

FOR CONTRACT NO.: 02-4C8304

INFORMATION HANDOUT

WATER QUALITY

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

401 CERTIFICATION WITH CONDITIONS

PERMITS

CALIFORNIA DEPARTMENT OF FISH AND GAME

NOTIFICATION NO. R1-09-0393

UNITED STATES ARMY CORPS OF ENGINEERS

NON-REPORTING NATIONWIDE PERMIT No. 3

ROUTE: 02-Sha-89-4.0/10.7



California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair



Linda S. Adams
Secretary for
Environmental Protection

415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • Fax (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>

Arnold Schwarzenegger
Governor

22 December 2009

Mr. Thomas Balkow
Department of Transportation
1657 Riverside Drive
Redding, CA 96001

ACTION ON REQUEST FOR CLEAN WATER ACT §401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE HAT CREEK CULVERT EXTENSIONS PROJECT, WDID NO. 5A45CR00363, OLD STATION, SHASTA COUNTY

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.
4. Certification is valid for the duration of the described project. The Discharger shall notify the Central Valley Water Board in writing within 7 days of project completion.

California Environmental Protection Agency



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ADDITIONAL CONDITIONS (for Certification Action 2):

In addition to the four standard conditions, the applicant shall satisfy the following:

1. Discharger shall notify the Central Valley Water Quality Control Board (Central Valley Water Board) in writing, at least five working days prior to the start of the project.
2. Except for activities permitted by the U.S. Army Corps of Engineers (Corps) under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The discharge of petroleum products or other excavated materials to surface waters is prohibited.
4. Activities shall not cause turbidity increases in surface waters to exceed:
 - a. Where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - b. Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - c. Where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - d. Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - e. Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.

5. Activities shall not cause settleable matter to exceed 0.1 mL/l in surface waters as measured in surface waters 300 feet downstream from the project.
6. Activities shall not cause visible oil, grease, or foam in the work area or downstream.
7. All areas disturbed by project activities shall be protected with an effective combination of erosion and sediment control Best Management Practices.
8. In the event that project activities result in the deposition of soil materials or creation of a visible plume in surface waters, the following monitoring shall be conducted immediately upstream and 300 feet downstream of the work site and the results reported to this office within two weeks:

Parameter	Unit	Type of Sample	Frequency of Sample
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	mL/l	Grab	Same as above.

9. Discharger shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.
10. Discharger shall ensure all equipment has been inspected and is free of leaks (fuel, hydraulic and oil) before use in channel areas.
11. Discharger shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
12. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes §401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
13. In response to a suspected violation of any condition of this certification, the Central Valley Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
14. In response to any violation of the conditions of this certification, the Central Valley Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
15. Discharger shall comply with all Department of Fish and Game 1600 requirements for the project as required in the Lake & Streambed Alteration Agreement issued for the project. Discharger shall also comply with all requirements of the Army Corps of Engineers §404 permit.
16. The California Department of Transportation shall comply with their General NPDES Permit Order No 99-06-DWQ (NPDES No. CAS 000003) issued by the State Water Resources Control Board.

CENTRAL VALLEY WATER BOARD CONTACT PERSON:

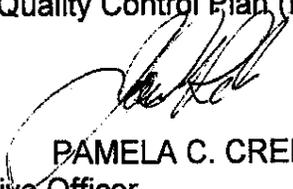
Andrew J. Jensen, M. S., Redding Branch Office, 415 Knollcrest Drive, Suite 100, Redding, California 96002, (530) 224-4783, ajensen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the Hat Creek Culvert Extensions Project (WDID No. 5A45CR00363) will comply with the applicable provisions of §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. This discharge is

also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges that have received State Water Quality Certification (General WDRs)".

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



(for)

PAMELA C. CREEDON

Executive Officer

AJJ: als/knr

Enclosure: Project Information and Water Quality Waste Discharge Requirements Order
No. 2003-0017- DWQ

cc: Mr. Matt Kelley, U.S. Army Corp of Engineers, Redding
U.S. Fish and Wildlife Service, Sacramento
Ms. Donna Cobb, Department of Fish and Game, Region 1, Redding
Mr. Bill Jennings, CALSPA, Stockton

cc by email: Mr. Dave Smith, U.S. EPA, Region 9, San Francisco
Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

PROJECT INFORMATION

Application Date: 24 November 2009

Applicant: Department of Transportation

Applicant Representatives: Mr. Thomas Balkow

Project Name: Hat Creek Culvert Extensions

Central Valley Board: Central Valley Regional Water Quality Control Board-Redding Office

Central Valley Board Application Number: WDID No. 5A45CR00363

U.S. Corps Application Number: Nationwide Permit No. 3 (Non-reporting)

Type of Project: Upgrading the existing culverts to meet current design and safety standards.

Project Location: State Route 89 at post miles 6.20, 6.30, 6.41, 6.49, and 6.55 in the County of Shasta, Section 9 & 15, Township 33N, 24N Range 5E, 4E and Latitude: 40°43'42"N and Longitude: 121°25'30.44"W and Latitude: 40°48'07"N and Longitude: 122°30'44"W

County: Shasta County

Receiving Water (hydrologic unit): Intermittent and ephemeral drainages tributary to Hat Creek. Pit River Hydrologic Unit-Lower Hat Creek HSA No. 526.34

Water Body Type: Stream

Designated Beneficial Uses: The Basin Plan for the Central Valley Regional Water Quality Control Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Cold Water Spawning (SPWN); Wildlife Habitat (WILD); Agricultural Supply (AGR); Hydropower Generation (POW); Water Contact Recreation (REC-1); Non-contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); and Cold Freshwater Habitat (COLD).

Project Description (purpose/goal): The project involves upgrading the existing culverts to meet current design and safety standards by extending the inlets and outlets of (5) 18" to 24" culverts an additional 10' to 15'. This will increase the shoulder widths at culvert inlets and/or outlets and attain more uniform widths along this section of highway. This will improve safety and provide additional snow removal storage.

Preliminary Water Quality Concerns: Impacts to water of the U.S. and/or State, turbidity, suspended matter, settleable matter, and various pollutants associated with construction activities.

Non-Compensatory Mitigation: The Discharger is required to implement erosion and sediment control Best Management Practices (BMPs), and have an effective combination of BMP's in place, especially during the rainy season.

Work within the stream channel will take place only during the dry season when minimal water will be present. Work will begin on June 2010 and will be finished before October 2010.

All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.

Compensatory Mitigation: Not Applicable

Fill/Excavation Area: Project implementation will permanently impact less than 0.01 acres of wetland. According to the application, the project will not discharge directly to Water of the U.S.

Dredge Volume: 6.2 CY imported fill

U.S. Army Corps of Engineers Permit Number: The applicant proposes to utilize Nationwide Permit No. 3 – Maintenance (Non-Reporting) for this project. The applicant must comply with all of the conditions of the U.S. Army Corps of Engineers Permit.

Department of Fish & Game Streambed Alteration Agreement: Discharger applied for a Streambed Alteration Agreement with the Department of Fish and Game on 17 November 2009. The applicant must comply with all conditions in Lake and Streambed Alteration Agreement.

Possible Listed Species: The project was surveyed for the presence of wildlife resources including nesting, roosting, foraging, hiding, thermal cover, and water. Based on the study no special status animals were found (either LNF or CNDDB).

Status of CEQA Compliance: The Department of Transportation issued a Categorical Exemption/Exclusion Determination on 3 February 2009, approving a Notice of Exemption, Section 15300, Class 1.

Central Valley Water Board Public Notice: Information regarding this project was noticed on the Central Valley Water Board's website from 20 November 2009 to 11 December 2009.

Application Fee Provided: A certification fee of \$1,345.00 was submitted on 11 November 2009 as required by 23 CCR §3833b(2)(A) and by 23 CCR § 2200(e).

