



November 7, 2017

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

Dear Mr. Boland,

The Governor's Proclamation of a State of Emergency exempts 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 the fires that have burned and continue to burn and (b) necessary restoration and rehabilitation of timberland, streams, rivers, and other waterways. The State statutes, rules, regulations, and requirements are suspended, however, only to the extent necessary for expediting removal and cleanup of debris from these fires, and for implementing any restoration plan. Individuals who desire to conduct activities under this suspension must first request that the appropriate Secretary from either the California Environmental Protection Agency or Natural Resources Agency, or a delegate, 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 the environment.

I have been asked to make a determination for California public utilities as to whether the activities described below are eligible to be conducted under the suspension of statutes, rules, regulations, and requirements. State laws implicated in that request include the California Endangered Species Act and Fish and Game Code section 1600. The objective is to accelerate fire cleanup and restoration activity being performed by utilities and to protect public health and the environment.

After conferring with the staff at the California Department of Fish and Wildlife (CDFW), at this point in time, and consistent with the Governor's Proclamations, this response documents the activities that fall within the scope of Paragraph 4, together with appropriate conditions. This response also sets forth the communications protocols necessary to expedite clean-up and related fire response.

Activities covered by the suspension must be conducted for the purpose of accelerating immediate emergency work and cleanup and recovery from the fires and otherwise satisfy the conditions of paragraphs 4 of the Governor's Proclamations. Utilities relying on this suspension must be prepared to explain and document how any activity it undertakes pursuant to a suspension accelerates cleanup and recovery.

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CDFW has learned valuable lessons working with affected communities in previous significant fire response and restoration, including the Rim Fire and Lake County Fire. One key lesson was the value of having appropriate industry representatives engaged with regional CDFW staff as partners to work together through these issues in the field. In doing so, the utility should distinguish between those projects either completed or anticipated in the immediate future for emergency fire response and those intended for site rehabilitation and restoration. These are important but distinct categories. As such, CDFW understands the need to be timely and responsive and ensure sufficient staff capacity to assist not hinder emergency response and longer-term restoration. Understanding the different urgency of the activities utilities may contemplate in turn can positively influence CDFW's planning and preparation. Additional coordination with CDFW may be needed for activities such as timber harvest, removing damaged structures and debris at the time of the work, felling trees in watercourses, and specifying a timeframe to return and remove trees from watercourses.

Accordingly, utilities should contact regional CDFW staff, as soon as possible to establish an ongoing communication strategy, to discuss representative types and timelines of projects, and to track where the suspensions have already been used and where they will be used. The appropriate regional contacts are as follows:

Mendocino: Neil Manji, 530-225-2363

Lake, Butte, Yuba, Nevada: Tina Bartlett, 916-358-2898

Solano, Napa, Sonoma: Eric Larson, 707-576-2837

Orange: Ed Pert, 858-467-4210

Additionally, to the extent practicable and consistent with emergency response, utilities should attempt to minimize the potential impacts to water quality relied upon by inland fisheries, anadromous salmonids and amphibians, and other known sensitive resources (e.g., salmonid rearing and spawning habitat, riparian habitat, nesting birds, rare plant populations, special-status species habitats, and mitigation sites) by implementing best management practices (BMPs) when conducting activities that have the potential to negatively impact these resources.

Further detail regarding these communications protocols and BMPs follows.

In order to facilitate an accelerated cleanup and recovery effort, while at the same time protecting public health and the environment, the following communications protocols have been identified. The protocols should be implemented as quickly as reasonably feasible given the emergency situation. Understanding the importance of both immediate response needs and longer-term restoration, CDFW will manage staff and capacity needs to provide timely and responsive engagement during this process.

1. Utilities should set up and participate in regular coordination calls with CDFW regarding both emergency response and post-fire activities.
2. Utilities, in consultation with CDFW should provide CDFW with BMPs to be followed when conducting eligible activities. CDFW will provide input or additional recommendations during coordination calls and in writing. BMPs should be clearly communicated to all utilities' contractors and sub-contractors. When feasible and safe to do so, field visits with CDFW staff should be scheduled before work begins to provide CDFW with the opportunity to tailor BMPs to the site specific conditions and resources present.
3. Utilities and CDFW should exchange and maintain a current list of contacts and back up contacts for each work area.

4. Utilities should ensure all staff, contractors and sub-contractors have the CDFW contact information and coordination expectations.
5. To the maximum extent feasible, utilities should inform the CDFW point of contact prior to performing work at a location. Specific methodologies for conveying this information should be agreed upon between the utility and the CDFW contact. This would create a system of communication so CDFW can proactively address concerns as they come in from landowners, other agencies, etc.
6. Utilities should inform CDFW prior to work on or adjacent to CDFW lands. (<https://www.wildlife.ca.gov/Data/BIOS>.) CDFW may require staff be present during work on CDFW lands.
7. Utilities should inform CDFW if any work needs to occur within a FERC boundary
8. To the extent feasible under the circumstances, utilities' biologists should coordinate with CDFW to map sensitive habitats within the fire areas and coordinate with CDFW staff to add known species and resource "hot spots." See for example, as to pre-fire conditions <https://www.wildlife.ca.gov/Data/BIOS>.

