

Burn Area Recovery Task Force Appendix A - Environmental Permitting Requirements

State Permitting Requirements

The projects described in the attached report might be exempt from some or all of the permitting requirements that would normally apply to the project under State statutes or regulations, either because the State statute or regulation includes a specific exemption that applies to the project, or the applicable State statute or regulation has been suspended under Executive Order S-13-07 (Executive Order) that Governor Schwarzenegger issued on October 26, 2007 in response to the Southern California Wildfire Disaster. The Executive Order suspends State statute and regulations enforced by agencies within the Resources Agency and the California Environmental Protection Agency that apply specifically to:

- 1) The removal, storage, transportation, and disposal of debris resulting from the disaster (cleanup activities);
- 2) Necessary restoration, and
- 3) Related activities to the extent necessary to expedite cleanup activities and restoration work. Application form for permit waiver under Executive Order S-13-07 can be found at the California Environmental Protection Agency Website <http://www.calepa.ca.gov/Disaster/Fire> and in Appendix B – Permit Applications.

To determine whether the project requires a State permit you should contact your local California Department of Forestry and Fire Protection (CALFIRE) office, the Department of Fish and Game (DFG), your local Regional Water Quality Control Board (RWQCB) office, and/or your local California Coastal Commission (CCC) office depending on the project, as described below.

CALFIRE

Timber Operations

You should contact CALFIRE if the project involves “timber operations.” Timber operations include projects that involve the removal of healthy green trees or dead, dying, or diseased trees and the logs will be bartered, traded, or sold (e.g., for commercial purposes). Timber operations are defined under State law as:

“ . . . the cutting or removal or both of timber or other solid wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for the falling of trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988, but excluding preparatory work such as treemarking, surveying, or road flagging. ‘Commercial purposes’ includes: (1) the cutting or removal of trees which are processed into logs, lumber, or other wood

products and offered for sale, barter, exchange, or trade, or; (2) the cutting or removal of trees or other forest products during the conversion of timberlands to land uses other than the growing of timber which are subject to the provisions of [Public Resources Code] Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects, and transportation projects. Removal or harvest of incidental vegetation from timberlands, such as berries, ferns, greenery, mistletoe, herbs, and other products, which action cannot normally be expected to result in a threat to forest, air, water, or soil resources, does not constitute timber operations.” (Pub. Resources Code, § 4527.)

Contact: Your local CALFIRE office and/or visit CALFIRE’s website at
<http://www.cdf.ca.gov>

San Bernardino Unit
3800 N. Sierra Way
San Bernardino, CA 92405
Telephone: 909-881-6900

Riverside Unit
210 W. San Jacinto
Perris, CA 92570
Telephone: 951-940-6900

San Diego Unit
2249 Jamacha Road
El Cajon, CA 92019
Telephone: 619-590-3100

Department of Fish and Game

You should contact DFG if the project falls within one of the categories described below:

- **Stream diversions and obstructions.** The project involves diverting or obstructing the flow of a river, stream, or lake.
- **Work within or adjacent to a stream or lake.** The project will change the bed, bank or channel of a river, stream, or lake.
- **Discharges into a stream.** The project could result in a hazardous substance, debris, soil, or other material passing into a river, stream, or lake that could harm fish, plants, mammals, or birds and/or their habitat.
- **Sensitive species.** The project is likely to affect a sensitive fish, plant, or wildlife species or its habitat, including a species that is fully protected under State law or is listed as threatened or endangered under the California Endangered Species Act.
- **Natural Community Conservation Plan (NCCP).** The project will occur in an area covered by a NCCP. If you are unsure whether the area is covered by an NCCP, please contact DFG at the telephone number below.

For additional Streambed Alteration Agreement, California Endangered Species Act, and NCCP information visit the DFG website at <http://www.dfg.ca.gov/about/resource-mgmt.html> or contact Michael Mulligan listed below for specific questions.