STATE WATER RESOURCES CONTROL BOARD

WATER QUALITY ORDER NO. 2003 - 0017 - DWQ

STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES THAT HAVE RECEIVED STATE WATER QUALITY CERTIFICATION (GENERAL WDRs)

The State Water Resources Control Board (SWRCB) finds that:

1. Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
2. Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
3. CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,¹ file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

¹ "Waters of the State" as defined in CWC Section 13050(e)

6. These General WDRs require compliance with all conditions of Certification orders to ensure that water quality standards are met.
7. The U.S. Supreme Court decision of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (the *SWANCC* decision) called into question the extent to which certain “isolated” waters are subject to federal jurisdiction. The SWRCB believes that a Certification is a valid and enforceable order of the SWRCB or RWQCBs irrespective of whether the water body in question is subsequently determined not to be federally jurisdictional. Nonetheless, it is the intent of the SWRCB that all Certification conditions be incorporated into these General WDRs and enforceable hereunder even if the federal permit is subsequently deemed invalid because the water is not deemed subject to federal jurisdiction.
8. The beneficial uses for the waters of the State include, but are not limited to, domestic and municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources.
9. Projects covered by these General WDRs shall be assessed a fee pursuant to Title 23, CCR section 3833.
10. These General WDRs are exempt from the California Environmental Quality Act (CEQA) because (a) they are not a “project” within the meaning of CEQA, since a “project” results in a direct or indirect physical change in the environment (Title 14, CCR section 15378); and (b) the term “project” does not mean each separate governmental approval (Title 14, CCR section 15378(c)). These WDRs do not authorize any specific project. They recognize that dredge and fill discharges that need a federal license or permit must be regulated under CWA section 401 Certification, pursuant to CWA section 401 and Title 23, CCR section 3855, et seq. Certification and issuance of waste discharge requirements are overlapping regulatory processes, which are both administered by the SWRCB and RWQCBs. Each project subject to Certification requires independent compliance with CEQA and is regulated through the Certification process in the context of its specific characteristics. Any effects on the environment will therefore be as a result of the certification process, not from these General WDRs. (Title 14, CCR section 15061(b)(3)).
11. Potential dischargers and other known interested parties have been notified of the intent to adopt these General WDRs by public hearing notice.
12. All comments pertaining to the proposed discharges have been heard and considered at the November 4, 2003 SWRCB Workshop Session.
13. The RWQCBs retain discretion to impose individual or general WDRs or waivers of WDRs in lieu of these General WDRs whenever they deem it appropriate. Furthermore, these General WDRs are not intended to supersede any existing WDRs or waivers of WDRs issued by a RWQCB.

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

1. Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
2. Dischargers are prohibited from discharging dredged or fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

AYE: Arthur G. Baggett, Jr.
Peter S. Silva
Richard Katz
Gary M. Carlton
Nancy H. Sutley

NO: None.

ABSENT: None.

ABSTAIN: None.


Debbie Irvin
Clerk to the Board

**CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION**

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, California 95814

Date: January 11, 2010

From: California Department of Fish and Game
Northern Region
601 Locust Street
Redding, California 96001

Project Title: Issuance of Streambed Alteration Agreement No. R1-09-0393, Hat Creek Culvert Extensions, Shasta County.

Project Location (Specific): Approximately 7 miles north of the community of Old Station on State Route (SR) 89; Section 9, T33North, R05West, Mount Diablo Base and Meridian, 40.74603°N latitude, 121.48087°W longitude.

Project Location (City and County): Work will take place on unnamed tributaries to Hat Creek, approximately 7 miles north of the Community of Old Station on SR 89 in Shasta County

Description of Project: See Attached Agreement.

Name of Public Agency Approving Project: California Department of Fish and Game.

Name of Agency Carrying Out Project: California Department of Transportation.

Exempt Status (Class and Guidelines Section): Categorical Exemption: Class 1, Section 15301 – Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Reasons Why Project is Exempt: The project proposes to extend the inlets and outlets of five (5) 18"- 24" diameter culverts on SR 89 in order to increase shoulder widths to improve safety and provide additional snow removal storage. There will be no removal of healthy, mature, scenic trees as a result of this project. The project will have no significant effect on the environment.

Lead Agency Contact Person: Craig Martz

Phone: (530) 225-2281

Signature:



Date: 01/11/10

Title:

Habitat Conservation Program Manager

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant



California Natural Resources Agency
 DEPARTMENT OF FISH AND GAME
 Northern Region
 601 Locust Street, Redding, CA 96001
www.dfg.ca.gov

ARNOLD SCHWARZENEGGER, Governor
 JOHN MCCAMMAN, Acting Director



NOTIFICATION NO. R1-09-0393

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AGREEMENT REGARDING PROPOSED LAKE OR STREAMBED ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called DFG, and Mr. Tom Balkow, representing the California Department of Transportation, hereinafter jointly and severally called the Entity (Responsible Party), is as follows:

WHEREAS, pursuant to Division 2, Chapter 6 of the California Fish and Game Code (Code), the Responsible Party, on November 23, 2009, notified DFG of the intention to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed of, the following waters: Unnamed Tributaries to Hat Creek, in the County of Shasta. These waters are located in Section 9, T33N, R5E, Mount Diablo Base and Meridian, in the Old Station USGS 7.5-minute quadrangle; and

WHEREAS, DFG has determined that without implementation of the conditions contained within this Agreement, such operations may substantially adversely affect existing fish and wildlife resources including, but not limited to: foothill yellow-legged frog (*Rana boylei*), California striped racer (*Masticophis lateralis*), other non-game and game fishes, amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

THEREFORE, DFG hereby proposes measures to protect fish and wildlife resources during the Responsible Party's work. The Responsible Party hereby agrees to accept and conduct all activities in accordance with the following:

ADMINISTRATIVE PROVISIONS:

- 1) If the Responsible Party's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to DFG. Failure to comply with the provisions of this Agreement and with other pertinent Code sections, including but not limited to Sections 5650, 5652, 5901, 5937, and 5948, may result in prosecution.
- 2) Nothing in this Agreement authorizes the Responsible Party to trespass on any land or property, nor does it relieve the Responsible Party of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute DFG endorsement of the proposed operation, or assure DFG's concurrence with permits required from other agencies.
- 3) The provisions contained in this Agreement constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Responsible Party is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement shall be subject to separate notification pursuant to Code Section 1600 *et seq.*

4) In accordance with Code Section 1605, the Responsible Party may request one extension of this Agreement, provided that the request is made in writing prior to the expiration of its original term. DFG shall grant the extension if the appropriate extension fee is paid unless it determines that the Agreement requires modification because the measures contained in the Agreement no longer protect the fish and wildlife resources that the activity may substantially adversely affect. If the Responsible Party fails to request the extension prior to the Agreement's termination then the Responsible Party shall submit a new notification with fees and required information to DFG. Any activity conducted under an expired Agreement is a violation of Code Section 1600 *et seq.*

5) The Responsible Party shall provide a copy of this Agreement to all contractors, subcontractors, and the Responsible Party's project supervisors. Copies of the Agreement and any amendment thereto shall be readily available at work sites at all times during periods of active work and must be presented to any DFG personnel, or personnel from another agency upon demand.

6) DFG reserves the right to enter the project site at any time to ensure compliance with measures and/or monitoring of this Agreement, provided DFG: a) provides 24 hours advance notice; and b) allows the Responsible Party or representatives to participate in the inspection and/or monitoring. This condition does not apply to DFG enforcement personnel.

7) All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination are agreed to in writing by both parties. Mutually-approved amendments become part of the original Agreement and are subject to all previously negotiated provisions.

8) It is understood DFG will enter into this Agreement for purposes of establishing protective features for fish and wildlife. The decision to proceed with the project is the sole responsibility of the Responsible Party. It is further agreed all liability and/or incurred cost related to or arising out of the Responsible Party's project and the fish and wildlife protective measures of this Agreement, remain the sole responsibility of the Responsible Party. The Responsible Party agrees to hold harmless the State of California and DFG against any related claim made by any party or parties for personal injury or any other damages.

9) This Agreement is not intended as an approval of a project or of specific project features by DFG. Independent review and recommendations will be provided by DFG as appropriate on those projects where local, state, or federal permits or other environmental reports are required.

10) Suspension and Cancellation. DFG may suspend or cancel this Agreement if DFG determines that circumstances warrant suspension or cancellation. The circumstances that might warrant suspension or cancellation include, but are not limited to, the following:

a) Failure by the Responsible Party, or his/her employees, agents, representatives, contractors, and/or subcontractors, to comply with any of the terms and measures of this Agreement.

b) DFG determines that the information the Responsible Party provided to DFG to develop this Agreement, or the information contained in a notification, is incomplete or inaccurate.

c) DFG obtains new information that shows the work authorized by this Agreement could substantially adversely affect fish and wildlife resources, notwithstanding Responsible Party's compliance with the Agreement.

d) DFG determines that measures to protect fish and wildlife resources different from those included in this Agreement are necessary to protect those resources.

e) There is a substantial change in conditions. For purposes of this Agreement, "substantial change in conditions" shall mean one or more of the following: 1) the work described in this Agreement is substantially changed; 2) conditions affecting fish and wildlife resources substantially change; and/or 3) the work conducted under this Agreement have adversely affected, or will adversely affect, fish and wildlife resources, notwithstanding that Responsible Party has complied, or will comply with, the terms and measures of this Agreement.

