12 December 2016

Calvin Hendrix
Beale Air Force Base
9 CES/CD
6451 B Street
Beale AFB, CA 95903

CERTIFIED MAIL
91 7199 9991 7035 8420 4597

NOTICE OF APPLICABILITY; GENERAL SECTION 401 WATER QUALITY CERTIFICATION ORDER REQUIREMENTS FOR THE FRISKY DAM EMERGENCY BREACH PROJECT (WDID#5A58CR00131), YUBA COUNTY

On 8 November 2016, Beale Air Force Base (Applicant) filed a notification requesting coverage under the 15 December 2014 State Water Resources Control Board Clean Water Act Section 401 Water Quality Certification of United States Army Corps of Engineers Regional General Permit 8 (General Certification Order). After review of the notification and the supplemental material submitted by the Applicant and concurrence from the United States Army Corps of Engineers, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has determined that the project qualifies for enrollment under this General Certification Order. The activity took place in 0.04 acre/30 linear feet of waters of the United States.

The Central Valley Water Board is certifying this project under United States Army Corps of Engineers Regional General Permit 8, Repair and Protection Activities in Emergency Situations, subject to the conditions and the notification requirements described in the General Certification Order. This Notice of Applicability is being issued under the General Certification Order pursuant to Section 3838 of the California Code of Regulations.

A copy of the General Certification Order is enclosed. You can also find the General Certification Order on the State Water Resources Control Board's website at: http://www.swrcb.ca.gov/water_issues/programs/cwa401/docs/generalorders/rgp8_sb14007in_cert.pdf

The project was conducted in accordance with the requirements in the General Certification Order. The Project is described in the notification form requesting coverage under the General Certification Order, dated 8 November 2016, and supplementary information (Application Package). Coverage under the General Certification Order is no longer valid if the project (as described) is modified.

PROJECT DESCRIPTION:

Frisky Dam was deemed unsafe in its current condition and an inevitable breach during a storm event could cause a potential flood event and loss of life. The project included construction of an intentional breach of Frisky Dam to reduce flood risk to the area. Approximately 160 cubic yards

of rock fill was placed in a 30-foot by 60-foot area at the base of the breach to protect against erosion. The breach occurred and work began on 14 November 2016 and concluded in late November 2016.

The Project permanently impacted 0.04 acre/30 linear feet of waters of the United States.

APPROXIMATE TIMEFRAME OF PROJECT IMPLEMENTATION:

The project was completed on 30 November 2016.

PROJECT LOCATION:

Latitude: 39º07'32.0" N and Longitude: 121º22'21.4" W

If you have any questions regarding this Notice of Applicability, please contact Stephanie Tadlock, Environmental Scientist, at 916-464-4644 or Stephanie.Tadlock@waterboards.ca.gov

Original Signed By Adam Laputz for:

Pamela C. Creedon
Executive Officer

Enclosures: State Water Resources Control Board Clean Water Act Section 401 Water Quality Certification of United States Army Corps of Engineers Regional General Permit 8

cc: Zachary Fancher (SPK-2016-00847)
United States Army Corps of Engineers
Sacramento District Headquarters
1325 J Street, Room 1350
Sacramento, CA 95814-2922

Bill Orme (Electronic Copy Only)
State Water Resources Control Board
Stateboard401@waterboards.ca.gov

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United States Air Force
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CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION

Reg. Meas. ID:	398432
Place ID:	809804
SWRCB ID:	SB14007IN
USACOE#:	SPK-1999-00652

Effective Date: December 15, 2014

Expiration Date: December 31, 2019

Program Type: Fill/Excavation

Project: Regional General Permit 8 for Repair and Protection Activities in Emergency Situations (Project)

Applicant: U.S. Army Corps of Engineers, Sacramento District

Applicant Contact: Mr. Michael Jewell
Chief, Regulatory Division
Sacramento District
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814-4708
Phone: (916) 557-6605
Email: Michael.S.Jewell@usace.army.mil

Applicant's Agent: Ms. Susan Clark
Regulatory Project Manager
Sacramento District
U.S. Army Corps of Engineers
1325 J Street, Room 1350
Sacramento, CA 95814-4708
Phone: (916) 557-7666
Email: Susan.S.Clark@usace.army.mil

State Water Board Staff: Mr. Brian Dailey
Environmental Scientist
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Phone: (916) 341-5462
Email: Brian.Dailey@waterboards.ca.gov

State Water Board Contact Person:
If you have any questions, please call State Water Resources Control Board (State Water Board) Staff or (916) 341-5569 and ask to speak with the 401 Certification and Wetlands Unit Program Manager.

