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## State Water Resources Control Board

October 7, 2024

Matt Walker  
Manager, Environmental Management  
Pacific Gas and Electric Company  
Sent via Email: [Matthew.Walker@pge.com](mailto:Matthew.Walker@pge.com)

**Lower Tiger Creek Canal Station 51+00 Foundation Erosion Protection  
Amador County  
Tiger Creek**

**NOTICE OF APPLICABILITY, CLEAN WATER ACT SECTION 401 GENERAL  
WATER QUALITY CERTIFICATION FOR PACIFIC GAS AND ELECTRIC  
COMPANY'S LOWER TIGER CREEK CANAL STATION 51+00 FOUNDATION  
EROSION PROTECTION**

Dear Mr. Walker:

On September 20, 2024, the State Water Resources Control Board (State Water Board) received Pacific Gas and Electric Company's (PG&E) Notice of Intent (NOI) to enroll the Lower Tiger Creek Canal Station 51+00 Foundation Erosion Protection (Project) under the *Water Quality Order WQ 2023-0061-DWQ Clean Water Act Section 401 Water Quality Certification for Regional General Permit 8 for Emergency Repair and Protection Activities* ([Order](#))<sup>1</sup>.

State Water Board staff reviewed PG&E's NOI and supplemental information and finds the Project meets the requirements of the Order. The Project is hereby enrolled under the Order and PG&E may proceed with the Project in accordance with the requirements contained in this Notice of Applicability (NOA) and the attached Order following any additional federal and/or state approvals including United States Army Corps of Engineers' (USACE) notification of coverage under Regional General Permit (RGP) 8. The Project requires a Clean Water Act section 404 permit from USACE. PG&E submitted a request for authorization under RGP 8 on September 20, 2024.

PG&E is responsible for complying with all applicable Order requirements. Failure to comply with the Order constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the Order.

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<sup>1</sup> Available online at: [https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/2023/rgp-8-certification-mainbody.pdf](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/2023/rgp-8-certification-mainbody.pdf). Accessed October 2, 2024.

## **PROJECT DESCRIPTION**

The purpose of the Project is to provide interim protection of the Lower Tiger Creek Canal foundation that is in and adjacent to an unnamed drainage near station 51+00 prior to the 2024-2025 wet season to prevent continued erosion of the concrete footings that support the canal while a permanent solution is developed and implemented. The Lower Tiger Creek Canal is a 2.5-mile-long concrete box flume with a maximum flow capacity of 635 cubic feet per second. The Project area is approximately 5,100 feet downstream of Tiger Creek Regulator Dam, where four wooden frames anchored in concrete footings (bents) support the canal over the unnamed drainage. Both footings of Bent 2 show erosion, with the left side column footing showing approximately one foot of undercutting.

The Project includes reestablishing access through an abandoned trail from Salt Springs Road down to the canal, temporarily diverting creek flows around the work area, and installing rip rap for erosion protection. PG&E plans to remove loose debris, smooth sharp contours, place geotextile against the soil, and reestablish the drainage swale by installing rip rap. Rip rap will be placed under and around the eroded/undercut footings and secured in-place and then backfilled to existing grade. The downhill side of the rip rap will be sloped down at roughly two to one until it meets the existing grade.

PG&E anticipates the Project taking three weeks to complete, beginning as soon as possible in October 2024.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The certification of projects under USACE's RGP 8 are exempt from the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, section 15061 and Public Resources Code section 21080, subsections (b)(2) and (4).

The State Water Board will file a Notice of Exemption with the Office of Planning and Research within five days of issuance of this NOA. (Cal. Code Regs., tit. 14, § 15062.)

## **PROJECT FEE**

This NOA is conditioned on total payment of any fee required under California Code of Regulations, title 23, division 3, chapter 28. An application fee of \$2,985 was received electronically on September 20, 2024. The 2023-2024 Application Fee for a Category F: *Emergency Projects authorized by a General Order* is \$2,985. No additional payment is required at this time. Annual fees may apply if implementation of the Project, including any required monitoring or reporting, exceeds 12 months from this NOA. Annual fees will continue to be charged until a Notice of Project Complete Letter is issued by the Deputy Director for the Division of Water Rights (Deputy Director). Failure to notify the State Water Board of Project completion may result in continued billing of annual fees.