Scope of Suspension. At the discretion of DFG, any action to suspend this Agreement may be limited in scope to address the specific problem or problems resulting in the suspension. Hence, DFG may limit the suspension to specified work or specified areas. DFG shall notify Responsible Party of any suspension of the Agreement, or any part thereof, in writing. Any suspension shall take effect immediately upon receipt of such notice by Responsible Party, or in accordance with the instructions contained in the notice. Such notice will identify the reason or reasons for the suspension, the actions necessary to correct the problem, and the scope of the suspension.

Reinstatement Following Suspension. DFG may lift any suspension when it has determined that Responsible Party has adequately addressed the problem or problems resulting in the suspension and that reinstatement of the Agreement will not cause harm to fish and wildlife resources.

Other Laws Regarding Habitat and Species Protection.

11) No direct or indirect impacts shall occur to any threatened or endangered species as a result of implementing the project or the project's activities. If any threatened or endangered species could be impacted by the work proposed, the Responsible Party shall obtain the required state and federal permits. This Agreement does not authorize the take of any federal or state threatened or endangered species.

12) The California Endangered Species Act (CESA) (Code Sections 2090 to 2097) is administered by DFG and prohibits the take of plant and animal species designated by the Fish and Game Commission as either threatened or endangered in the state of California.

13) If the project could result in the "take" of a state listed threatened or endangered species, the Responsible Party has the responsibility to obtain from DFG, a California Endangered Species Act Permit (CESA 2081 Permit). DFG may formulate a management plan that will avoid or mitigate take. If appropriate, contact the DFG CESA coordinator at (530) 225-2300.

14) The U.S. Army Corps of Engineers (Corps) has permitting requirements for certain instream projects under Section 404 of the Federal Clean Water Act. If this project features the placement of dredged or fill materials into the channels of streams (below the ordinary

high water mark) that are waters of the United States, a permit may be required by the Corps. If your project needs a permit from the Corps, you will also need to obtain a Water Quality Certification pursuant to Section 401 of the Federal Clean Water Act from the Regional Water Quality Control Board (Regional Water Board). In addition, if your project will involve disturbance within or discharges of pollutants to waters of the State of California, the Regional Water Boards may require a permit, whether or not the Corps requires a permit. If there is any question regarding the possibility of the project meeting the above limitations, the Responsible Party should contact the Corps and the Regional Water Board prior to beginning work. This Agreement in no way represents permitting requirements by the Corps or the Regional Water Board. It is the responsibility of the Responsible Party to contact the Corps, and to comply with the provisions of any Section 404 permit issued, if required by the Corps. Similarly, it is the responsibility of the Responsible Party to contact the Regional Water Board and to comply with the provisions of any Section 401 Certification, Regional Water Board Waste Discharge Requirements or waiver of Waste Discharge Requirements issued by the Regional Water Board.

15) The Responsible Party may have certain other responsibilities pursuant to the Federal Endangered Species Act resulting in mitigative project features required by the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

16) The Responsible Party shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Responsible Party to ensure compliance.

OPERATIONAL PROVISIONS

NOTIFICATION MATERIALS AND PROJECT DESCRIPTION

17) Responsible Party's notification (Notification of Lake or Streambed Alteration, received November 23, 2009, together with all maps, plans, photographs, drawings, and all other supporting documents submitted with notification to describe the activity) are hereby incorporated by reference into this Agreement. Responsible Party shall conduct project activities within the work areas and using the mitigative features described in the notification and supporting documents, unless such project activities, work areas or mitigative features are modified by the provisions of this Agreement, in which case the activities shall be conducted as described in this Agreement.

The work under this Agreement is limited to the extension of five (5) existing culverts on both sides of State Route (SR) 89 at Post Miles (PM) 6.20, 6.30, 6.41, 6.49, and 6.55 in Shasta County. All work shall be in accordance with submitted plans and diagrams and any subsequent revisions approved by the DFG in writing. Specific work includes upgrading the existing culverts to meet current design and safety standards by extending the inlets and/or outlets to attain more uniform widths along this section of highway. Extensions will range from an additional 10' to 15' and will require a total of 6.2 cubic yards of fill to complete. All work will be performed ~~from the current roadway~~ during the dry season.

18) The Responsible Party shall notify DFG, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of

construction (project) activities. Notification shall be faxed to the DFG at (530) 225-0324, Attn: Craig Martz, Staff Environmental Scientist. Agreement No. R1-09-0393.

IMPACTS

19) The Responsible Party shall not impact more than 587 ft² of stream channel and associated wet meadow habitat.

PROJECT TIMING AND COORDINATION

20) All work on the stream banks or within the stream channel, shall be confined to the period commencing June 1, and ending October 15, of any year in which this Agreement is valid, provided the watercourses are dry. If weather conditions permit and the watercourses remain dry, the Responsible Party may perform work within the stream channel or on the banks after October 15, provided a written request is made to DFG at least 5 days before the proposed work period variance. Written approval from DFG for the proposed work period variance must be received by the Responsible Party prior to the start or continuation of work after October 15.

21) If work is performed within the stream channel or on the banks after October 15 as provided above, the Responsible Party shall do all of the following:

- Stage erosion and sediment control materials at the work site.
- Monitor the seventy-two (72) hour forecast from the National Weather Service.
- When there is a forecast of more than 60% chance of rain or at the onset of any precipitation, ground disturbing activities shall cease and erosion control measures shall be implemented to stabilize exposed soils and prevent the mobilization of sediment into the stream channel or adjacent wetland/riparian habitats.

22) The Responsible Party shall instruct all persons who will be completing any ground disturbing activity at a worksite to comply with the conditions set forth in this Agreement and shall inspect each work site before, during, and after completion of any ground-disturbing activity at the work site.

PETROLEUM, CHEMICAL AND OTHER POLLUTION

23) Staging, storage, and re-fueling areas for machinery, equipment, and materials shall be located outside of the stream a minimum distance of 150 feet from waters of the State.

24) No equipment or machinery shall be operated within any flowing stream.

25) Any equipment or vehicles driven and/or operated within or adjacent to the stream channel shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.

26) All activities performed in or near a stream shall have absorbent materials designated for spill containment and clean up activity site for use in case of accidental spill. Clean-up of all spills shall begin immediately. The Responsible Party shall immediately notify the California Emergency Management Agency at 1-800-852-7550. DFG shall be notified by the Responsible Party and consulted regarding clean-up procedures.

27) The Responsible Party shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Responsible Party to ensure compliance.

28) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, asphalt, paint or other coating material, oil or petroleum products or other organic or earthen material from any construction, or associated activity of whatever nature shall be allowed to enter into, or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

DEWATERING

29) Any equipment work within the stream channel shall be performed in isolation from the flowing stream.

30) Any turbid water pumped from the work site shall be disposed of in an upland location where it will not drain directly into any stream channel.

31) Dewatering shall be done in a manner that prevents the discharge of material that could be deleterious to fish, plant life, or bird life into waters of the state and maintains adequate flows to downstream reaches during all times natural flow would have supported aquatic life. Such flows shall be of sufficient quality and quantity to support fish and other aquatic life above and below the diversion. Normal flows shall be restored to the affected stream immediately upon completion of work at that location.

RIPARIAN and WETLAND VEGETATION

32) Except where provided for within this Agreement, the removal of native vegetation from the streambed or streambanks is prohibited without prior written approval from the Department. The work area shall be identified to all workers, as represented in plans.

33) Restoration shall include the revegetation of stripped or exposed areas with regionally appropriate plant species.

EROSION AND SEDIMENT CONTROL

34) The project shall at all time feature adequate erosion and sediment control devices to prevent the degradation of water quality.

35) The Responsible Party shall prevent the discharge of sediment, and/or muddy, turbid, or silt-laden waters, resulting from the project, into the stream channel. Where necessary to prevent such discharge, the Responsible Party shall properly install and maintain sediment barriers (including but not limited to filter fabric fencing, fiber mats, rice straw or fiber wattles or rolls) capable of preventing downstream sedimentation/turbidity. Said devices shall be cleaned of all trapped sediment as necessary to maintain proper function. Recovered sediment shall be disposed of where it shall not return to the waters of the State. Said

devices shall be completely removed from the channel, along with all temporary fills, upon completion of operations.

36) Soils adjacent to the stream channel that are exposed by project operations shall be adequately stabilized when rainfall is reasonably expected during construction, and immediately upon completion of construction, to prevent the mobilization of such sediment into the stream channels or adjacent wetlands. National Weather Service forecasts shall be monitored by the Responsible Party to determine the chance of precipitation.