Contact: Michael Mulligan, Deputy Regional Manager
South Coast Region
Department of Fish and Game
4949 Viewridge Avenue
San Diego, CA 92123
Telephone: (858) 467-4212
E-mail: mmulligan@dfg.ca.gov
Fax: (858) 467-4239

Regional Water Quality Control Board

Impacts to Waters of the United States

If the project will affect a water of the United States, a “Section 404 permit” from the U.S. Army Corps of Engineers (USACE) might be required (see below). If that is the case, a water quality certification from the RWQCB will be required, unless the permit has already been certified. That is the case for one of USACE’s Regional General Permits (RGP)–RGP 63–which will likely apply to many of the projects described in the attached report. (See RGP 63 attached as Appendix 1a for more information, specifically paragraph number 7 (“Water Quality Certification”) in the RGP.) However, even though RGP 63 has been certified, you will still need to notify your local RWQCB if your project qualifies for that RGP. If the project does not qualify for RGP 63 or some other permit that has already been certified, you will need to contact your local RWQCB to apply for a certification. The Executive Order does not apply to water quality certifications by the RWQCBs, because such certification is a requirement under federal law.

Contact: Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501
Telephone: (951) 782-4130
Fax: (951) 781-6288

San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
Telephone: (858) 467-2952
Fax: (858) 571-6972

Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles CA 90013-2343
Telephone: 213-567-6600
Fax: 213-567-6640

California Coastal Commission

Coastal Development Project

- You should contact the California Coastal Commission if the project will occur in the Coastal Zone.

Contact: South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801
Telephone: (805) 585-1800
Fax: (805) 641-1732

South Coast District Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416
Telephone: (562) 590-5071
Fax: (562) 590-5084

San Diego Coast District Office
7575 Metropolitan Drive, Ste. 103
San Diego, CA 92108-4402
Telephone: (619) 767-2370
Fax: (619) 767-2384

Federal Permitting Requirements

The projects described in the attached report might be subject to permitting requirements under federal laws or regulations. The Executive Order does not apply to such requirements. To determine whether a project requires a federal permit, you should contact the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and/or USACE depending on the project, as described below.

USFWS or NMFS

Federal Endangered Species Act

You should contact the nearest regional office of USFWS or NMFS if the project could adversely affect a species listed as threatened or endangered under the federal Endangered Species Act or its habitat. If that is the case, the project will require “take authorization.” If the project also requires a federal permit, the federal permitting agency will need to consult with

USFWS or NMFS to obtain the take authorization before it issues the permit. If the project does not require a federal permit, you will need to consult with USFWS or NMFS on an individual basis to obtain take authorization.

Contacts: U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011
Telephone: (760) 431-9440

U.S. Fish and Wildlife Service
2493 Portola Road #B
Ventura, CA 93003
Telephone: (805) 644-1766

National Marine Fisheries Service
Southwest Regional Office
501 West Ocean Boulevard
Long Beach, CA 90802
Telephone: (560) 980-4000

Information on emergency consultations with USFWS is found in Chapter 8 of the Endangered Species Consultation Handbook at the following website:

<http://www.fws.gov/endangered/pdfs/Sec7/handbook/CH5-9.PDF>

USACE

Impacts to Waters of the United States

You should contact USACE if the project involves the dredging or discharging of fill material into a water of the United States, including rivers, streams, lakes, and wetlands. In that case, the project might require a permit under section 404 of the federal Clean Water Act, known as a “section 404 permit.” For more information, visit

http://www.epa.gov/owow/wetlands/pdf/reg_authority_pr.pdf

As mentioned above, RGP 63 is attached as Appendix B – Permit Applications. If you need more information on RGP 63, you should contact USACE Los Angeles District Office or download the form from the Los Angeles District website (below).

Contact: United States Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard, Suite 980
Los Angeles, CA 90017
Telephone: (213) 452-3908
<http://www.spl.usace.army.mil/regulatory/>



SOUTHERN CALIFORNIA WILDFIRE DISASTER

Determination of Suspension of Requirements for Construction, and Debris and Timber Removal

Introduction

On October 26, 2007, Governor Schwarzenegger issued Executive Order S-13-07 ("EO") directing State agencies to help Southern California Wildfire Disaster victims with cleanup and restoration efforts. Specifically, the EO suspends State statutes and regulations enforced by the California Environmental Protection Agency ("Cal/EPA") and the Resources Agency ("Agencies") that apply to the removal, storage, transportation, and disposal of debris resulting from the disaster ("cleanup activities"), necessary restoration, and related activities to the extent necessary to expedite cleanup activities and restoration work ("State requirements"), while at the same time protecting public health and the environment.

Why do I need a suspension determination?

Violation of State requirements may result in criminal or civil prosecution and severe fines or penalties. You can protect yourself from such action by contacting the Agencies listed below to determine if any State requirements apply to your cleanup activity or restoration work and, if so, applying for a suspension determination. The Agencies' contact information and instructions on how to apply for a suspension determination are described below.

How do I request a suspension determination?