## **AUTHORIZED IMPACTS**

Excavation and fill activities authorized by this NOA are limited to 0.001 acre/3.3 cubic yards/15 linear feet of temporary impacts<sup>2</sup> and 0.002 acre/20 cubic yards/25 linear feet of permanent impacts<sup>3</sup> to a stream channel.

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<sup>2</sup> Temporary impacts would result from installing a temporary cofferdam.

<sup>3</sup> Permanent impacts would result from installing rip rap.

**PROJECT SPECIFIC AVOIDANCE AND MINIMIZATION MEASURES**

PG&E shall implement the avoidance and minimization measures and best management practices listed in the Project Work Plan as submitted to the State Water Board on September 20, 2024.

**REQUIREMENTS**

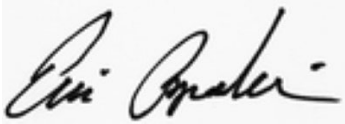
PG&E shall comply with all applicable conditions of the Order, including but not limited to the following:

- Pursuant to section VI.A.1., emergency repairs and construction must commence within 14 calendar days of receiving this NOA unless an extension is granted by USACE and agreed to, in writing, by the Deputy Director of the Division of Water Rights (Deputy Director).
- Pursuant to section VI.A.2., authorized work in waters shall be completed within 180 days of the enrollment date. If it is anticipated that work will not be completed prior to the expiration of enrollment, PG&E shall request an extension from the Deputy Director at least 30 days prior to the expiration date. The request shall include justification for the extension.
- Pursuant to section VI.G.3.c., PG&E shall provide advance notice to State Water Board staff if Project implementation as authorized in this NOA is altered in any way or by the imposition of subsequent permit conditions by any local, state, or federal regulatory authority by submitting a Modifications to Project Report as described in Attachment B of the Order. Project modifications shall not be performed without prior approval and authorization by the Deputy Director.
- Pursuant to section VI.C.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 will not enter or affect such waters.
- Pursuant to section VI.C.5., any temporary dam or other constructed obstruction must only be built from materials which will cause little or no siltation (e.g., clean gravel). Normal flows must be restored to the affected water immediately upon completion of work at that location.
- Pursuant to section VI.F.1., if surface water is present, continuous visual monitoring shall be conducted during active construction to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete).
- Pursuant to section VI.G.2.b, PG&E shall submit a Notice of Completion (Attachment E of the Order) within 45 calendar days of Project completion. The Deputy Director will issue a Notice of Project Complete Letter to PG&E. Annual fees will be terminated concurrent with the date the Notice of Project Complete Letter is issued by the Deputy Director.

If you have questions regarding this NOA, please contact Savannah Downey, Project Manager, by email to: [Savannah.Downey@waterboards.ca.gov](mailto:Savannah.Downey@waterboards.ca.gov) or by phone call to: (916) 322-1585. Written correspondence should be mailed to:

State Water Resources Control Board  
Division of Water Rights – Water Quality Certification Program  
Attn: Savannah Downey  
P.O. Box 2000  
Sacramento, CA 95812-2000.

Sincerely,



Eric Oppenheimer  
Executive Director

Enclosure A: Water Quality Order WQ 2023-0061-DWQ Clean Water Act Section 401  
Water Quality Certification for Regional General Permit 8 for Emergency  
Repair and Protection Activities

ec: Debbie-Ann Reese, Acting Secretary  
Federal Regulatory Energy Commission  
**Via eFiling to P-137**

Taylor Powell, Regulatory Project Manager  
United States Army Corps of Engineers  
**Email: [Taylor.M.Powell@usace.army.mil](mailto:Taylor.M.Powell@usace.army.mil)**

Sahrye Cohen, Wetland Section Manager  
United States Environmental Protection Agency, Region 9  
**Email: [R9cwa401@epa.gov](mailto:R9cwa401@epa.gov)**

Patrick Pulupa, Executive Officer  
Central Valley Regional Water Quality Control Board  
**Email: [Patrick.Pulupa@waterboards.ca.gov](mailto:Patrick.Pulupa@waterboards.ca.gov)**

CWA Section 401 WQC Program  
State Water Resources Control Board  
**Email: [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov)**