EQUIPMENT ACCESS

37) Vehicles shall not be driven, or equipment operated, in water covered portions of a stream, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as otherwise provided for in the Agreement to complete authorized work.

38) Staging/storage areas for equipment and materials shall be located outside of the stream.

39) Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.

CULVERTS AND INSTREAM STRUCTURES

40) Completed culvert pipe installations shall result in water flow that is neither impeded nor impounded at the pipe inlet, nor accelerated down stream of the crossing structure.

41) Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.

ROCK SLOPE PROTECTION (RSP) AND ENERGY DISSIPATION DEVICES

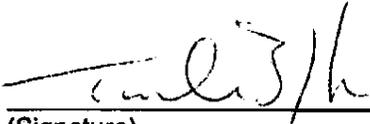
42) RSP and energy dissipater materials shall consist of clean rock, competent for the application, sized and properly installed to resist washout. RSP slopes shall be supported with competent boulders keyed into a footing trench with a depth sufficient to properly seat the footing course boulders and prevent instability (typically at least 1/3 diameter of footing course boulders). Excavation spoils shall not be side-cast into the channel nor is any manipulation of the substrate of the channel authorized except as herein expressly provided. Energy dissipation devices within the stream banks shall be replanted or seeded to encourage regrowth of riparian vegetation.

This Agreement becomes effective on the date of Department's signature and terminates on December 31, 2010.

CONCURRENCE

RESPONSIBLE PARTY

CALIFORNIA DEPARTMENT OF FISH AND GAME


(Signature)


Kenneth C. Moore
Habitat Conservation Program Manager
Northern Region

Tom C. Balkow
(Print Name)

01/11/10
(Date)

SND ENV PWR / CALIFORNIA
(Title/Organization)

12/21/09
(Date)

02-4C8304 USA COE



U S Army Corps of
Engineers
Sacramento District

Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide
Permits - March 19, 2007 Includes
corrections of May 8, 2007 and addition of
regional conditions December 2007

3. Maintenance.

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the

maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

A. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made

against the United States on account of any such removal or alteration.

- 2. Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
- 3 Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
- 4. Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- 5. Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.
- 6. Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 7. Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
- 8. Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
- 9. Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
- 10. Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
- 11. Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 12. Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all

exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

- 13. Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
- 14. Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
- 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 the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect 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., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
- 16. 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.
- 17. Endangered Species.**
 - (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
 - (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.
 - (c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have

“no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWP.

(e) Authorization of an activity by a NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal “takes” of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. Historic Properties.

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to

carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and

50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP's 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWP's only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20 Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWP's. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP's.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance,

and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWP's does not exceed the acreage limit

of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification.

(a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) Forty-five calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project’s purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must

be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile

transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and

conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

(a) **28. Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

B. Regional Conditions:

I. Sacramento District (All States, except Colorado)

1. When pre-construction notification (PCN) is required, the prospective permittee shall notify the Sacramento District in accordance with General Condition 27 using either the South Pacific Division Preconstruction Notification (PCN) Checklist or a completed application form (ENG Form 4345). In addition, the PCN shall include:

a. A written statement explaining how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;

b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and size (in acreage) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the high tide line should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation; and

c. Pre-project color photographs of the project site taken from designated locations documented on the plan drawing.

2. The permittee shall complete compensatory mitigation required by special conditions of the NWP verification before or concurrent with construction of the authorized activity, except when specifically determined to be impracticable by the Sacramento District. When project mitigation involves use of a mitigation bank or in-lieu fee program, payment shall be made before commencing construction.

3. The permittee shall record the NWP verification with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property against areas (1) designated to be preserved as part of mitigation for authorized impacts, including any associated covenants or restrictions, or (2) where structures such as boat ramps or docks, marinas, piers, and permanently moored vessels will be constructed in or adjacent to navigable waters (Section 10 and Section 404). The recordation shall also include a map showing the surveyed location of the authorized structure and any associated areas preserved to minimize or compensate for project impacts.

4. The permittee shall place wetlands, other aquatic areas, and any vegetative buffers preserved as part of mitigation for impacts into a separate "preserve" parcel prior to discharging dredged or fill material into waters of the United States, except where specifically determined to be impracticable by the Sacramento District. Permanent legal protection shall be established for all preserve parcels, following Sacramento District approval of the legal instrument.

5. The permittee shall allow Corps representatives to inspect the authorized activity and any mitigation areas at any time deemed necessary to determine compliance with the terms and conditions of the NWP verification. The permittee will be notified in advance of an inspection.

6. For NWPs 29, 39, 40, 42, 43, 44, and 46, requests to waive the 300 linear foot limitation for intermittent or ephemeral waters of the U.S. shall include an evaluation of functions and services provided by the waterbody taking into account the watershed, measures to be implemented to avoid and minimize impacts, other measures to avoid and minimize that were found to be impracticable, and a mitigation plan for offsetting impacts.

7. Road crossings shall be designed to ensure fish passage, especially for anadromous fisheries. Permittees shall employ bridge designs that span the stream or river, utilize pier or pile supported structures, or involve large bottomless culverts with a natural streambed, where the substrate and streamflow

conditions approximate existing channel conditions. Approach fills in waters of the United States below the ordinary high water mark are not authorized under the NWP, except where avoidance has specifically been determined to be impracticable by the Sacramento District.

8. For NWP 12, clay blocks, bentonite, or other suitable material shall be used to seal the trench to prevent the utility line from draining waters of the United States, including wetlands.

9. For NWP 13, bank stabilization shall include the use of vegetation or other biotechnical design to the maximum extent practicable. Activities involving hard-armoring of the bank toe or slope requires submission of a PCN per General Condition 27.

10. For NWP 23, the PCN shall include a copy of the signed Categorical Exclusion document and final agency determinations regarding compliance with Section 7 of the Endangered Species Act, Essential Fish Habitat under the Magnusson-Stevens Act, and Section 106 of the National Historic Preservation Act.

11. For NWP 44, the discharge shall not cause the loss of more than 300 linear feet of streambed. For intermittent and ephemeral streams, the 300 linear foot limit may be waived in writing by the Sacramento District. This NWP does not authorize discharges in waters of the United States supporting anadromous fisheries.

12. For NWPs 29 and 39, channelization or relocation of intermittent or perennial drainage, is not authorized, except when, as determined by the Sacramento District, the relocation would result in a net increase in functions of the aquatic ecosystem within the watershed.

13. For NWP 33, temporary fills for construction access in waters of the United States supporting fisheries shall be accomplished with clean, washed spawning quality gravels where practicable as determined by the Sacramento District, in consultation with appropriate federal and state wildlife agencies.

14. For NWP 46, the discharge shall not cause the loss of greater than 0.5 acres of waters of the United States or the loss of more than 300 linear feet of ditch, unless this 300 foot linear foot limit is waived in writing by the Sacramento District.

15. For NWPs 29, 39, 40, 42, and 43, upland vegetated buffers shall be established and maintained in perpetuity, to the maximum extent practicable, next to all preserved open waters, streams and wetlands including created, restored, enhanced or preserved waters of the U.S., consistent with General Condition 20. Except in unusual circumstances, vegetated buffers shall be at least 50 feet in width.

16. All NWPs except 3, 6, 20, 27, 32, 38, and 47, are revoked for activities in histosols and fens and in wetlands contiguous with fens. Fens are defined as slope wetlands with a histic epipedon that are hydrologically supported by groundwater. Fens are normally saturated throughout the growing season, although they may not be during drought conditions. For NWPs 3, 6, 20, 27, 32, and 38, prospective permittees shall submit a PCN to the Sacramento District in accordance with General Condition 27.

17. For all NWPs, when activities are proposed within 100 feet of the point of groundwater discharge of a natural spring, prospective permittees shall submit a PCN to the Sacramento

District in accordance with General Condition 27. A spring source is defined as any location where ground water emanates from a point in the ground. For purposes of this condition, springs do not include seeps or other discharges which lack a defined channel.

II. California Only

1. In the Lake Tahoe Basin, all NWPs are revoked. Activities in this area shall be authorized under Regional General Permit 16 or through an individual permit.

2. In the Primary and Secondary Zones of the Legal Delta, NWPs 29 and 39 are revoked. New development activities in the Legal Delta will be reviewed through the Corps' standard permit process.

III. Nevada Only

1. In the Lake Tahoe Basin, all NWPs are revoked. Activities in this area shall be authorized under Regional General Permit 16 or through an individual permit.