To request a suspension determination, you must complete the attached Application for Determination Regarding Suspension of State Statutes, Rules, Regulations, and Requirements ("suspension determination request") and submit it to either the Resources Agency's Department of Forestry and Fire Protection ("CALFIRE") or Department of Fish and Game ("DFG"), or Cal/EPA, as explained below. After the agency receives your suspension determination request, it will contact you at the telephone number or e-mail address you provide and explain any additional steps you will need to take before it can act on the suspension determination request. You should wait for the agency to contact you before you begin the cleanup activity or restoration work described in the suspension determination request.

To which Agency do I submit my suspension determination request?

Which Agency you should submit your suspension determination request to will depend on your cleanup activity or restoration work, as described below.

CAL/EPA

You should submit your suspension determination request to Cal/EPA (see “Suspension Determination Request Submittals” below):

- If the cleanup activity or restoration work will involve the removal of hazardous waste (e.g., paints, solvents, automotive fluids, pesticides, etc.), mixed in with burn debris that cannot be readily separated;
- If the cleanup activity or restoration work will involve the transportation and disposal of burn debris or other solid waste at any solid waste landfill;
- If the cleanup activity or restoration work will involve the transportation, storage, or disposal of burn debris or other solid waste on your property;
- If the cleanup activity or restoration work will involve moving or disturbing soils in a manner that could increase soil erosion or runoff; and/or
- If the cleanup activity or restoration work will involve the removal of timber or ash in a manner that could cause it to be washed, swept, or blown off of your property.

CALFIRE

You should submit your suspension determination request to the Resources Agency’s CALFIRE (see “Suspension Determination Request Submittals” below):

- If you are removing dead, dying or diseased trees and logs are bartered, traded, or sold (e.g., for commercial purposes); or
- If you are removing healthy green trees that pose an obstruction to debris removal, and logs are bartered, traded, or sold (e.g., for commercial purposes).

DEPARTMENT OF FISH AND GAME

You should submit your suspension determination request to the Resources Agency’s DFG (see “Suspension Determination Request Submittals” below):

- If the cleanup activity or restoration work involves diverting or obstructing the flow of a river, stream, or lake, such as by constructing sediment catch basins;
- If the cleanup activity or restoration work will change the bed, bank, or channel of a river, stream, or lake, such as by removing debris or constructing crossings for equipment;
- If the cleanup activity or restoration work could result in debris, soil, or other material passing into a river, stream, or lake that could harm fish, plants, mammals, or birds and/or their habitat;

- If the cleanup activity or restoration work is likely to affect a sensitive fish, plant, or wildlife species or its habitat, including a species that is fully protected under state law or is listed as threatened or endangered under the California Endangered Species Act; and/or
- If you are doing any activity within an area covered by a Natural Community Conservation Plan (“NCCP”). If you are unsure whether the area is covered by an NCCP, please contact DFG at the telephone number below.

If you are unsure which Agency to send your suspension determination request to, contact the Resources Agency or Cal/EPA.

Suspension Determination Request Submittals

You must submit your suspension determination request to the applicable agency listed below.

Cal/EPA: Matt Bogoshian, Deputy Secretary for Law Enforcement and Counsel
California Environmental Protection Agency
1001 I Street, P.O. Box 2815
Sacramento, California 95812-2815

E-mail address: mbogoshian@calepa.ca.gov
Fax number: (916) 319-7891

CALFIRE: Giny Chandler, Chief Counsel
CALFIRE
1416 Ninth Street
Sacramento, CA 95814

E-mail address: giny.chandler@fire.ca.gov
Fax number: (916) 657-4072

DFG: Michael Mulligan, Deputy Regional Manager
South Coast Region
Department of Fish and Game
4949 Viewridge Avenue
San Diego, CA 92123

E-mail address: mmulligan@dfg.ca.gov
Fax number: (858) 467-4239

If your suspension determination request is approved, the Agency approving your request will contact you and your approval will be provided to the public at www.resources.ca.gov and www.calepa.ca.gov.

What requirements were *not* suspended by the EO?

Federal requirements

Among other things, the EO did not suspend any federal statutes, rules, regulations, or requirements. If you intend to perform emergency repair work that is of a non-life saving nature, please contact the proper federal agencies that might have jurisdiction over the work. A list of federal agencies you might need to contact is provided below.

