



Edmund G. Brown Jr.
Governor

Matthew Rodriguez
Secretary for Environmental Protection

November 7, 2017

Don Boland, Director
California Utilities Emergency Association
13300 White Rock Road
Rancho Cordova, CA 95742-6700

Re: Regulatory Suspension Determination

Dear Mr. Boland:

I am writing to notify you of my determination for California public utilities regarding the suspension of requirements to obtain a 401 Water Quality Certification for U.S. Army Corps of Engineers' Regional Permits 5 and 8 for Repair and Protection Activities in Emergency Situations.

As you are aware, in October 2017, the Governor issued Proclamations of a State of Emergency in Napa, Sonoma, Mendocino, Solano, Lake, Butte, Yuba, Orange, and Nevada counties exempting activities from State statutes, rules, regulations and requirements to the extent they apply to (a) removal, storage, transportation, and disposal of hazardous and non-hazardous solid waste and debris resulting from fires, and (b) necessary restoration and rehabilitation of timberland, streams, rivers and other waterways. Individuals and entities who desire to conduct activities under the suspension must first request that the appropriate Secretary from either the California Environmental Protection Agency or the Natural Resources Agency determine that the activities are eligible to be conducted under the suspension. In making such a determination, the Secretaries shall use discretion to ensure the suspension serves the purpose of accelerating cleanup and recovery while at the same time protecting human health and the environment.

I have been asked to make a determination for California public utilities regarding the suspension of requirements to obtain a 401 Water Quality Certification for U.S. Army Corps of Engineers' Regional General Permits 5 and 8 for Repair and Protection Activities in Emergency Situations (Regional General Permits 5 and 8; www.spn.usace.army.mil/Portals/68/docs/regulatory/Emergency%20Permits/RGP5_2014; www.spk.usace.army.mil/Portals/12/documents/regulatory/gp/RGP-08?RGP-08). The objective is to accelerate fire cleanup and restoration activity being performed by the utilities and to protect public health and the environment. Based on information I have received regarding the need for the suspension to accelerate cleanup and recovery, and discussions with State Board and Regional Board staff of appropriate environmental protection conditions for suspension of the 401 Water Quality Certification requirements, it is my determination that the requirements for 401 Water Quality Certification for Regional General Permits 5 and 8 may be suspended for

California public utilities conducting operations under those permits subject to the following conditions:

1. The suspension will remain in effect only while the California Office of Emergency Services Incident Command for these emergencies is active.
2. A public utility conducting operations pursuant to Regional General Permits 5 and 8 shall copy the appropriate Regional Board on all communications with the U.S. Army Corps of Engineers regarding the Regional General Permits, including all communications regarding compliance with the requirements of the permits.
3. As soon as practicable, the public utility shall provide an aggregate report to the appropriate Regional Board of all emergency repair and protection activities conducted pursuant to Regional General Permits 5 and 8. For each work location, the report shall describe:
 - a. The specific location of work performed,
 - b. A qualitative description of the type and area of water(s)/wetland(s) affected; a formal delineation is not necessary (e.g. 50 feet of stream channel)
 - c. A description of the work, including measures taken to remove structures and restore to original grade, including before and after photographs of the site and work.
4. After the Regional Board has reviewed the report, it will consider whether there is a need to require the public utility to conduct additional restoration in order to protect the waters and wetlands affected by the work.

This determination is subject to revision as necessary to protect public health and the environment. This determination also supersedes and replaces the determination I provided to you by email on October 15, 2017. If you have questions or concerns about this determination, please contact Christiana Tiedemann, Deputy Secretary for Law Enforcement and Counsel at (916) 322-7236 or chris.tiedemann@calepa.ca.gov.

Sincerely,



Matthew Rodriguez
Secretary for Environmental Protection