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I. Certification Action

This Certification Order serves as a Clean Water Act (CWA) Section 401 Water Quality Certification (Certification) and responds to the request on behalf of the U.S. Army Corps of Engineers, Sacramento District (Corps), for Certification for the Project. This Certification is for the purpose and design described in the application submitted by the Corps. The application for Certification was received on August 28, 2014, and was deemed complete on September 26, 2014. The State Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 on October 3, 2014, via the State Water Board website. The State Water Board did not receive any comments during the twenty-one (21) day comment period.

II. Project Purpose and Description

The Corps is proposing to reauthorize its Regional General Permit (RGP) for emergency actions authorizing structures or work in or affecting waters of the United States and the discharge of dredged or fill material in waters of the United States, including wetlands, for necessary repair or protection of existing structures, facilities or fills where an imminent threat to life or property exists due to unforeseen events during an emergency incident. The RGP was developed to provide an expedited process to address emergency situations caused by generally unanticipated events or circumstances typically related to, but not limited to, weather-related phenomena. Emergencies resulting from weather-related events often require an immediate response that is not readily available under existing regulations. Incidents not related to weather may require an immediate response as well, including, but not limited to, flood control and water storage structural failure, wastewater treatment systems failures, substance spills or pipeline breaks, and discharge of fills related to firefighting during a wildfire incident.

III. Project Location

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

IV. Receiving Waters Information

Definition "Waters of the United States" means surface water and water bodies as defined by United States Environmental Protection Agency (USEPA) regulations (e.g., 40 C.F.R. § 122.2). This definition, which establishes the limits of federal jurisdiction over state waters, does exclude some surface water and water body types recognized under the California Water Code. The latter defines "waters of the state" more broadly as "any surface water or ground water, including saline waters, within the boundaries of the state." [Wat. Code, § 13050, subd. (e)]. Waters of the state that fall outside of federal jurisdiction are nonetheless fully protected under the state Water Code.

According to California Code of Regulations, title 23, chapter 28, article 1, section 3831, a "water quality certification" means a certification that any discharge or discharges to waters of the United States, resulting from an activity that requires a federal license or permit, will comply with water quality standards and other appropriate requirements. As such, this

Certification is issued in response to a proposed Project discharge or discharges to waters of the United States, and ensures that the water quality standards for all waters of the state impacted by the Project are met. Discharges shall be delineated according to Corps delineation methods.

The Project is located within the jurisdiction of the North Coast, Central Valley, and Lahontan Regional Water Quality Control Boards (Regional Water Boards). The receiving waters and beneficial uses of those waters potentially impacted by this Project are outlined in water quality control plans (Basin Plan) for the regions and other plans and policies which may be accessed online at: http://www.waterboards.ca.gov/plans_policies/.

V. California Environmental Quality Act (CEQA) Findings

State Water Board staff has determined that the Project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, section 15061, subd. (b). Specifically, the issuance of this Certification is exempt by statute pursuant to Public Resources Code section 21080, subsections (b)(2)-(4). Additionally, State Water Board staff concludes that no exceptions apply to the activities approved by this Certification. The State Water Board will file a Notice of Exemption in accordance with the California Code of Regulations, title 14, section 15062 the date this Order becomes effective.

VI. Conditions

The State Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds of the Project. In accordance with this Order, the Applicant may proceed with the Project under the following terms and conditions.

A. Standard Conditions

1. This Certification action and Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, chapter 28, article 6 (commencing with section 3867).

2. This Certification action and Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent Certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. This Certification is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Enrollee (i.e. the person or entity proposing to enroll under the Corps' RGP 8 to conduct activities which may result in a discharge to a water of the United States).

4. 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 and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties,

processes, 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 Order.

B. General Conditions

1. Signatory requirements for all document submittals required by this Certification are presented in Attachment B of this Certification.