Mike Farmer, Senior Land Planner  
PG&E  
**Email: [M3FC@pge.com](mailto:M3FC@pge.com)**

**Attachment A:**

**Water Quality Order WQ 2023-0061-DWQ Clean Water Act Section 401 Water  
Quality Certification for Regional General Permit 8 for Emergency Repair and  
Protection Activities**



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## State Water Resources Control Board

### **WATER QUALITY ORDER WQ 2023-0061-DWQ CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR REGIONAL GENERAL PERMIT 8 FOR EMERGENCY REPAIR AND PROTECTION ACTIVITIES**

- Effective Date:** Upon Deputy Director's Signature
- Project:** Regional General Permit 8 for Emergency Repair and Protection Activities
- Applicant:** U.S. Army Corps of Engineers, Sacramento District
- Applicant Contact:** Leah Fisher  
Regional Permit Specialist, Regulatory Division  
1325 J Street, Room 1350  
Sacramento, CA 95814-2922  
Phone: (916) 557-6639  
Email: Leah.M.Fisher@usace.army.mil
- Water Board Staff:** Ashley Powell  
Environmental Scientist  
1001 I Street, 15<sup>th</sup> Floor  
Sacramento, CA 95814  
Phone: (916) 322-7783  
Email: Ashley.Powell@waterboards.ca.gov
- Water Board Contact Person:** If you have any questions, please contact State Water Resources Control Board (Water Board) Staff listed above, call (916) 341-5900, or email [SB-401Application@waterboards.ca.gov](mailto:SB-401Application@waterboards.ca.gov).

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E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

## Table of Contents

I. Summary .....	3
II. Findings .....	3
III. Scope of Order .....	4
IV. Location .....	6
V. Impact and Receiving Waters Information .....	6
VI. Conditions .....	6
VII. Public Notice.....	14
VIII. California Environmental Quality Act (CEQA).....	14
IX. Petitions for Reconsideration.....	15
X. Fees Received.....	15
XI. Water Quality Certification .....	15

- Attachment A:** RGP 8 Area Map
- Attachment B:** Reporting and Notification Requirements
- Attachment C:** Signatory Requirements
- Attachment D:** Notice of Intent Form
- Attachment E:** Notice of Completion Form
- Attachment F:** Compliance with 40 CFR § 121.7

## I. Summary

This Clean Water Act (CWA) section 401 certification action (Order), which includes attachments A through F, is issued at the request of the U.S. Army Corps of Engineers, Sacramento District (Corps), for Certification of Regional General Permit (RGP) 8 for Emergency Repair and Protection Activities. This Order is for the purpose described in the public notice issued by the Corps for the reissuance of RGP 8 on May 23, 2023.

## II. Findings

- A.** This Order is adopted pursuant to section 401 of the Clean Water Act and the California Porter-Cologne Water Quality Control Act (Wat. Code § 13000, et seq.). Notwithstanding any determinations made by the U.S. Army Corps or other federal agency, dischargers must comply with the entirety of this Order because the Order also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ. Discharges to waters of the state are prohibited except when in accordance with Water Code section 13264.
- B.** In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law, including Water Code section 13385.
- C.** In response to a suspected violation of any condition of this Order, the Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- D.** This Order and all conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the project.
- E.** This Order does not provide coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ until September 1, 2023, and thereafter Order No. 2022-0057-DWQ; NPDES No. CAS000002) (Construction General Permit).
- F.** This Order does not authorize any act which results in the take of a threatened, endangered or candidate species, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order, the Enrollee must obtain authorization for the take prior to any construction or operation of the portion of the project that may result in a take.



The Enrollee is responsible for meeting all requirements of the applicable endangered species act for the project authorized under this Order.

- G.** This Order includes monitoring and reporting requirements pursuant to Water Code sections 13383 and 13267. The burden of preparing these reports, including costs, is reasonable to the need and benefits of obtaining the reports. The reports confirm that the best management practices required under this Order are sufficient to protect beneficial uses and water quality objectives. The reports related to accidental discharges also ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible. The anticipated costs are minimal as the reporting obligations require only visual monitoring and notification reporting.