IV. Utah Only

1. For all NWPs, except NWP 47, prospective permittees shall submit a PCN in accordance with General Condition 27 for any activity, in waters of the United States, below 4217 feet mean sea level (msl) adjacent to the Great Salt Lake and below 4500 feet msl adjacent to Utah Lake.

2. A PCN is required for all bank stabilization activities in a perennial stream that would affect more than 100 linear feet of stream

3. For NWP 27, facilities for controlling stormwater runoff, construction of water parks such as kayak courses, and use of grout or concrete to construct in-stream structures are not authorized. A PCN is required for all projects exceeding 1500 linear feet as measured on the stream thalweg, using in stream structures exceeding 50 cubic yards per structure and/or incorporating grade control structures exceeding 1 foot vertical drop. For any stream restoration project, the post project stream sinuosity shall be appropriate to the geomorphology of the surrounding area and shall be equal to, or greater than, pre project sinuosity. Sinuosity is defined as the ratio of stream length to project reach length. Structures shall allow the passage of aquatic organisms, recreational water craft or other navigational activities unless specifically waived in writing by the District Engineer.

V. Colorado Only

1. Final Regional Conditions Applicable to Specific Nationwide Permits within Colorado.

a. Nationwide Permit Nos. 12 and 14, Utility Line Activities and Linear Transportation Projects. In the Colorado River Basin, utility line and road activities crossing perennial water or special aquatic sites require notification to the District Engineer in accordance with General Condition 27 (Pre-Construction Notification).

b. Nationwide Permit No. 13 Bank Stabilization. In Colorado, bank stabilization activities necessary for erosion prevention in streams that average less than 20 feet in width (measured between the ordinary high water marks) are limited to the placement of no more than 1/4

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cubic yard of suitable fill* material per running foot below the plane of the ordinary high water mark. Activities greater than 1/4 cubic yard may be authorized if the permittee notifies the District Engineer in accordance with General Condition 27 (Pre-Construction Notification) and the Corps determines the adverse environmental effects are minimal. [* See (g) for definition of Suitable Fill]

c. Nationwide Permit No. 27 Aquatic Habitat Restoration, Establishment, and Enhancement Activities.

(1) For activities that include a fishery enhancement component, the Corps will send the Pre-Construction Notification to the Colorado Division of Wildlife (CDOW) for review. In accordance with General Condition 27 (Pre-Construction Notification), CDOW will have 10 days from the receipt of Corps notification to indicate that they will be commenting on the proposed project. CDOW will then have an additional 15 days after the initial 10-day period to provide those comments. If CDOW raises concerns, the applicant may either modify their plan, in coordination with CDOW, or apply for a standard individual permit.

(2) For activities involving the length of a stream, the post-project stream sinuosity will not be significantly reduced, unless it is demonstrated that the reduction in sinuosity is consistent with the natural morphological evolution of the stream (sinuosity is the ratio of stream length to project reach length).

(3) Structures will allow the upstream and downstream passage of aquatic organisms, including fish native to the reach, as well as recreational water craft or other navigational activities, unless specifically waived in writing by the District Engineer. The use of grout and/or concrete in building structures is not authorized by this nationwide permit.

(4) The construction of water parks (i.e., kayak courses) and flood control projects are not authorized by this nationwide permit.

d. Nationwide Permits Nos. 29 and 39; Residential Developments and Commercial and Institutional Developments. A copy of the existing FEMA/locally-approved floodplain map must be submitted with the Pre-Construction Notification. When reviewing proposed developments, the Corps will utilize the most accurate and reliable FEMA/locally-approved pre-project floodplain mapping, not post-project floodplain mapping based on a CLOMR or LOMR. However, the Corps will accept revisions to existing floodplain mapping if the revisions resolve inaccuracies in the original floodplain mapping and if the revisions accurately reflect pre-project conditions.

2. Final Regional Conditions Applicable to All Nationwide Permits within Colorado

e. Removal of Temporary Fills. General Condition 13 (Removal of Temporary Fills) is amended by adding the

following: When temporary fills are placed in wetlands in Colorado, a horizontal marker (i.e. fabric, certified weed-free straw, etc.) must be used to delineate the existing ground elevation of wetlands that will be temporarily filled during construction.

f. Spawning Areas. General Condition 3 (Spawning Areas) is amended by adding the following: In Colorado, all Designated Critical Resource Waters (see enclosure 1) are considered important spawning areas. Therefore, In accordance with General Condition 19 (Designated Critical Resource Waters), the discharge of dredged or fill material in not authorized by the following nationwide permits in these waters: NWP's 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50. In addition, in accordance with General Condition 27 (Pre-Construction Notification), notification to the District Engineer is required for use of the following nationwide permits in these waters: NWP's 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37 and 38".

g. Suitable Fill. In Colorado, use of broken concrete as fill material requires notification to the District Engineer in accordance with General Condition 27 (Pre-Construction Notification). Permittees must demonstrate that soft engineering methods utilizing native or non-manmade materials are not practicable (with respect to cost, existing technology, and logistics), before broken concrete is allowed as suitable fill. Use of broken concrete with exposed rebar is prohibited in perennial waters and special aquatic sites.

h. Invasive Aquatic Species. General Condition 11 is amended by adding the following condition for work in perennial or intermittent waters of the United States: If heavy equipment is used for the subject project that was previously working in another stream, river, lake, pond, or wetland within 10 days of initiating work, one the following procedures is necessary to prevent the spread of New Zealand Mud Snails and other aquatic hitchhikers:

(1) Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and keep the equipment dry for 10 days. OR

(2) Remove all mud and debris from Equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with either a 1:1 solution of Formula 409 Household Cleaner and water, or a solution of Sparquat 256 (5 ounces Sparquat per gallon of water). Treated equipment must be kept moist for at least 10 minutes. OR

(3) Remove all mud and debris from equipment (tracks, turrets, buckets, drags, teeth, etc.) and spray/soak equipment with water greater than 120 degrees F for at least 10 minutes.

3. Final Regional Conditions for Revocation/Special Notification Specific to Certain Geographic Areas

i. Fens: All Nationwide permits, except permit Nos. 3, 6, 20, 27, 32, 38 and 47, are revoked in fens and wetlands adjacent to fens. Use of nationwide permit Nos. 3, 20, 27 and 38, requires notification to the District Engineer, in accordance with General Condition 27 (Pre-Construction

Notification), and the permittee may not begin the activity until the Corps determines the adverse environmental effects are minimal. The following defines a fen:

Fen soils (histosols) are normally saturated throughout the growing season, although they may not be during drought conditions. The primary source of hydrology for fens is groundwater. Histosols are defined in accordance with the U.S. Department of Agriculture, Natural Resources Conservation Service publications on Keys to Soil Taxonomy and Field Indicators of Hydric Soils in the United States (<http://soils.usda.gov/technical/classification/taxonomy>).

j. Springs: Within the state of Colorado, all NWPs, except permit 47 (original 'C'), require preconstruction notification pursuant to General Condition 27 for discharges of dredged or fill material within 100 feet of the point of groundwater discharge of natural springs. A spring source is defined as any location where groundwater emanates from a point in the ground. For purposes of this regional condition, springs do not include seeps or other discharges which do not have a defined channel.

4. Additional Information

The following provides additional information regarding minimization of impacts and compliance with existing general Conditions:

a. Permittees are reminded of the existing General Condition No. 6 which prohibits the use of unsuitable material. Organic debris, building waste, asphalt, car bodies, and trash are not suitable material. Also, General Condition 12 requires appropriate erosion and sediment controls (i.e. all fills must be permanently stabilized to prevent erosion and siltation into waters and wetlands at the earliest practicable date). Streambed material or other small aggregate material placed along a bank as stabilization will not meet General Condition 12. Also, use of erosion control mats that contain plastic netting may not meet General Condition 12 if deemed harmful to wildlife.

b. Designated Critical Resource Waters in Colorado. In Colorado, a list of designated Critical Resource Waters has been published in accordance with General Condition 19 (Designated Critical Resource Waters). This list will be published on the Albuquerque District Regulatory home page (<http://www.spa.usace.army.mil/reg/>)

c. Federally-Listed Threatened and Endangered Species. General condition 17 requires that non-federal permittees notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project. Information on such species, to include occurrence by county in Colorado, may be found at the following U.S. Fish and Wildlife Service website: http://www.fws.gov/mountain%2Dprairie/endspp/name_county_search.htm

C. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

D. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the

project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular

activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or

partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWP, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

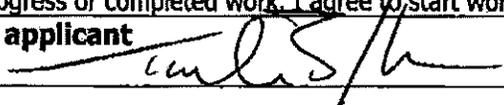
02-4C8304 USACE

U.S. Army Corps of Engineers South Pacific Division



Nationwide Permit Pre-Construction Notification (PCN) Form

This form integrates requirements of the Nationwide Permit Program within SPD, including General and Regional Conditions. Please consult instructions prior to completing this form.