2. This certification is limited to emergency actions that meet the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) definition of an "emergency," which is defined as follows:

> *A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movement, as well as such occurrences as riot, accident, or sabotage.*
> [Pub. Resources Code, § 21060.3 (emphasis added).]

Emergency actions must meet the above definition of "emergency" and demonstrate an imminent threat to qualify for this Certification. For actions that do not qualify for enrollment under this Certification, the Enrollee must contact either the State Water Board or the applicable Regional Water Board to apply for an individual water quality certification.

3. This Certification is limited to projects that satisfy one or more of the following exemption criteria as defined by the CEQA Guidelines [Cal. Code Reg., tit. 14, § 15269.]:

   a. Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with section 8550 of the Government Code.

   b. Emergency repairs to publicly or privately owned service facilities necessary to maintain service essential to the public health, safety, or welfare.

   c. Specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term.

   d. Projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, provided that the project is within the existing right of way of that highway and is initiated within one year of the damage occurring. This does not apply to highways designated as official State scenic highways, nor any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

   e. Seismic work on highways and bridges pursuant to section 180.2 of the Streets and Highways Code, section 180 et seq.

4. This certification is limited only to sudden, unexpected emergency situations defined in General Conditions 2 and 3 above that: (1) have occurred, or (2) have a high probability of occurring in the short term as a result of recently discovered factors or events not related to known or expected conditions. Additionally, the sudden, unexpected emergency situation must have the potential to result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

5. Emergency repairs and reconstruction must commence within seven (7) calendar days of receiving a notice of applicability (i.e., the notification from the Water Board that the Enrollee has successfully enrolled under this Certification) and shall be completed within six (6) months of the enrollment date pursuant to this water quality certification. **If it is anticipated that work will not be completed prior to the expiration of enrollment, the Enrollee shall request an extension at least thirty (30) days prior to the expiration date.** The request shall include justification for the extension.

6. All repairs and reconstruction shall be kept to the minimum necessary to alleviate the immediate emergency and limited to in-kind replacement or refurbishment of on-site features. Minor upgrading may be considered if the Enrollee uses bioremediation or other environmentally sensitive solutions. Permanent restoration work other than that performed as an associated part of the emergency operations, including any minor upgrades, shall not be performed without prior approval and authorization by the Water Boards.

7. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The Water Boards may impose monitoring requirements at any time in order to ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.

C. Administrative Conditions

1. The State Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to the Applicant, if the State Water Board determines that the Project fails to comply with any of the terms or conditions of this Certification.

2. The State Water Board may add to or modify the conditions of this Certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or Clean Water Act section 303 (33 U.S.C. § 1313).

3. This Certification Order and all of its conditions contained herein are not subject to the expiration or retraction of the Clean Water Act section 404 (33 U.S.C. §1344) permit issued by the Corps for this Project. This Certification Order and all of its conditions contained herein shall remain in full effect, and are enforceable until deemed complete by the State Water Board. For purposes of Clean Water Act, section 401(d), the completion of all conditions contained in this Certification Order constitutes a limitation

necessary to assure compliance with the water quality standards and other pertinent requirements of state law.

4. A copy of this Certification shall be provided to any contractor and all subcontractors conducting the construction work, and copies shall remain in their possession at the Project site during the life of the Project. The Enrollee shall be responsible for work conducted by its contractor and any subcontractors.

5. This Certification does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a "take" will result from any act authorized under this Certification held by the Corps, the Corps and/or the Enrollee must obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Corps is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Certification.

6. The Corps and/or the Enrollee shall grant Water Boards staffs or an authorized representative (including an authorized contractor acting as a Water Boards representative), upon presentation of credentials and other documents as may be required by law, permission to:

   a. Enter upon any project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;

   b. Have access to and copy any records that must be kept under the conditions of this Certification;

   c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and

   d. Sample or monitor for the purposes of assuring Certification compliance.

7. Failure to comply with any condition of this Certification shall constitute a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Any activities enrolled pursuant to this Certification previously granted, shall immediately be revoked and any or all discharges shall cease. The Corps and/or the Enrollee may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.