### **III. Scope of Order**

- A.** The purpose of RGP 8 is described in the public notice issued by the Corps on May 23, 2023. RGP 8 serves as the federal Clean Water Act section 404 and/or section 10 of the Rivers and Harbor Act of 1899 permit authorizing structures or work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States, including wetlands, necessary for repair or protection measures associated with an emergency situation. An emergency situation, as determined by the Corps, is one which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a Department of the Army permit is not undertaken within a time period less than the normal time to process the request under standard processing procedures.
- B.** Activities covered under RGP 8 consist of permanent or temporary work or structures in navigable waters of the U.S., and/or the permanent or temporary discharge of dredged and/or fill material into waters of the U.S., including wetlands, for repair or protection activities for which the Corps has determined that an emergency situation exists. Typical activities authorized under this RGP include but are not limited to bank stabilization; restoration of damaged areas; temporary fills for staging, access, and dewatering; and repair, replacement, or rehabilitation of existing structures and/or fills (i.e., roads, bridges, utility pipelines and flood control structures, including attendant features, irrigation pumps or intakes, and other existing structures located in waters of the U.S.).
- C.** This Order is limited to emergency actions where the Water Board has determined that the action is an emergency as defined in this Order. Emergency actions authorized by this Order are actions where CEQA is suspended under the California Emergency Services Act or actions that meet the CEQA definition of an “emergency.” CEQA defines “emergency” in Public Resources Code, section 21060.3, 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 movements, as well as such occurrences as riot, accident, or sabotage.*

Emergency actions must meet the CEQA definition of an “emergency” and demonstrate an imminent threat or be eligible for a CEQA suspension under the California Emergency Services Act to qualify for enrollment under this Order. For actions that do not qualify for enrollment under this Order, the discharger must contact either the State Water Board or the appropriate Regional Water Board to apply for an individual or other suitable general water quality certification or waste discharge requirements.

- D.** This Order is limited to projects where CEQA is suspended under the California Emergency Services Act, or projects that satisfy one or more of the following exemption criteria, as defined by the CEQA Guidelines (Cal. Code Reg., tit. 14, § 15269):
- 1.** 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. This includes projects that will remove, destroy, or significantly alter an historical resource when that resource represents an imminent threat to the public of bodily harm or of damage to adjacent property or when the project has received a determination by the State Office of Historic Preservation pursuant to Section 5028(b) of the Public Resources Code.
  - 2.** Emergency repairs to publicly or privately-owned service facilities necessary to maintain services essential to the public health, safety, or welfare. Emergency repairs include those that require a reasonable amount of planning to address an anticipated emergency.
  - 3.** 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, but this exclusion does not apply (1) if the anticipated period of time to conduct an environmental review of such a long-term project would create a risk to public health, safety or welfare, or (2) if activities (such as fire or catastrophic risk mitigation or modifications to improve facility integrity) are proposed for existing facilities in response to an emergency at a similar existing facility.
  - 4.** 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 exemption 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.
5. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.
- E. This Order is limited only to sudden, unexpected emergency situations 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.
- F. This Order cannot be used to authorize projects resulting from deferred maintenance (except as specified in section VI.A.3).

#### **IV. Location**

In any jurisdictional waters of the U.S. throughout the Sacramento District of the U.S. Army Corps of Engineers in: all of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, and Yuba counties; eastern portions of Alameda, Contra Costa, and Solano counties; north-western portion of Kern County, and northern portion of Mono County. A map showing the boundaries of the Sacramento District of the U.S. Army Corps of Engineers is found in Attachment A of this Order.

#### **V. Impact and Receiving Waters Information**

Individual projects authorized under this Order may be located within the jurisdiction of the North Coast, Central Valley, Central Coast, or Lahontan Regional Water Quality Control Boards (collectively Regional Water Boards). Receiving waters and groundwater potentially impacted by proposed projects are protected in accordance with the applicable water quality control plans (Basin Plan). The Basin Plans for the regions and other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) ([http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/)). The Basin Plans include water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

Dischargers must identify the receiving waters, as listed in the applicable Basin Plan, that would be impacted by a proposed project. This information must be included in the Notice of Intent (NOI), the form for which is provided in Attachment D.

#### **VI. Conditions**

Enrollees may proceed with projects in accordance with the following terms and conditions.