Box 1 Project Name Hat Creek Culvert Extensions			
Applicant Name Thomas Balkow		Applicant Title Senior Environmental Planner	
Applicant Company, Agency, etc. Dept of Transportation (Caltrans)		Applicant's Internal tracking number (if any) EA 02-4C830	
Mailing Address PO Box 496073			
Work Phone with area code (530) 225-3480	Home Phone with area code	Fax # with area code	E-mail Address don_anderson@dot.ca.gov
Relationship of applicant to property: <input type="checkbox"/> Owner <input type="checkbox"/> Purchaser <input type="checkbox"/> Lessee <input type="checkbox"/> Other:			
Application is hereby made for verification that subject regulated activities associated with subject project qualify for authorization under a Corps nationwide permit or permits as described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agency to which this application is made, the right to enter the above-described location to inspect the proposed, in-progress or completed work. I agree to start work only after all necessary permits have been received.			
Signature of applicant 			Date (m/d/yyyy) 11/17/09

Box 2 Authorized Agent/Operator Name (If an agent is acting for the applicant during the permit process)			
Agent/Operator Title		Agent/Operator Company, Agency, etc.	
Mailing Address			
Work Phone with area code	Home Phone with area code	Fax # with area code	E-mail Address
I hereby authorize the above named authorized agent to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application. I understand that I am bound by the actions of my agent and I understand that if a federal or state permit is issued, I, or my agent, must sign the permit.			
Signature of applicant			Date (m/d/yyyy)
I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate.			
Signature of authorized agent			Date (m/d/yyyy)

Box 3 Name of Property Owner(s), if other than Applicant:	
Owner Title	Owner Company, Agency, etc.
Mailing Address	
Work Phone with area code	Home Phone with area code

Box 4 Name of Contractor(s) (if known):	
Contractor Title	Contractor Company, Agency, etc.
Mailing Address	
Work Phone with area code	Home Phone with area code

Box 5 Site Number __ of __. Project location(s), including street address, city, county, state, zip code where proposed activity will occur: AT POST MILES 6.20, 6.30, 6.41, 6.49, 6.55 ON STATE ROUTE 89 IN SHASTA COUNTY.	
Waterbody (if known, otherwise enter "an unnamed tributary to"): One of the five culverts will be extended to within approx. 5 feet of an unknown tributary to Honn Creek. These culverts have no direct connectivity to Honn or Hat creeks. There will be no impact to Hat Creek; there will be no impact or work to Honn Creek.	
Tributary to what known, downstream waterbody: Hat Creek (The project will not impact Hat Creek in any way.)	
Latitude & Longitude (D/M/S, DD, or UTM): beg 40d 43' 42" lat - 121d 25' 44" long end 40d 48' 07" lat - 121d 30' 44" long	Zoning Designation (no codes or abbreviations): State Highway
Assessors Parcel Number: Various and USFS	Section, Township, Range: Section: 9 Township: 33N Range: 5E Section: 15 Township: 34N Range: 4E
USGS Quadrangle map name: Old Station, Murken Bench, Burney Mountain East	
Watershed and other location descriptions, if known: Hat Creek	
Directions to the project location: Travel to Old Station. The project begins 3.5 miles north of the SR 44/SR 89 intersection (0.4 mile south of Hat Creek Bridge 6-85) and ends 0.4 mile north of Doty Rd.	

Nature of Activity (Description of project, include all features, see instructions):

TO EXTEND THE INLETS AND OUTLETS OF (5) 18" TO 24" CULVERTS ON SR 89 TO MEET CURRENT DESIGN AND SAFETY STANDARDS. THERE WILL BE NO CULVERT REPLACEMENTS AND NO STREAM CHANNELIZATION OR RELOCATION. ALL OF THESE DRAINAGES ARE EPHEMERAL AND MOSTLY CONVEY ROADSIDE DRAINAGE DURING THE WINTER MONTHS.

Project Purpose (Description the reason or purpose of the project, see instructions):

THE PURPOSE OF THE PROJECT IS TO INCREASE SHOULDER WIDTHS AT CULVERT INLETS AND/OR OUTLETS TO ATTAIN MORE UNIFORM WIDTHS ALONG THIS SECTION OF HIGHWAY. WIDER SHOULDERS AT THESE LOCATIONS WILL IMPROVE SAFETY AND PROVIDE SNOW REMOVAL STORAGE.

Use Box 6 if dredged and/or fill material is to be discharged:

Box 6 Reason(s) for Discharge into waters of the United States:

THE PROJECT WILL NOT DISCHARGE DIRECTLY TO WATERS OF THE US. BMPS WILL BE REQUIRED BECAUSE OF THE POTENTIAL FOR INCIDENTAL DISCHARGE FROM THE CONSTRUCTION SITE AND ROADWAY SURFACE DUE TO SOIL DISTURBANCE. THERE IS POTENTIAL FOR WIND TO TRANSPORT SOIL AND DUST OFFSITE.

Type(s) of material being discharged and the amount of each type in cubic yards:
 DISTURBED SOIL 6.2 CY

Total surface area in acres of wetlands or other waters of the U.S. filled (see instructions):
 There will be a permanent loss of 586.7 sq. ft. (0.01 acre) of 404 jurisdictional features (wet meadow/wetlands).

Indicate in ACRES and LINEAR FEET (where appropriate) the proposed impacts to **waters of the United States**, and identify the impact(s) as permanent and/or temporary for each water body type listed below:

Water Body Type	Permanent		Temporary	
	Acres	Linear feet	Acres	Linear feet
Wetland	0.01	110.1		
Riparian streambed				
Unveg. streambed				
Lake				
Ocean				
Other				
Total:	0.01	110.1		

Potential indirect and/or cumulative impacts of proposed discharge (if any):
 There would be no indirect or cumulative impacts of proposed discharge. All drainage work is designed to maintain existing flow quantities and flow patterns. All work is minor in nature and will not affect existing hydraulic conditions. There are no apparent erosion problems at any culvert locations. Maintenance personnel and Hydraulic history files indicate there are no flooding problems within the project limits. The project area is not included on a FEMA map. This project will perpetuate the historical drainage patterns of the area. The pavement footprint will not increase, so no increase of runoff is anticipated.

Required drawings (see Instructions):

Vicinity map: Attached (or mail copy separately if applying electronically)

To-scale Plan view drawing(s): Attached (or mail copy separately if applying electronically)

To-scale elevation and/or Cross Section drawing(s): Attached (or mail copy separately if applying electronically)

Has a wetlands/waters of the U.S. delineation been completed?

Yes, Attached (or mail copy separately if applying electronically) No

If a delineation has been completed, has it been verified in writing by the Corps?

Yes, Date of approved jurisdictional determination (m/d/yyyy): _____ Corps file number: _____ No

Please attach¹ one or more color photographs of the existing conditions (aerials if possible).

¹or mail copy separately if applying electronically

Dredge Volume: Indicate in CUBIC YARDS the quantity of material to be dredged or used as fill: The project will require approximately 2,000 cu yds of imported borrow to be used as fill.

Indicate type(s) of material proposed to be discharged in waters of the United States:

There is potential to discharge disturbed soil in waters of the U.S. while constructing the culvert extensions and rehabilitating the disturbed areas to pre-project conditions.

For proposed discharges of dredged material into waters of the U.S. (including beach nourishment), please attach² a proposed Sampling and Analysis Plan (SAP) prepared according to Inland Testing Manual (ITM) guidelines (including Tier I information, if available).

²or mail copy separately if applying electronically

Is any portion of the work already complete? YES NO

If yes, describe the work:

Box 7 Intended NWP number (1st)³: 3

Intended NWP number (2nd):

Intended NWP number (3rd):

³Enter the intended permit type(s). See NWP regulations for permit types and qualification information (http://www.usace.army.mil/inet/functions/cw/cecwo/reg/nationwide_permits.htm).

Box 8 Authority:

Is Section 10 of the Rivers and Harbors Act applicable?: YES NO

Is Section 404 of the Clean Water Act applicable?: YES NO

Box 9 Is the discharge of fill or dredged material for which Section 10/404 authorization is sought part of a larger plan of development?: YES NO

If discharge of fill or dredged material is part of development, name and proposed schedule for that larger development (start-up, duration, and completion dates):

Location of larger development (If discharge of fill or dredged material is part of a plan of development, a map of suitable quality and detail of the entire project site should be included):

Total area in acres of entire project area (including larger plan of development, where applicable):

Each culvert location is small, so the entire project area totals less than one acre.

