

## State Water Resources Control Board

APR 19 2012

Colonel William J. Leady, P.E.  
District Commander  
U.S. Army Engineer District, Sacramento  
Corps of Engineers  
1325 J Street  
Sacramento, CA 95814-2922

Dear Colonel Leady:

### **CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION OF 2012 NATIONWIDE PERMITS**

The previous U.S. Army Corps of Engineers (Corps) Nationwide Permits (NWP) became effective on March 19, 2007, and expired on March 18, 2012.

In your letter of February 23, 2011, the State Water Resources Control Board (State Water Board) was informed of the notification in the Federal Register regarding proposed NWP for 2012. (76 Fed. Reg. 9174-01 (Feb. 16, 2011).) The State Water Board subsequently received notice of the final NWP on February 21, 2012. (77 Fed. Reg. 10184-01 (Feb. 21, 2012).) This notice served as the Corps' complete application for a water quality certification (certification). In your letter of February 29, 2012, you requested that the State Water Board review the newly issued NWP and determine whether to certify, certify with conditions, or deny certification pursuant to Clean Water Act section 401 (33 U.S.C. § 1341).

In addition to the Corps' notice in the Federal Register, the State Water Board also posted notice of the Corps' application for certification of the NWP on our 401 Program web page at: [http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/notices.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/notices.shtml) on February 27, 2012, for a 45 day noticing period which ended on April 12, 2012.

State Water Board staff reviewed the newly issued NWP, considered comments received, and determined whether to certify, certify with conditions, or deny certification for each of the NWP. California's certification decision is required within 60 days, according to the notice in the Federal Register; i.e., by Monday, April 23, 2012.

For this action, the State Water Board is Lead Agency for the purposes of compliance with the California Environmental Quality Act (CEQA) and is required to analyze the environmental impacts and make a determination for each NWP. In considering this task and the timeframe

allowed, the State Water Board elects to issue certifications for those NWP's covering activities that are categorically exempt from CEQA at this time.

As authorized by the State Water Board, I am issuing a certification for 13 of the 50 NWP's on this basis. The enclosed certification identifies those NWP's and the associated conditions. I request that you notify the State Water Board if any of these conditions do not comport with your regulations in title 33, sections 325.4 and 330.4 of the Code of Federal Regulations. In addition, the Corps has the right to petition the State Water Board for reconsideration of this certification in accordance with California Code of Regulations, title 23, section 3867 et seq.

If you would like to discuss these matters further, please contact Ken Harris, Assistant Deputy Director, Division of Water Quality, at (916) 341-5500 ([kharris@waterboards.ca.gov](mailto:kharris@waterboards.ca.gov)), or Vicky Whitney, Deputy Director, Division of Water Quality, at (916) 341-5568 ([vwhitney@waterboards.ca.gov](mailto:vwhitney@waterboards.ca.gov)).

Sincerely,



Thomas Howard  
Executive Director

Enclosures (1): Water Quality Certification Order

cc: see next page

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cc: Ms. Jane Hicks  
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Natural Resources Agency  
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ES Secretary  
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2800 Cottage Way, RM W2606  
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cc: Continued (see next page)

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cc: Continued

cc: Mr. Chris Yates  
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## State Water Resources Control Board

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### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION OF U.S. ARMY CORPS OF ENGINEERS 2012 NATIONWIDE PERMITS

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**PROJECT:** U.S. Army Corps of Engineers 2012 Nationwide Permits

**APPLICANT:** Colonel William Leady, P.E.  
District Commander  
U.S. Army Engineer District, Sacramento  
Corps of Engineers  
1325 J Street  
Sacramento, CA 95814-2922

This Certification responds to your request on behalf of U.S. Army Corps of Engineers for the 2012 Nationwide Permits.

**ACTION:**

- |   |   |
|---|---|
| <input type="checkbox"/> Order for Standard Certification                           | <input type="checkbox"/> Order for Denial of Certification                |
| <input checked="" type="checkbox"/> Order for Technically Conditioned Certification | <input type="checkbox"/> Order for Waiver of Waste Discharge Requirements |

Pursuant to title 23, section 3838 of the California Code of Regulations, the Executive Director hereby makes the following Clean Water Act (CWA) Section 401 Water Quality Certification (Certification) determination for the U.S. Army Corps of Engineers' (Corps) Nationwide Permits (NWP) which became effective on March 19, 2012, and which will expire on March 18, 2017.

**A. CERTIFICATION:**

Commencing on the date of this certification, the 13 NWPs listed in Table A are hereby granted certification subject to the Conditions and the Notification Requirements described below. The activities authorized by these 13 NWPs are exempt from California Environmental Quality Act (CEQA) review since their activities should not have a significant effect on the environment, either individually or cumulatively. Because these 13 NWPs are exempt from CEQA, for purposes of the following conditions, the term "project" means "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Cal. Code Regs., tit. 14, § 15378.)