## **A. General Conditions**

1. Emergency repairs and construction must commence within fourteen (14) calendar days of receiving a Notice of Applicability (NOA) from the Water Boards unless an extension is granted by the Corps and agreed to, in writing, by the appropriate Regional Water Board.
2. Authorized work in waters shall be completed within 180 days of the enrollment date. If it is anticipated that work will not be completed prior to the expiration of enrollment, the Enrollee shall request an extension at least thirty (30) days prior to the expiration date. The request shall include justification for the extension.
3. All repairs and construction 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 upgrades, even if deferred maintenance contributed to the emergency situation, may be authorized in the NOA if the Enrollee uses bioengineered, biotechnical, or other environmentally sensitive solutions. For upgrades resulting from deferred maintenance, the Enrollee may be required to submit a plan prior to termination of coverage describing future or long-term actions and authorizations to prevent repeated future emergencies at the project site.
4. 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 Board. Temporary or permanent work that includes hardscape may be required to be removed after the emergency circumstances have passed if alternative ecologically appropriate solutions are deemed feasible by the Water Board.
5. Except as specified in condition VI.A.7, 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 Plans by any applicable Regional Water Board or any applicable State Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
6. The Enrollee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted with the NOI and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Enrollee submittals.
7. **Projects located within the Carson River, Lake Tahoe, Little Truckee River, Truckee River, or Walker River Hydrologic Units must work with Regional Water Board staff to ensure that the following**

**criteria are satisfied in order to be exempted from waste discharge prohibitions:**

- a. There is no feasible alternative to the project that would comply with the Basin Plan prohibitions, and
- b. All applicable control and mitigation measures that are practicable have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.

**B. Administrative Conditions**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment C of this Order.
2. The Corps and/or the Enrollee shall grant Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
  - b. Have access to and copy any records that are kept and are relevant to the project or the requirements of this Order.
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
  - d. Sample or monitor for the purposes of assuring Order compliance.
3. A copy of this Order and the subsequent NOA must be available at the project site(s) for the duration of the project.
4. A copy of this Order and the subsequent NOA shall be provided to any consultants, contractors, and subcontractors working on the project. All personnel performing work on the project shall be familiar with the content of this Order and be aware of where a copy is available at the project site. The Enrollee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.

**C. Construction Conditions**

1. At all times, appropriate types and sufficient quantities of materials shall be maintained on site to contain and clean up any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the state. Construction personnel must know how to use appropriate containment and clean up materials.

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 will not 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, Water Board staff at the appropriate Regional Board must be notified via email and telephone within twenty-four (24) hours of occurrence.
4. Construction materials and debris from all construction work areas shall be removed from the site and disposed of properly following completion of individual projects enrolled under this Order.
5. Water diversion activities must not result in the degradation of beneficial uses or exceedances of water quality objectives of any of the receiving waters, unless authorized in the NOA as specified in condition VI.A.7. Any temporary dam or other constructed obstruction must only be built from materials which will cause little or no siltation (e.g., clean gravel). Normal flows must be restored to the affected water immediately upon completion of work at that location.
6. Effective best management practices (BMPs) must be implemented to control erosion and runoff from areas associated with the emergency project, this includes access roads.

#### **D. Mitigation Conditions**

1. A sequence of actions must be taken to first avoid and then to minimize adverse impacts to aquatic resources. Compensatory mitigation may be required to offset any remaining unavoidable adverse impacts to aquatic resources. Enrollees may be required to submit a compensatory mitigation plan describing how the mitigation will offset permanent adverse impacts. If the Enrollee is required to provide compensatory mitigation, the compensatory mitigation requirements shall be set forth in the NOA.
  - a. For projects that require compensatory mitigation, the Enrollee shall submit a compensatory mitigation plan for Water Board staff approval within forty-five (45) days of completion of construction. The mitigation plan will identify the mitigation type (e.g., habitat establishment, rehabilitation, etc.), location, acreage, design, and implementation schedule. The mitigation plan shall be implemented prior to termination of coverage.
2. Factors that the Water Board staff 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 and flood storage; (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.

3. Compensatory mitigation may be required for temporary impacts that result in temporal loss of aquatic resource functions.