Box 10 Threatened or Endangered Species

Please list any federally-listed (or proposed) threatened or endangered species or critical habitat within the project area (use scientific names (e.g., Genus species), if known):

- a. None
b.
c.
d.
e.
f.

Have surveys, using U.S. Fish and Wildlife Service/NOAA Fisheries protocols, been conducted?

Yes, Report attached (or mail copy separately if applying electronically) No

If a federally-listed species would be impacted, please provide a description and a biological evaluation.

Yes, Report attached (or mail copy separately if applying electronically) Not attached

Has the USFWS/NOAA Fisheries issued a Biological Opinion?

Yes, Attached (or mail copy separately if applying electronically) No

If yes, list date Opinion was issued (m/d/yyyy):

Has Section 7 consultation been initiated by another federal agency?

Yes, Initiation letter attached (or mail copy separately if applying electronically) No

Has Section 10 consultation been initiated for the proposed project?

Yes, Initiation letter attached (or mail copy separately if applying electronically) No

Box 11 Historic properties and cultural resources:

Please list any historic properties listed (or eligible to be listed) on the National Register of Historic Places:

- a. None
b.
c.
d.
e.
f.

Are any cultural resources of any type known to exist on-site?

Yes No

Has an archaeological records search been conducted?

Yes, Report attached (or mail copy separately if applying electronically) No

Has a archaeological pedestrian survey been conducted for the site?

Yes, Report attached (or mail copy separately if applying electronically) No

Has a Section 106 MOA been signed by another federal agency and the SHPO?

Yes, Attached (or mail copy separately if applying electronically) No

If yes, list date MOA was signed (m/d/yyyy):

Has Section 106 consultation been initiated by another federal agency?

Yes, Initiation letter attached (or mail copy separately if applying electronically) No

Box 12 Measures taken to avoid and minimize impacts to waters of the United States (if any):

Culverts are to be extended only as far as necessary to meet design standards and safety protocols on the state highway. By keeping the extensions to no more than an additional 8 to 10 feet at each location, there will be no direct discharges to waters of the U.S. BMPs will be put into place to avoid or reduce impacts to waters of the U.S.

Include multiple copies of Box 13 for separate sites.

Box 13 Proposed Compensatory Mitigation (site ___ of ___) related to fill/excavation and dredge activities. Indicate in ACRES and LINEAR FEET (where appropriate) the total quantity of waters of the United States proposed to be created, restored, enhanced and/or preserved for purposes of providing compensatory mitigation. Indicate water body type (wetland, riparian streambed, unvegetated streambed, lake, ocean, other) or non-jurisdictional (uplands⁵). Indicate mitigation type (on- or off-site by applicant, mitigation bank, in-lieu fee program):

Water Body Type	Created	Restored	Enhanced	Preserved	Mitigation type
Totals:					

⁵ For uplands, please indicate if designed as an upland buffer.

If no mitigation is proposed, provide detailed explanation of why no mitigation would be necessary:

There is no mitigation proposed because the existing culverts will be extended instead of being replaced, also the project does not involve any stream channelization or relocation. Most of the culverts have little to no vegetation growing directly around them, primarily because of ongoing maintenance activities to keep them clear. These culverts are associated with a wet meadow that is heavily grazed by cattle. The culvert at 6.20 appears to connect a man-made irrigation ditch from one side of the highway to the other. The others appear to have been installed as highway cross-drain culverts. The project does not increase the impervious area.

Has a draft/conceptual mitigation plan been prepared in accordance with the Army Corps of Engineers District guidelines? Yes, Attached (or mail copy separately if applying electronically) No

Mitigation site Latitude & Longitude (D/M/S, DD, or UTM):

USGS Quadrangle map name:

Assessors Parcel Number:	Section, Township, Range: Begin: Section: 9 Township: 33N Range: 5E End: Section: 15 Township: 34N Range: 4E
Other location descriptions, if known:	
Directions to the mitigation location:	

Box 14 Water Quality Certification (see instructions):

Applying for certification? Yes, Attached (or mail copy separately if applying electronically) No

Certification Issued? Yes, Attached (or mail copy separately if applying electronically) No

Exempt? Yes No

If exempt, state why: Agency concurrence? Yes, Attached No

Box 15 Coastal Zone Management Act (see instructions):

Is the project located within the Coastal Zone? Yes No

If yes, applying for a coastal commission-approved Coastal Development Permit?

Yes, Attached (or mail copy separately if applying electronically) No

If no, applying for separate CZMA-consistency certification?

Yes, Attached (or mail copy separately if applying electronically) No

Permit/Consistency Issued? Yes, Attached (or mail copy separately if applying electronically) No

Exempt? Yes No

If exempt, state why:

Box 16 List of other certifications or approvals/denials received from other federal, state, or local agencies for work described in this application:

Agency	Type Approval ⁴	Identification No.	Date Applied	Date Approved	Date Denied
RWQCB					
CDFG					

⁴Would include but is not restricted to zoning, building, and flood plain permits

NWP General Conditions (GC) checklist:

1. Navigation:

Project would be in compliance with GC? Yes No

Explain:

2. Aquatic Life Movements:

Project would be in compliance with GC? Yes No

Explain:

3. Spawning Areas:

Spawning areas present? Yes No

Project would be in compliance with GC? Yes No

Explain:

4. Migratory Bird Breeding Areas:

Migratory bird breeding areas present? Yes No

Project would be in compliance with GC? Yes No

Explain:

5. Shellfish Beds:

Shellfish beds present? Yes No

Project would be in compliance with GC? Yes No

Explain:

6. Sutable Material:

Project would be in compliance with GC? Yes No

Explain:

7. Water Supply Intakes:

Project would be in compliance with GC? Yes No

Explain:

8. Adverse Effects From Impoundments:

Project would be in compliance with GC? Yes No

Explain:

9. Management of Water Flows:

Project would be in compliance with GC? Yes No

Explain:

10. Fills Within 100-Year Floodplains:

Project would be within 100-year floodplains? Yes No

If yes, project would be in compliance with GC? Yes No

Explain:

11. Equipment:

Project would be in compliance with GC? Yes No

Explain:

12. Soil Erosion and Sediment Controls:

Project would be in compliance with GC? Yes No

Explain:

13. Removal of Temporary Fills:

Project would be in compliance with GC? Yes No

Explain:

14. Proper Maintenance:

Project would be in compliance with GC? Yes No

Explain:

15. Wild and Scenic Rivers:

Project would be within a National Wild and Scenic River System (including proposed system)?

Yes No

Project would be in compliance with GC? Yes No

Explain:

16. Tribal Rights:

Project would be in compliance with GC? Yes No

Explain:

17. Endangered Species: see Box 10 above.

18. Historic Properties: see Box 11 above.

19. Designated Critical Waters (check those that apply)

Includes:

- 1) NOAA-designated marine sanctuaries,
- 2) National Estuarine Research Reserves,
- 3) State natural heritage sites,
- 4) Officially designated waters

Applicant is aware of the restrictions a) and b) below? Yes No

a) NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50: No NWP can be authorized.

b) NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38: Notification is required.

20. Mitigation: see Box 13 above.

21. Water Quality (401 Certification): see Box 14 above.

22. Coastal Zone Permit: see Box 15 above.

23. Regional and Case-By-Case Conditions:

Complete the Regional Conditions checklist below.

Project would be in compliance with any Case-by-case conditions? Yes No

Explain:

24. Use of Multiple Nationwide Permits:

Applicant is aware that if total proposed acreage of impact exceeds acreage limit of NWP with highest specified acreage, no NWP can be issued? Yes No

25. Transfer of Nationwide Permit Verifications:

Applicant is aware of this permit transfer requirement? Yes No

26. Compliance Certification:

Applicant is aware of this post-construction requirement? Yes No

27. Pre-Construction Notification:

If a PCN is required, the PCN includes: *(check those that apply)*

Delineation of wetlands and other waters of the U.S.