If your emergency repair work could affect a species listed as threatened or endangered under the federal Endangered Species Act, please contact the nearest regional office of the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service before you proceed:

U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011
(760) 431-9440

U.S. Fish and Wildlife Service
2493 Portola Road #B
Ventura, CA 93003
(805) 644-1766

National Marine Fisheries Service
Southwest Regional Office
501 West Ocean Boulevard
Long Beach, CA 90802
(560) 980-4000

Should you have questions regarding emergency permitting by the Army Corps of Engineers under section 404 of the Clean Water Act, please contact the Corps's Los Angeles District office:

United States Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd Suite 980
Los Angeles, Ca
(213) 452-3908

CALFIRE Requirements

To assist and encourage landowners to meet their responsibilities for removing dead, dying, and diseased trees and clearing fuel breaks on their lands, pursuant to Government Code section 8571, the requirement for submitting notices to CALFIRE under the provisions of section 1038, subdivisions (b) and (c) in title 14 of the California Code of Regulations prior to beginning timber operations for the removal of dead, dying, and diseased trees or the cutting or removal of trees to create fuel breaks, and the limitation on the removal of dead, dying, or diseased trees to ten percent of the average volume per acre were suspended by the Governor's Executive Order. All other provisions of these regulations remain in effect.

To expand the number of contractors available to perform services to property owners for cutting and removing trees for fire safety purposes by authorizing use of tree service contractors licensed to perform tree removal work under Business and Professions Code section 7000 *et seq.*, in addition to timber operators licensed under the Public Resources Code to perform timber operations, pursuant to Government Code section 8571, the provisions of Public Resources Code section 4571, subdivision (a), providing that only licensed timber operators may perform timber operations were suspended by the Governor's Executive Order. A licensed timber operator need not obtain a contractor's license under the Business and Professions Code in order to carry out the work.

How can I obtain more information about State requirements that might apply to my cleanup activity or restoration work and suspension determination requests?

You may obtain more information about State requirements that might apply to your cleanup activity or restoration work and suspension determination requests by visiting the Agencies' web sites at www.resources.ca.gov or www.calepa.ca.gov/disaster/Fire/default.htm, or by contacting any of the following agencies:

Cal/EPA: (916) 322-2893

Office of Emergency Services: (916) 945-8270 (Dennis Castrillo) or (916) 845-8269

CALFIRE: (916) 653-5123

DFG: (858) 467-4212



APPLICATION FOR DETERMINATION REGARDING SUSPENSION OF STATE STATUTES, RULES, REGULATIONS, AND REQUIREMENTS RELATED TO THE SOUTHERN CALIFORNIA WILDFIRES

Complete EACH field and attach additional pages if necessary.

APPLICATION TO: THE RESOURCES AGENCY: CALFIRE or DFG; OR CAL/EPA (Check one box only.)

1A. LANDOWNER

Name			
Street Address			
City, State, Zip			
Telephone		Fax	
Email			

1B. PERSON, BUSINESS, OR AGENCY RESPONSIBLE FOR WORK IF DIFFERENT FROM LANDOWNER

Name			
Business/Agency			
Street Address			
City, State, Zip			
Telephone		Fax	
Email			

2. LOCATION OF CLEANUP OR RESTORATION WORK

Address or description of work location. <i>(Include a map that marks the location of the work with a reference to the nearest city or town, and provide the Assessor's Parcel Number(s) and driving directions from a major road or highway.)</i>	
<input type="checkbox"/> Continued on additional page(s)	
Name of any river, stream, or lake the work might affect?	
Name of any waterbody to which the affected river, stream, or lake is a tributary?	

3. STATUTES, RULES, REGULATIONS, OR REQUIREMENTS FOR CLEANUP OR RESTORATION WORK

List or describe the State requirements you believe might apply to the work you are proposing, and explain why you believe they were suspended under the Governor's Executive Order.
<input type="checkbox"/> Continued on additional page(s)

4. NATURE OF CLEANUP OR RESTORATION WORK

Estimated date work will begin.	
Estimated date work will be completed.	
Identify the type of property the emergency affected by checking the appropriate box(es) below.	
<input type="checkbox"/> Bridge, culvert, or other water crossing <input type="checkbox"/> Dwelling or other building <input type="checkbox"/> Levee or other bank protection <input type="checkbox"/> Road <input type="checkbox"/> Tree/Vegetation Removal <input type="checkbox"/> Sensitive Species Habitat <input type="checkbox"/> Utility <input type="checkbox"/> Other (describe): _____	
Describe the work.	
<input type="checkbox"/> Continued on additional page(s)	
Briefly describe the dimensions (e.g., length and width) of the area(s) affected by the emergency and the work area.	
<input type="checkbox"/> Continued on additional page(s)	
Describe any special status species the work might affect.	
<input type="checkbox"/> Continued on additional page(s)	