#### **E. Restoration of Temporary Impacts**

1. Enrollees must restore temporary impacts to pre-project conditions as soon as practicable. Enrollees may be required to submit a restoration plan to describe actions to restore areas of temporary impacts to pre-project conditions.
2. For projects that require a restoration plan, the Enrollee shall submit a restoration plan for Water Board staff approval in writing within forty-five (45) days of completion of construction that outlines design, implementation, assessment, and maintenance for restoring areas of temporary impact to pre-project conditions. The level of detail in the restoration plan shall be sufficient to accurately evaluate whether the restoration addresses the adverse temporary impacts attributed to the project. The restoration plan shall be implemented prior to termination of coverage.

#### **F. Water Quality Monitoring**

1. General: If surface water is present, continuous visual monitoring shall be conducted during active construction to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete).

Additional water quality monitoring (e.g., pH, dissolved oxygen), or inspections may be required during or post-construction, such as a daily log with photos during in-water work, revegetation monitoring, and sedimentation and erosion monitoring. Requirements for additional monitoring, sampling, or inspections shall be set forth in the NOA.

2. Accidental Discharges/Noncompliance: Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Water Board staff may require additional water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

#### **G. Reporting and Notification Requirements**

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachments B, D, and E, including specifications for photo and map documentation during the project.

Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment B, which must be signed by the Enrollee or an authorized representative.

### 1. Notice of Intent and Fee Requirements

- a. Except as set forth in section G.1.b below, the prospective Enrollee must notify the appropriate Regional Water Board<sup>1</sup> and the State Water Board as early as possible, and no less than forty-eight (48) hours prior to initiating the emergency project.

Notification may be via telephone, e-mail, written notice, or other verifiable means. A staff directory that includes contact information for State and Regional Program Managers is found at the State Water Board's [Dredge or Fill Program Staff Directory](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/wqc\\_staffdir.pdf](https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/wqc_staffdir.pdf)). A map of Regional Board boundaries is included in Attachment A and an interactive version is on the State Water Board's [Regional Board Map website](https://www.waterboards.ca.gov/waterboards_map.html) ([https://www.waterboards.ca.gov/waterboards\\_map.html](https://www.waterboards.ca.gov/waterboards_map.html)).

#### Electronic Submittal:

- i. Send an email to [SB-401Application@waterboards.ca.gov](mailto:SB-401Application@waterboards.ca.gov), and the appropriate "Region Program Manager" from the staff directory linked above.
  - ii. Include "Attention – Emergency RGP 8 Notice of Intent" in the subject line.
- b. If forty-eight (48) hour prior notice to the appropriate Regional Water Board and the State Water Board is not possible, then the Enrollee must notify the appropriate Regional Water Board and the State Water Board within one (1) business day of initiation of the emergency project.
  - c. In all cases, if not included as part of the initial notification to the Water Boards, the Enrollee must submit all the information in the Notice of Intent (NOI) form provided in Attachment D within three (3) business days of the notification.
  - d. The Enrollee must provide the appropriate fee to the Regional Water Board in accordance with California Code of Regulations, title 23, section 2200 with the NOI documents or the project may be ineligible for enrollment in this Order. Note that fees are adjusted annually.

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<sup>1</sup> Prospective Enrollees with a proposed project that involves one or more of the following activities should submit their Notice of Intent to the Division of Water Rights: 1) an appropriation of water, 2) a hydroelectric facility, or 3) any other diversion of water for domestic, irrigation, power, municipal, industrial, or other beneficial use. Water Rights contact information is in the Staff Directory in section VI.G.1.a.



Enrollees should confirm the correct fee amount prior to submitting payment.

- e. Once the appropriate Regional Water Board receives a complete NOI and the correct fee from the Enrollee, the Regional Water Board will transmit a NOA to the Enrollee verifying enrollment in this Order.

## **2. Project Status Notifications**

- a. The Enrollee must provide the appropriate Regional Water Board and State Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 8. In addition, the Enrollee must file the Notice of Completion (NOC) form provided in Attachment E.
- b. A completed NOC must be submitted to the appropriate Regional Water Board and State Water Board within 45 calendar days of completion of any actions conducted under this Order.

## **3. Conditional Notifications and Reports:** Instructions for submitting reports and conditional notifications are in Attachment B of this Order.