If project results in the loss of greater than 1/10 acre of wetlands, a compensatory mitigation plan or statement describing how the mitigation requirement will be satisfied

For non-Federal applicants, a list of threatened or endangered species or designated critical habitat that might be affected by the proposed work

For Federal applicants, documentation demonstrating compliance with the Endangered Species Act

For non-Federal applicants, a list of historic properties listed on, or determined eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places that may be affected by the proposed work; or a vicinity map indicating the location of the historic property

For Federal applicants, documentation demonstrating compliance with the National Historic Preservation Act

28. Single and Complete Project:

Project would be in compliance with GC? Yes No

Explain:

NWP Regional Conditions (RC) checklist:

II. Sacramento District (SPK) in California, Nevada, and Utah:

SPK Regional conditions to be applied across the entire Sacramento District including California, Nevada, and Utah (except Colorado):

1. Is pre-construction notification (PCN) required? Yes No

If yes, notification pursuant to General Condition 27 is required using either the South Pacific Division Preconstruction Notification (PCN) Checklist or a completed application form (ENG Form 4345). In addition, the PCN shall include:

- a. A written statement explaining how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;
- b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and size (in acreage) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the high tide line should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation; and
- c. Pre-project color photographs of the project site taken from designated locations documented on the plan drawing.

2. Will mitigation be completed before or concurrent with construction of the project? Yes No

Compensatory mitigation shall be completed as required by special conditions of the NWP verification before or concurrent with construction of the authorized activity, except when specifically determined to be impracticable by the Sacramento District. When project mitigation involves use of a mitigation bank or in-lieu fee program, payment shall be made before commencing construction.

3. Does the project have property which will be preserved as part of mitigation for authorized impacts? Yes No

If yes, the NWP verification shall be recorded against the preserved property with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property.

Will structures, including boat ramps or docks, marinas, piers, and permanently moored vessels, be constructed in or adjacent to navigable waters? Yes No

If yes, the NWP verification shall be recorded against the area with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property. The recordation shall also include a map showing the surveyed location of the authorized structure and any associated areas preserved to minimize or compensate for project impacts.

4. Will any wetlands, other aquatic areas, and/or any vegetative buffers be preserved as part of mitigation for impacts? Yes No

If yes, these areas shall be placed into a separate "preserve" parcel prior to discharging dredged or fill material into waters of the United States, except where specifically determined to be impracticable by the Sacramento District. Permanent legal protection shall be established for all preserve parcels, following Sacramento District approval of the legal instrument.

5. The permittee shall allow Corps representatives to inspect the authorized activity and any mitigation areas at any time deemed necessary to determine compliance with the terms and conditions of the NWP verification. The permittee will be notified in advance of an inspection.

6. Is a waiver of the 300 linear foot limitation for intermittent and ephemeral streams requested? Yes No

If yes, an analysis of the impacts to the stream environment, measures taken to avoid and minimize losses, other project alternatives that were considered (but were found not to be practicable), and a mitigation plan describing how the unavoidable losses will be offset, must be included.

7. Is a road crossing proposed? Yes No

If yes, road crossings shall be designed to ensure fish passage, especially for anadromous fish. Bridge designs that span the stream or river, utilize pier or pile supported structures, or involve large bottomless culverts with a natural streambed, where the substrate and streamflow conditions approximate existing channel conditions shall be employed.

Is an approach fill proposed? Yes No

Approach fills in waters of the United States below the ordinary high water mark are not authorized under the NWPs, except where avoidance has specifically been determined to be impracticable by the Sacramento District.

8. Are trenching activities proposed under NWP 12? Yes No

If yes, clay blocks, bentonite, or other suitable material shall be used to seal the trench to prevent the utility line from draining waters of the United States, including wetlands.

9. Are activities involving hard-armoring of the bank toe or slope proposed under NWP 13? Yes No

If yes, notification pursuant to General Condition 27 is required. Bank stabilization shall include the use of vegetation or other biotechnical design to the maximum extent practicable.

10. Is the activity proposed under NWP 23? Yes No

If yes, notification pursuant to General Condition 27 is required. The PCN shall include a copy of the signed Categorical Exclusion document and final agency determinations regarding compliance with Section 7 of the Endangered Species Act, Essential Fish Habitat under the Magnussen-Stevens Act, and Section 106 of the National Historic Preservation Act.

11. Are activities which will result in the loss of greater than 300 linear feet of streambed proposed under NWP 44? Yes No

If yes, the discharge shall not cause the loss of more than 300 linear feet of streambed unless the 300 linear foot limit is waived in writing by the Sacramento District for intermittent and ephemeral streams only. Loss of more than 300 linear feet of perennial streambed is not authorized.

Is the activity proposed within a water of the United States supporting anadromous fisheries? Yes No

This NWP does not authorize discharges in waters of the United States supporting anadromous fisheries.

12. Is channelization or relocation of an intermittent or perennial drainage proposed under NWPs 29 and/or 39? Yes No

If yes, channelization or relocation of intermittent or perennial drainage is not authorized, except when, as determined by the Sacramento District, the relocation would result in a net increase in functions of the aquatic ecosystem within the watershed.

13. Are temporary fills for construction access in waters of the United States supporting fisheries proposed under NWP 33? Yes No

If yes, temporary fills for construction access in waters of the United States supporting fisheries shall be accomplished with clean, washed spawning quality gravels where practicable as determined by the Sacramento District, in consultation with appropriate federal and state wildlife agencies.

14. Are activities which will result in the loss of greater than 0.5 acre of waters of the United States or the loss of more than 300 linear feet of ditch proposed under NWP 46? Yes No

If yes, the loss of greater than 0.5 acre of waters of the United States is not authorized. The discharge shall not cause the loss of more than 300 linear feet of ditch, unless the 300 foot linear foot limit is waived in writing by the Sacramento District.

15. Are any waters of the United States, including created, restored, or enhanced waters of the United States proposed for preservation under NWPs 29, 39, 40, 42, and/or 43? Yes No

If yes, upland vegetated buffers shall be established and maintained in perpetuity, to the maximum extent practicable, adjacent to all preserved open waters, streams and wetlands including created, restored, enhanced or

preserved waters of the U.S., consistent with General Condition 20. Except in unusual circumstances, vegetated buffers shall be at least 50 feet in width.

16. Is the proposed project located with a histosol, fen, or wetland contiguous with a fen? Yes No

If yes, all NWP's except 3, 6, 20, 27, 32, 38, and 47, are revoked. Fens are defined as slope wetlands with a histic epipedon that are hydrologically supported by groundwater. Fens are normally saturated throughout the growing season, although they may not be during drought conditions. For NWP's 3, 6, 20, 27, 32, and 38, notification pursuant to General Condition 27 is required.

17. Are activities proposed within 100 feet of the point of groundwater discharge of a natural spring? Yes No

If yes, notification pursuant to General Condition 27 is required. A spring source is defined as any location where ground water emanates from a point in the ground. For purposes of this condition, springs do not include seeps or other discharges which lack a defined channel.

SPK Regional conditions to be applied only in California:

1. Is the project located within Lake Tahoe Basin? Yes No

All NWP's within the Lake Tahoe Basin are revoked. Activities in this area shall be authorized under Regional General Permit 16 or through an individual permit.

2. Is the project located within the Primary and Secondary Zones of the Legal Delta? Yes No

NWP's 29 and 39 within the Primary and Secondary Zones of the Legal Delta are revoked. New development activities in this area will be reviewed through the Corps' standard permit process.

SPK Regional conditions to be applied only in Nevada:

1. Is the project located within Lake Tahoe Basin? Yes No

All NWP's within the Lake Tahoe Basin are revoked. Activities in this area shall be authorized under Regional General Permit 16 or through an individual permit.

SPK Regional conditions to be applied only in Utah:

1. Is the project located below 4217 feet mean sea level (msl) adjacent to the Great Salt Lake or below 4500 feet msl adjacent to Utah Lake? Yes No

For all NWP's in this area, except NWP 47, notification pursuant to General Condition 27 is required.

2. Will the project include bank stabilization activities that will affect more than 100 linear feet of perennial stream? Yes No

If yes, notification pursuant to General Condition 27 is required.

3. Will the project require NWP 27 authorization? Yes No

If yes, facilities for controlling stormwater runoff, construction of water parks such as kayak courses, and use of grout or concrete to construct in-stream structures are not authorized.

Will the project exceed 1500 linear feet (as measured on the stream thalweg), use in stream structures exceeding 50 cubic yards per structure, and/or incorporate grade control structures exceeding 1 foot vertical drop?
 Yes No

If yes, notification pursuant to General Condition 27 is required.

Will the project involve stream restoration? Yes No

If yes, the post project stream sinuosity shall be appropriate to the geomorphology of the surrounding area and shall be equal to, or greater than, pre-project sinuosity. Sinuosity is defined as the ratio of stream length to project reach length. Structures shall allow the passage of aquatic organisms, recreational water craft or other navigational activities unless specifically waived in writing by the District Engineer.