5. SIGNATURE

I hereby certify that to the best of my knowledge that (a) the work described herein is necessary to remedy damage caused by the Southern California Wildfires Disaster, (b) the information in this application is true and correct, and (c) I am authorized to sign this Application as, or on behalf of, the person, business, or agency responsible for the work.	
_____ Signature of Applicant or Applicant's Authorized Representative	_____ Date
_____ Print Name	

<i>FOR AGENCY USE ONLY</i>			
<i>Date Received</i>		<i>Determination Number</i>	



*LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS*

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

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

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

ISSUANCE DATE: October 31, 2003

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, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and Imperial counties, eastward of the crest of the Sierra Nevada in Inyo County, eastward of the crest of the Sierra Nevada in Mono County to the Conway Summit, and the southern slopes of the Tehachapi Mountains in Kern County, and all of the State of Arizona. In the event of future modifications to District boundaries, this permit would also apply in any areas so revised.

GENERAL CONDITIONS OF THIS RGP:

1. **Time Period Covered:** The time limit for completing work authorized by this RGP ends on October 31, 2008. The reauthorization of this RGP in 2008 will depend on the degree to which users of this RGP (permittees) comply with the RGP's terms and conditions, and in particular, its reporting requirements.

2. **Notification/Communication:**
 - a. **Timing:** The applicant must notify the District Engineer (DE) as early as possible and shall not begin the activity until notified by the DE that the activity may proceed under this RGP with any site-specific special conditions imposed by the District or Division Engineer. The Corps recognizes there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed from the DE. It is not the intention of this office to imply that one allows such threat to life or property result in actual loss. If one proceeds without such notice from the DE, one must ensure that prior notice of such a unilateral decision to proceed is made to this office by telephone, facsimile, e-mail, delivered written notice or other alternative means.
 - b. **Contents of Notification:** The notification should be in writing and include the following information:
 - (1) The name, address and telephone number of the applicant and the designated point of contact and their address and telephone number;
 - (2) The location of the proposed project in detail, including the identification of the waterbody(ies) (this should include a copy of a U.S. Geologic Survey [USGS] topographic map, Thomas Guide map, or hand-drawn location map with suitable landmarks; the map should have sufficient detail to clearly indicate the location and extent of the project, as well as detailed directions to the site);
 - (3) A brief, but clear, description of the imminent threat to life or property and the proposed project's purpose and need;
 - (4) A description of methods anticipated to be used to rectify the situation ("field engineering" is not an adequate description. It is presumed if one mobilizes matériel and a particular piece of equipment to a site, then one probably has a fairly well defined intention for that matériel and equipment. Plans, drawings or sketches showing the area to be impacted, cross sections showing details of construction, 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 (www.spl.usace.army.mil/co/co5.html#reg), may be used as the notification and must include all of the information required in General Condition 2.b. Items (1)-(5) above. A letter or facsimile transmission may also be used. In certain situations where there is an imminent threat to life or property and the applicant is unable to make direct contact with this office, a message shall be left on voice mail or an e-mail message shall be sent. Again, those messages should include the information identified in General

Condition 2.b. Items (1)-(5) above. Formal written notification should be sent to this office as soon as possible.

- d. **Agency Coordination:** Upon receipt of a notification, the DE will immediately provide (i.e., by facsimile transmission, overnight mail or other expeditious manner) a copy to the appropriate offices of the Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS), the NOAA Fisheries (NOAA), the Monterey Bay National Marine Sanctuary, the California Department of Fish and Game (CDFG), the California State Water Resources Control Board (SWRCB), the Arizona Department of Environmental Quality, the White Mountain Apache Tribe, the appropriate Regional Water Quality Control Board (RWQCB), the California Coastal Commission (CCC), and the State Historic Preservation Office (SHPO), as appropriate. These agencies will be requested to telephone or facsimile transmit to the Corps Regulatory Branch Project Manager), as expeditiously as possible, a notice indicating whether or not they intend to provide substantive, site-specific comments regarding the proposed project. If notified that comments will be provided by an agency, 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 from Federal or State agencies, received within the specified timeframe, concerning the proposed activity's compliance with the conditions of their authority and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. The DE will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by electronic mail, facsimile transmission or other means.