- a. Annual or Monthly Reporting: If required by the NOA, the Enrollee shall submit an Annual Report each year on the anniversary of the date that the individual project is authorized under this Order, unless another date is specified in the NOA. Monthly reporting may also be required. Reporting shall continue until a Notice of Project Complete Letter is issued to the Enrollee.

### **b. Accidental Discharges of Hazardous Materials<sup>2</sup>:**

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, Section 13271):

- i. As soon as (A) Enrollee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:

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<sup>2</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Safety Code, Section 25501.)

- a. First call – 911 (to notify local response agency)
  - b. Then call – Office of Emergency Services (OES) State Warning Center at: (800) 852-7550 or (916) 845-8911
  - c. Lastly, follow the required OES procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web Page](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf) ([https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill\\_Booklet\\_Feb2014\\_FINAL\\_BW\\_Acc.pdf](https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf)).
- ii. Following notification to OES, the Enrollee shall notify the Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.
  - iii. Within five (5) business days of notification to the Water Board, the Enrollee must submit an Accidental Discharge of Hazardous Material Report.

**c. Modifications to Project**

The Enrollee shall provide advance notice to Water Board staff if project implementation as authorized in the NOA is altered in any way or by the imposition of subsequent permit conditions by any local, state, or federal regulatory authority by submitting a Modifications to Project Report as described in Attachment B. Project modifications shall not be performed without prior approval and authorization by the Water Board.

- 4. Violation of Water Quality Standards:** The Enrollee shall notify the appropriate Regional Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, email, written notice, or other verifiable means.
  - a. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the state, and water contact with uncured concrete.
  - b. This notification must be followed within three (3) business days by submission of a Violation of Water Quality Standards Report.
- 5. Transfer of Property Ownership:** Authorization under this Order is not transferable in its entirety or in part to any person or organization except after notice to the appropriate Regional Water Board in accordance with the following term:
  - a. The Enrollee must notify the Water Board of any change in ownership or interest in ownership of the project area by submitting a Transfer of Property Ownership Report. The Enrollee and purchaser must sign and date the notification and provide such notification to the Water Board at

least 10 days prior to the transfer of ownership. The purchaser must also submit a written request to the Water Board to be named as the Enrollee in a revised Order.

- 6. Transfer of Long-Term BMP Maintenance:** If maintenance responsibility for post-construction BMPs is legally transferred, the Enrollee must submit to the appropriate Regional Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Enrollee must provide such notification to the Water Board with a Transfer of Long-Term BMP Maintenance Report at least ten (10) days prior to the transfer of BMP maintenance responsibility.

#### **H. Standard Conditions**

1. This action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, Title 23, chapter 28, Article 6 commencing with section 3867.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and 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 that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Enrollment under this Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations.

#### **VII. Public Notice**

The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from June 12, 2023, to July 27, 2023. The State Water Board did not receive any comments during the comment period.

#### **VIII. California Environmental Quality Act (CEQA)**

The State Water Board has determined that the issuance of this Order is exempt by statute pursuant to California Code of Regulations, title 14, section 15061. Specifically, the issuance of this Order and the activities described herein are exempt by statute pursuant to Public Resources Code section 21080, subsections (b)(2)-(4).

The State Water Board will file a Notice of Exemption with the State Clearinghouse within five (5) business days from the issuance of this Order. (California Code of Regulations, Title 14, section 15062).

### IX. Petitions for Reconsideration

Any person aggrieved by the issuance of this Order may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

### X. Fees Received

The application fee amount for individual projects authorized under this Order is determined as required by California Code of Regulations, title 23, sections 3833(b)(3), and is calculated as category F – Emergency Projects authorized by a Water Board Order (fee code 85). Note that fees are periodically adjusted. Dischargers should confirm the correct fee amount prior to submitting payment.

### XI. Water Quality Certification

I hereby issue this water quality certification for the Regional General Permit 8 for Emergency Repair and Protection Activities, State Water Board I.D. No. SB23037GN, certifying that as long as all of the conditions listed in this Order are met, 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). This certification also serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ.

Authorization is contingent on: (a) compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Water Boards' Water Quality Control Plans.

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Date

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Date: 2023.08.01 14:59:16 -07'00'

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Karen Mogus, Deputy Director  
Division of Water Quality