

## State Water Resources Control Board

### Public Notice of Application for Water Quality Certification for U.S. Army Corps of Engineers, Sacramento District Regional General Permit 8 for Emergency Repair and Protection Activities

State Water Resources Control Board  
Division of Water Quality  
Water Quality Certification Program  
Date Posted: September 11, 2018

**Affected Counties:** Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, and Yuba counties; eastern portions of Alameda, Contra Costa, and Solano counties; north-western portion of Kern County, and northern portion of Mono County.

The following information is provided in satisfaction of the public notice requirements of Section 3858, Title 23, of the California Code of Regulations, which govern the State's Water Quality Certification Program.

State Water Resources Control Board (State Water Board) staff are proposing to regulate this Project pursuant to Section 401 of the Clean Water Act (33 USC 1341) and the Porter-Cologne Water Quality Control Act. **Staff will consider all comments submitted in writing and received at this office during a 21-day comment period that begins on the first date of issuance of this letter (September 11, 2018) and ends at 5:00 p.m. on the last day of the comment period (October 2, 2018).** To submit comments, or if you have any questions, please contact the State Water Board staff person listed below.

**State Water Resources Control Board Contact:**

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State Water Resources Control Board  
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**Note: No regulatory decision on the application is implied or intended in this public notice.**

**Project Name: Regional General Permit 8 for Emergency Repair and Protection Activities**  
(Reg. Meas. ID: 425023 and SWRCB ID: SB18054IN)

**Background:** On July 20, 2018, the U.S. Army Corps of Engineers, Sacramento District (Corps) notified the State Water Resources Control Board that the Corps is reissuing, with modifications, Regional General Permit (RGP) 8 for Emergency Repair and Protection Activities (RGP 8). The effective date for the RGP 8 is August 10, 2018, and it will expire on August 10, 2023.

The July 20 notification serves as the Corps' application for Water Quality Certification (Certification) under Section 401 of the Clean Water Act for RGP 8 activities that will result in a discharge into waters of the U.S. within the State of California.

On August 14, 2018, the Corps published its final reissuance of RGP 8 (<http://www.spk.usace.army.mil/Media/Regulatory-Public-Notices/Article/1601555/spk-1997-00652-issuance-of-rgp-8-within-district-boundaries-of-ca-nv-and-ut/>).

**Project Description:** RGP 8 serves as the federal 404 authorization for permanent or temporary work or structures in navigable waters of the U.S., and/or the permanent or temporary discharge of dredged and/or fill material into waters of the U.S., including wetlands, for repair or protection activities for which the Corps office has determined that an emergency situation exists. An emergency situation, as determined by the Corps office, is one which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a Corps permit is not undertaken within a time period less than the normal time to process the request under standard processing procedures.

Modifications from the previously authorized RGP 8 include:

1. **Activities Covered under RGP:** The previous RGP 8 was limited to repair/rehabilitation of previously authorized, currently serviceable, structures or fills in emergency situations. The current RGP 8 would authorize permanent or temporary work or structures in navigable waters of the U.S. and/or permanent or temporary discharge of dredged /fill material into waters of the U.S. for repair or protection activities in emergency situations.
2. **Initiation of Construction Activities:** The previous RGP 8 required work to be initiated within 7 days following verification of the RGP by the Corps. The current RGP 8 requires work in waters of the U.S. commence no later than 14 days following verification of the RGP by the Corps, unless the Corps specifically determines, in writing, that logistical considerations necessitate an extension beyond 14 days.
3. **Restoration of Areas Damaged by Discrete Events:** Restoration of areas damaged by discrete events is generally not authorized by the previous RGP 8, unless it would result in the repair or rehabilitation of previously authorized, currently serviceable, structures or fills. The current RGP 8 would allow for the restoration of areas damaged by discrete events, subject to specific terms to ensure the effects would be no more than minimal.
4. **Bank Stabilization:** Bank stabilization is generally not authorized by the previous RGP 8, unless it would result in the repair or rehabilitation of previously authorized, currently serviceable, structures or fills. The current RGP 8 would authorize bank stabilization, with new bank stabilization activities subject to specific terms to ensure the effects would be no more than minimal.
5. **Notification, Timing, and Process:** Notification, timing, and process is not clearly identified, with limited discussion in the General Conditions of the previous RGP 8. The current RGP 8 contains a Notification Procedures section, which provides the

requirements for a complete notification, and the process and timing for the evaluation of activities by the Corps.

6. Agency Notification: The previous RGP 8 required applicant provide a notification package to the Corps and applicable agencies, and required the Corps to provide the notification package to applicable agencies. The current RGP 8 would require only the Corps to provide the notification package to applicable agencies, to reduce unnecessary paperwork and redundancy.
7. Notification Package: The required contents of a complete notification are substantially the same between the previous RGP 8 and the current RGP 8. The current RGP 8 allows the Corps to determine the nature of the threat to life or property or the potential economic hardship precludes the submittal of some of all of the required information with the Notification package, in which case the information would need to be submitted within 30-days following initiation of construction activities in waters of the U.S. authorized by the RGP.
8. Activity Completion: The previous RGP 8 required activities to be completed within 6 months from verification, unless an extension is provided by the Corps. The current RGP 8 requires work in waters of the U.S. be completed within 180 calendar days from commencement of construction activities in waters of the U.S., unless an extension is provided by the Corps.
9. General Conditions: A number of the General Conditions of the previous RGP 8 have been modified, removed, or relocated in the current RGP 8. The General Conditions in the previous RGP 8 related to shellfish production, water supply intakes, and adverse effects to impoundments, have been removed in the current RGP 8.

**A Certification or Denial will be prepared by the State Water Board for RGP 8 in response to this application.**

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

**Applicant Contact:** Lisa Gibson

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**Date of Application:** 7/20/2018

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Pursuant to federal law (Title 33, United States Code, Section 1341; Clean Water Act Section 401), applicants for a federal license or permit for activities which may discharge to waters of the United States must seek Water Quality Certification from the state or Indian tribe with jurisdiction. Such Certification is based on a finding that the discharge will meet water quality standards and other applicable requirements. In California, Regional Water Quality Control Boards (Regional Water Boards) issue or deny Certification for discharges within their geographical jurisdiction. The State Water Board has this responsibility for projects affecting waters within multiple Regional Water Board jurisdictions.

***KEEP INFORMED OF PROJECT MILESTONES***

To be informed of milestones in the development of this proposed Water Quality Certification, any interested persons should enroll in the State Water Board's 401 Program e-mail notification service.

Click the SUBSCRIBE button under the "Quick Links" section of the 401 Program Webpage at:

[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/index.shtml)

Select "CWA401 Certification and Wetlands Program." By enrolling in this list, you will receive notices for all current 401 project applications, including the project announced in this notice. You will need a valid e-mail address to use this service. If you do not have internet access or do not wish to participate in the Lyris list, contact the staff person named in the notice to express your interest in receiving notices by other means.

You can enroll or un-enroll at any time. The State Water Board will not disclose your name or e-mail information to any outside parties, and will not use this information for any other purpose.