- e. **Mitigation:** Discharges of dredged or fill material into Waters of the United States must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Factors that the DE will consider when determining the acceptability 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 authorized by this RGP will 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 proposal for 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 an expedient considering the condition of the project site and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered if the applicant wishes to use bioremediation or other environmentally sensitive solutions. The RGP may NOT be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources, except in very unusual and limited circumstances. Such upgrade projects are considered separate activities for which other forms of authorization will be required.

RGP 63 does not authorize work required by property owners as *quid pro quo* for access through private or public property where such access is contingent upon work conducted by the permittee in waters of the U.S. for the benefit of the property owner. This is absolutely inappropriate and such additional activities are violations of Section 404 of the Clean Water Act unless previously authorized. If a local agency needs to acquire such access from an otherwise uncooperative property owner, existing condemnation procedures should be utilized to acquire the temporary access or permanent easement.

4. **Start Work Date:** Any projects authorized under this RGP must be initiated within seven (7) days of receiving authorization to proceed. Projects that cannot be initiated within this immediate timeframe would not meet the definition of an "emergency." If the project start

time can be delayed for more than a week, the imminent threat of impending loss is likely to have diminished in magnitude as well as immediacy. Further, this RGP cannot be used to authorize long-planned-for projects, nor shall it be used for projects that are likely to have been known to the applicant but for which an application was not submitted in a timely manner. That is, the applicant's failure to act in a timely manner prior to the storm season will not obligate the Corps or other agencies to authorize work because of an "emergency" situation unless we agree that the situation qualifies as an emergency as defined on page 1.

5. **Access to Site:** You must allow representatives from this office and other agencies to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.
6. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
7. **Water Quality Certification:**

For California Permittees on Non-tribal Land: The California State Water Resources Control Board issued a technically conditioned certification for the RGP dated October 14, 2003. Specifically, the California SWRCB noted that California water quality certification, subject to limitations and conditions (described below), for activities under RGP 63 is subject to the following standard conditions:

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

The SWRCB also included the following additional conditions:

- a. *This certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) definition of "emergency." Under CEQA, California Public Resources Code section 21060.3, an "emergency" is defined to be:
*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.**
- b. *Emergency projects exempt from the requirements of CEQA are defined by State of California Administrative Code (CEQA Guidelines) section 15269 as:*
 - (i) *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 of the California Emergency Services Act, commencing with section 8550 of the Government Code.*
- (ii) *Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.*
 - (iii) *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.*
 - (iv) *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.*
 - (v) *Seismic work on highways or bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.*
- c. *Permitted activities shall not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in the Water Quality Control Plan (Basin Plan) by a Regional Water Quality Control Board (RWQCB) or the State Water Resources Control Board (SWRCB).*
 - d. *Permittees shall send a copy of the Final report required under RGP 63 General Condition No. 26 (Reports) to SWRCB and the appropriate RWQCB's address to:*
 - Program Manager*
 - 401 Water Quality Certification Program*
 - Division of Water Quality*
 - State Water Resources Control Board*
 - P.O. Box 100*
 - Sacramento CA 95812-0100*
 - Program Manager*
 - 401 Water Quality Certification Program*
 - (Address of appropriate RWQCB)*
 - e. *Permitted activities shall not result in the taking of any State endangered species, threatened species, or candidate species or the habitat of such a species unless the activity is authorized by the Department of Fish and Game (DFG) 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.*

The SWRCB thereby issued an order certifying that any discharge from the referenced action (i.e., emergency activities authorized under RGP 63) would comply with the applicable provisions of 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) of the Clean Water Act and with other applicable requirements of State law.

Further, the Board stated that “except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in compliance with the applicants’ project description (Enclosure 1) [i.e., the Los Angeles District’s issued regional general permit 63, with any modifications] and the enclosed Project Information Sheet (Enclosure 2) [which included anticipated modifications to the March 7, 2001 permit as related to the SWRCB and included in this document], and (b) compliance with all applicable requirements of the RWQCB’s Water Quality Control Plan.”