D. Construction Conditions

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

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

3. If construction related materials reach surface waters, appropriate spill response procedures must be initiated as soon as the incident is discovered. In addition, the State

Water Board staff contact identified in this Certification must be notified via email and telephone within twenty-four (24) hours of the occurrence.

4. Construction materials and debris from all construction work areas shall be removed following completion of an enrolled project.

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

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

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

E. Mitigation Conditions

Permitted activities must first avoid and then minimize adverse impacts on aquatic resources to the maximum extent practicable. Any remaining unavoidable adverse impacts to the aquatic resources may be offset by compensatory mitigation requirements in accordance with the conditions of RGP 8.

VII. Notice of Intent and Fee Requirements

A. The prospective Enrollee must notify the State Water Board and the applicable Regional Water Board at least forty-eight (48) hours prior to initiating the emergency project. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means. **This notification must be followed within three (3) business days by submission of all of the information in the notice of intent (NOI) form, provided in Attachment D**.

B. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means. A staff directory that includes contact information for the State and Regional Program Managers is found at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf

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

Electronic Submittal

- Locate the email addresses of the "**State Program Manager**" and the appropriate "**Region Program Manager**" from the staff directory link above.

- Address email to the state program manager and appropriate region program manager and include in the subject line: (Attention - RGP 8 Notice of Intent)

Hardcopy Submittal Addresses
ATTN: Program Manager
CWA Section 401 WQC Program
Division of Water Quality
State Water Resources Control Board
1001 "I" St. 15th Floor
Sacramento, CA 95814

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

C. The Water Boards recognize there may be situations where imminent threats to life or property occur and the Enrollee has not received a notice of applicability. If immediate, specific actions, as defined in the California Code of Regulations, title 14, section 15269(c), are required by the Enrollee and prior notice to the State Water Board and the applicable Regional Water Board is not possible, then the Enrollee must contact the State Water Board and the applicable Regional Water Board within one (1) business day of the action. **As provided above, this notification must be followed within three (3) business days by submission of all of the information in the NOI, provided in Attachment D**.

D. The Enrollee must provide to the appropriate Regional Water Board the fee for review and processing of the NOI (**Attachment D**) in accordance with California Code of Regulations, title 23, section 2200 within forty-eight (48) hours of project initiation. Failure to promptly pay the correct fee amount may result in a disqualification for enrollment pursuant to this Certification.

E. The fee amount is calculated using the "**Emergency Projects authorized by a Water Board General Order**" fee category within the **Dredge and Fill Fee Calculator** located at: http://www.waterboards.ca.gov/water_issues/programs/cwa401/index.shtml As of December 1, 2014, the fee is $200.00. Note that this fee is adjusted periodically and may vary from this amount. Enrollees should confirm the correct fee amount prior to submitting an NOI.

F. Once the Water Board receives a completed NOI and the correct fee from the Enrollee, the Water Board will transmit a Notice of Applicability (NOA) to the Enrollee verifying enrollment in this Certification.

VIII. Notice of Completion Reporting Requirements

A. The Enrollee must provide the State Water Board and the applicable Regional Water Board copies of all correspondence and reports that are submitted to the Corps to satisfy the requirements of RGP 8. In addition, the Enrollee must file the notice of completion (NOC) form provided in Attachment E. **A completed NOC must be submitted to the State Water Board and appropriate Regional Water Quality Control Board within 45 calendar days of completion of any action conducted under RGP 8.**

B. Failure to submit a complete NOC within 45 calendar days of completion of any action conducted under this water quality certification may result in the imposition of administrative and/or civil liability pursuant to Water Code section 13385.

IX. Water Quality Certification

I hereby issue the Certification for Regional General Permit 8 for Repair and Protection Activities in Emergency Situations, SB14007IN, certifying that as long as all of the conditions listed in this Certification are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards). This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Certification to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

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 conditions of this Certification and the attachments to this Certification, and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Water Boards' Water Quality Control Plans and Policies.

Thomas Howard

Thomas Howard
Executive Director
State Water Resources Control Board

12/15/14
Date

Attachment A	RGP 8 Area Map
Attachment B	Signatory Requirements
Attachment C	Applicant's Project Description
Attachment D	Notice of Intent Form
Attachment E	Notice of Completion Form