of any final environmental document that has been prepared for the project.
3. The State Board Executive Director or the Executive Director's designee will have discretionary authority to condition or withdraw the October 31, 1986 Certification for NWP-26 as applied to a particular project as appropriate to assure compliance with any applicable water quality control plan and the other applicable state or federal water quality requirement. The certification decision of the Executive Director or the Executive Director's designee shall be subject to review by the State Board in accordance to Article 6 (Commencing with Section 3867) of Subchapter 17 of Title 23 of the California Code of Regulation.
4. Be it further resolved that this Resolution shall take effect on December 1, 1988.

#### CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 22, 1988.

  
Maureen Marche  
Administrative Assistant to the Board