For Arizona Permittees on Non-tribal Land: The Arizona Department of Environmental Quality (ADEQ) issued a conditional Section 401 water quality certification for RGP 63 dated August 26, 2003. Specifically, the ADEQ applied the following conditions to apply to all waters of the state (“Unique Waters” and “Other Waters”):

1. *Notification*

The prospective permittee must notify the Arizona Department of Environmental Quality (ADEQ) in writing within 48 hours of initiating repair and/or protection activities. Notifications may be faxed, addressed to:
Arizona Department of Environmental Quality
Surface Water Permits Unit
Attn: Andy Travers
1110 West Washington Street, (5415B-3)
Phoenix, Arizona 85007
Fax (602) 771-4674

2. *Contents of Notification*

- a. *Name, address and telephone numbers of the prospective permittee, and appropriate point of contact, address and phone number.*
- b. *Location of the proposed project in detail (include a copy of a USGS topo map, Thomas Guide map, hand-drawn location map with suitable landmarks, etc.), the map should clearly indicate the location and extent of the project, as well as directions to the site.*
- c. *Brief and clear description of the project’s purpose and need.*
- d. *Description of anticipated methods to be used to rectify the situation.*

3. *Prospective permittee shall send a copy of any “Final Reports” (required under General Condition 26) to the address provided in condition 1.*

4. *General Conditions*

- a. *Permitted activities shall not cause a violation of any applicable water quality standards, including designated uses as adopted by the State of Arizona Water Quality Standards for Surface Waters, Arizona Administrative Code (AAC), Title 18, Chapter 11, Section 105 Tributaries Designated Uses, Section 108 Narrative Water Quality Standards, Section 109 Numeric Water Quality Standards, Appendix A.*

- b. *A Regional General Permit and CWA 401 Certification do not obviate the need to obtain any other permits, certifications and licenses that may be required by federal, state or local authorities.*
- 5. *Erosion Protection Measures*
 - a. *Erosion control and/or other bank protection features (silt fences, straw bales, mulching, or rock rip rap) shall be used to minimize erosion and soil loss, where appropriate. Denuded areas shall be revegetated as soon as possible with native plants and seed.*
 - b. *Upon completion of emergency activities, the work area shall restore or maintain the stability of upstream and downstream segments of water of the U.S. with respect to erosion and sedimentation.*
- 6. *Chemicals and Materials Handling*
 - a. *The permittee shall use designated areas for chemical (herbicide) and petroleum storage, solid waste containment, and equipment washing. These designated areas shall all be located outside of jurisdictional waters.*
 - b. *The permittee shall have a spill containment plan and an equipment maintenance plan available on site at all times.*
- 7. *Contaminated Soils and Materials*

The permittee is responsible for ensuring construction material and/or fill, placed within the ordinary high water mark, be free from substances that can cause or contribute to pollution of a surface water.

For Permittees on Tribal Lands, except Fort Apache Reservation: Projects on tribal lands, with the exception of the Fort Apache Reservation, are certified by the Environmental Protection Agency pursuant to Section 401 of the Clean Water Act, by letter dated October 1, 2001, subject to the following conditions:

- 1. *EPA shall be notified of the activity at the same time and in the same manner, that the Corps of Engineers is notified. Notification shall be specifically addressed "re: 401 Certification." A response from EPA is not needed to commence emergency work.*
- 2. *No disposal of construction material, demolition wastes, wastewater, contaminated well water, or any other pollutant is authorized by this certification.*
- 3. *Construction and/or fill materials placed within the 100-year floodplain must be free of substances that can cause or contribute to the pollution of waters of the United States. The permittee shall take any necessary steps to ensure that contaminated materials are not used for fill within the 100-year floodplain.*
- 4. *Pollution from the operation, repair, maintenance, and storage of equipment shall be removed from and properly disposed of outside the 100-year floodplain. Spills shall be cleaned up and properly disposed of outside of the 100-year floodplain.*
- 5. *The permittee shall take necessary steps to minimize channel and bank erosion within waters of the United States both during and after construction.*
- 6. *Within 10 days of the completion of the emergency work, the permittee shall submit to EPA a record of the work done, and a full discussion of how that work complied with the above five (5) conditions of this certification.*

EPA further noted that failure to completely comply with the certification conditions may result in the imposition of further case-specific conditions, including mitigation and/or restoration.

For Permittees on Fort Apache Reservation: Because no comment was received for the issued public notice, the District Engineer deemed Section 401 compliance on Fort Apache Reservation waived pursuant to regulations at 33 CFR Part 325.2(b)(1)(ii).

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

Due to the often limited time constraints with emergency actions, the Corps would not require the permittee to provide proof of review by the Commission, if such an action would result in undue harm to life or property. However, the Corps will require the permittee to provide evidence of consistency upon completion of the project unless the Corps is already aware that a particular project, class of projects, or projects in a particular area described by the Commission, have received such determinations or waivers.