Below is a list of general activities for which the suspension applies, including description of any relevant restriction for such activity. Note, none of the conditions described below are intended to hinder immediate emergency work. CDFW Regional staff are available to discuss these conditions and can provide alternatives as needed. CDFW Regional staff are authorized to make final decisions about any of the measures described below based on the circumstances in the field.

*Vegetation Management (Felling Trees, Brushing, Vegetation Removal)*

- During rehabilitation and restoration, large snags, trees with basal hollows, or other features provide valuable habitat and shall be retained where no immediate risk to infrastructure exists.
- Disturbance and removal of all other vegetation shall not exceed the minimum necessary to secure infrastructure.
- All removed vegetation and debris shall be placed sufficiently far from any river, stream, or channel to prevent it from entering the stream at any time.
- Monofilament erosion control materials shall not be used. Acceptable substitutes include coconut coir matting or similar.

*Construction of Access Roads (Installation of temporary bridges, culverts, and roads; and replacement of damaged bridges, culverts, and roads)*

- Unless necessary for immediate emergency response, avoid work in perennial watercourses during rain events and high flows to protect salmonids and special-status amphibians. Follow Forest Practice Rules (or similar design standard, e.g., Pacific Watershed Associates) for rural road sediment control.
- Culverts shall be properly aligned within the channel and otherwise engineered, installed and maintained, to resist washout and erosion of the stream bed, stream banks and/or fill; embedded below the natural channel grade to facilitate substrate deposition on the culvert floor; and passable to fish as required under Fish and Game Code section 5901.
- Culvert backfill material shall be free of rocks, limbs or other debris that could dent the pipe or allow water to seep around the pipe.
- Install necessary containment structures to control the placement of wet concrete and to prevent it from entering into the channel outside of those structures.

*Spill Clean Up (removal/excavation of contaminated substrate)* - Subject to the general applicability provisions, major spill events should be reported to the Office of Spill Prevention and Response.

### *Grading of Staging Areas*

- To the maximum extent feasible during emergency response and in consultation with CDFW during rehabilitation and restoration activities, confine parking, material storage areas, and equipment storage outside of the river or stream channel and on previously disturbed areas.

*Storage of Fuel/Refueling at Staging Areas (siting temporary fuel tanks for refueling vehicles) –* Although not requested of CDFW these activities may otherwise be subject to Fish & Game Code section 1600 and the California Endangered Species Act.

- To the maximum extent feasible during emergency response and in consultation with CDFW during rehabilitation and restoration activities, keep fuel and hazardous materials at least 100 feet from watercourses during wet conditions, or further if slopes are steeper than 30%. For rural locations, maintain containment supplies on site in case of spill.

### *Bank Stabilization*

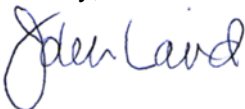
- Except as necessary to perform immediate emergency work, in consultation with CDFW during rehabilitation and restoration activities, stabilization should primarily be conducted using bioengineering techniques. Engineered features must not transfer the erosive force of the stream to the opposite or downstream banks or cause the formation of downstream eddies. The channel shall not be narrowed as a result of bank repairs, and features that modify the natural stream gradient (as measured on a longitudinal profile) shall not be installed in the channel.
- Angular, energy dissipating rock slope protection that is properly sized to withstand wash out during peak flows should be installed where appropriate. Only clean material such as rock riprap that is free of trash, debris and deleterious material shall be used as bank stabilization. Asphalt is not an acceptable material.

### *Dewatering (installation/operation of coffer dams and /or dewatering structures and apparatus)*

- De-watering streams or other aquatic features have the potential for significant impacts to sensitive biological resources that may result in persistent impacts to threatened and endangered species. Except as necessary to perform immediate emergency work, utilities must consult with the CDFW on a case-by-case basis when de-watering is contemplated for rehabilitation and restoration activities. Utilities should make every feasible effort to consult with the CDFW for de-watering actions during emergency response. The CDFW will provide timely site-specific recommendations and possible alternatives during these consultations.

Please note, nothing in this waiver permits any work within an area that is under active CALFIRE investigation. These determinations do not affect any obligations related to habitat restoration. The suspensions approved in this message are subject to revision as necessary to protect public health and the environment. If you have questions or concerns about these suspensions you should contact Christopher Calfee, General Counsel at 916-653-0569 or [christopher.calfee@resources.ca.gov](mailto:christopher.calfee@resources.ca.gov) or Department of Fish and Wildlife staff in the applicable region.

Sincerely,



John Laird  
Secretary for Natural Resources