Disposal of flood-delivered sediments into the marine environment are 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. Applicants shall notify the DE if any listed or proposed species or designated or proposed critical habitat might be affected by or is in the vicinity of the project. The applicant shall not begin work on the activity until notified by the DE that the requirements of the ESA have been satisfied and the activity is authorized. In all circumstances, the applicant should, if aware of the potential presence of listed or proposed species or designated or proposed critical habitat, make considerable efforts to contact this office and/or personnel at FWS and/or NOAA Fisheries. In some cases the FWS and NOAA may be able to make *a priori* determinations that listed species are not present.

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

USFWS – <http://endangered.fws.gov/>

NOAA – http://www.nmfs.noaa.gov/prot_res/overview/es.html

To the extent possible, this office will implement any programmatic biological opinions and incidental take statements that may be available. Any terms and conditions inherent to these documents will become conditions on a particular applicant's utilization of this RGP.

In many cases, information on the presence of listed or proposed species at a specific project site may not be available. In such cases, the nature of the emergency may prevent an applicant from conducting the surveys necessary to make a reasonable determination. Therefore, the applicant may assume the species is present, if suitable habitat occurs onsite, and request that the emergency provisions of Section 7 of the ESA be implemented.

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, you shall provide a full report of the action and the impacts incurred by the resource to this office within 45 days after completion of the action. The Corps, the SHPO and/or the Advisory Council for Historic Preservation will then jointly make a determination as to appropriate procedures and/or mitigation to be addressed.

If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify the Corps Regulatory Branch who will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. **Regional and Case-by-Case Conditions:** The activity must comply with any regional conditions added by the Division Engineer (see CFR Part 330.4(e)) and with any case-specific conditions added by the District Engineer.
12. **Erosion and Siltation Controls:** Every effort must be made to ensure any material dredged or excavated from Waters of the United States is not likely to be washed back into any Waters of the United States. When feasible, erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw (or hay) 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 (CWA))
15. **Wild and Scenic Rivers:** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while that river is in an official study status, unless the appropriate Federal agency with direct management responsibility for that river has determined in writing that the proposed activity would not adversely effect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., FWS, National Park Service, USDA Forest Service, Bureau of Land Management). Currently the only designated Wild and Scenic River systems in the Los Angeles District are the main stem of Sespe Creek from its confluence with Rock Creek and Howard Creek downstream to where it leaves Section 26, T5N, R20W, and the Sisquoc River from its origin to the Los Padres National Forest boundary in California, and the Verde River from the section line between Sections 26 and 27, T13N, R5E, Gila-Salt River meridian to the confluence of Red Creek with the Verde River within Section 34, T9 1/2N, R6E .
16. **Aquatic Life Movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.
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. You understand and 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, you 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 their 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 written report to this office as soon as practicable (within 45 days of completing the project) after completion of any action conducted under this RGP. **PROVIDING THIS REPORT IS MANDATORY.** This office has additional responsibilities pursuant to consultation with the FWS and NOAA under Section 7 of the ESA. Further, these reports enable us to track the use of this RGP to verify that the minimal effects determination is being met as required by Section 404(e) of the CWA. Failure to provide timely reports following responses to emergencies is non-compliance with the General Conditions of this RGP and would be considered a violation (33 CFR Part 326.4(d)).
 At a minimum the Report shall include the following:
 - I. The name, address, and telephone number of:
 - (a) the applicant
 - (b) the applicant's agent (if appropriate)
 - II. Full description of the activity including:
 1. description of the emergency and the potential for loss of life or property
 2. purpose of the activity
 3. final goal of the entire activity

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

If there are a substantial number of projects and this requirement would consume large quantities of your staff resources, you may, as an option, submit a comprehensive report providing all of the information required in the notification condition (Item 2.b.) above. The report shall include a description of the emergency and the potential for loss of life or property, maps to the project location, maps or drawings showing the areal and lineal extent of the project, quantities of material used, and pre- and post-construction photographs. If 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 provide a copy of the report to the FWS and/or the NOAA, as appropriate. If mitigation was determined to be appropriate for a specific project or group of projects, a mitigation proposal must be submitted to this office for review and approval. We will forward the report to the appropriate agencies for their review and comment.

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 this authorization:**
 - 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 this permit is not contrary to the public interest was made in reliance on the information you provided.

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.

JOHN V. GUENTHER
 Lieutenant Colonel,
 Corps of Engineers
 Acting District Engineer

DATE