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TABLE A Certified Nationwide Permits

NWP No.	Nationwide Permit Description	Decision	Title 14 of the California Code of Regulations Section/Exemption
1	<b>Aids to Navigation:</b> Allows the placement of USCG-approved navigational aids.	Certify subject to conditions	§15304 /Minor Alterations to Land; and §15311 /Accessory Structures
4	<b>Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities:</b> Allows fish and wildlife harvesting devices and activities.	Certify subject to conditions	§15304 /Minor Alterations to Land
5	<b>Scientific Measurement Devices:</b> Allows the placement of scientific gages, recording devices, water quality testing and improvement devices, and similar structures; allows the construction of weirs and flumes constructed primarily to record water quantity and velocity.	Certify subject to conditions and notification requirements	§15306 /Information Collection
6	<b>Survey Activities:</b> Allows core sampling, seismic exploration, and plugging of exploration bore holes.	Certify subject to conditions and notification requirements	§15304 /Minor Alterations to Land
9	<b>Structures in Fleeting and Anchorage Areas:</b> Allows placement of structures to facilitate mooring of vessels within anchorage areas established by the USCG.	Certify subject to conditions	§15301 /Existing facilities; and §15304 /Minor Alterations to Land
10	<b>Mooring Buoys:</b> Allows non-commercial, single-boat mooring buoys.	Certify subject to conditions	§15304 /Minor Alterations to Land
11	<b>Temporary Recreational Structures:</b> Allows the temporary placement of buoys, markers, small floating docks, and similar structures placed during special water events.	Certify subject to conditions and notification requirements	§15304 /Minor Alterations to Land
12	<b>Utility Line Activities:</b> Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities.	Certify subject to conditions and notification requirements	§15301 Existing Facilities; and §15304 /Minor Alterations to Land.

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TABLE A (Continued) Certified Nationwide Permits

NWP No.	Nationwide Permit Description	Decision	Title 14 of the California Code of Regulations Section/Exemption
20	<b>Response Operations for Oil and Hazardous Substances:</b> Allows cleanup of oil and hazardous substances provided the work activity is done in accordance with federal regulations and any existing State contingency plans, and has the concurrence of the federal Regional Response Team.	Certify subject to conditions and notification requirements	§15307 /Actions by Regulatory Agencies for Protection of Natural Resources; §15308/ Action by Regulatory Agencies for Protection of the Environment; and §15330/Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Waste or Hazardous Substances
22	<b>Removal of Vessels:</b> Allows minor discharges of fill in connection with removal of disabled or abandoned vessels or manmade obstructions to navigation. This NWP does not authorize maintenance dredging, shoal removal, or river snagging.	Certify subject to conditions	§15301 /Existing Facilities; and §15303/ New Construction or Conversion of Small Structures
28	<b>Modifications of Existing Marinas:</b> Allows the reconfiguration of existing dock space in an authorized marina. No dredging or expansion of any kind would be permitted.	Certify subject to conditions and notification requirements	§15301 /Existing Facilities; and §15303/ New Construction or Conversion of Small Structures
32	<b>Completed Enforcement Actions:</b> Allows any structure, work, or discharge that is in compliance with a final federal court decision, consent decree, or settlement agreement resulting from a federal enforcement violation action under Section 404 or Section 10.	Certify subject to conditions and notification requirements	§15321 / Enforcement Action by Regulatory Agencies
36	<b>Boat Ramps:</b> Activities required for the construction of boat ramps,	Certify subject to conditions and notification requirements	§15303 /New Construction or Conversion of Small Structures; and §15304 /Minor Alterations to Land

**CONDITIONS:**

- 1. Subject to Review:** This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to the Water Code, section 13330, and the California Code of Regulations (Cal. Code Regs.), title 23, section 3867 and following.
- 2. Hydroelectric Facilities Requiring a Federal Energy Regulatory Commission (FERC) License:** This Certification action 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 Cal. Code Regs., title 23, section 3855, subdivision (b), and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3. Fees:** This Certification is conditioned upon total payment of any fee required under California Code Regulations, title 23, section 3830 et seq., and owed by the applicant.
- 4. Porter-Cologne Water Quality Control Act:** All activities shall comply with all requirements of California's *Porter-Cologne Water Quality Control Act* (Wat. Code, §13000, et seq.) and applicable State or Regional Water Quality Control Plans.
- 5. Unenforceable Conditions:** If any conditions are found to be invalid or unenforceable, certification for all activities to which that condition applies is denied.
- 6. Water Diversion and Use:** Certification is denied for any activity involving a new or modified diversion or impoundment of water, unless the State Water Resources Control Board (State Water Board) has already approved a water rights permit, or such diversion or impoundment is solely for the purpose of drainage or flood control.
- 7. Other Federal Permits and Licenses:** This Certification action is not intended and shall not be construed to apply to any discharge from any activity requiring the issuance or amendment of any other federal license or permit, including enrollment under two or more NWP's.
- 8. Endangered Species:** Certification is denied for any project that would result in the taking of any candidate, threatened, or endangered species or any other violation of the federal Endangered Species Act (16 U.S.C. §1531, et seq.) and the California Endangered Species Act (Fish and G. Code, §2050, et seq.).
- 9. Compensatory Mitigation:** No project that requires compensatory mitigation is eligible for enrollment under this certification.
- 10. Hazardous Waste Sites:** Certification is denied for any project located on a site which is included on any list compiled pursuant to section 65962.5 of the Government Code (i.e., "Cortese List").
- 11. Enforcement:**
  - a) 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 of

§401(d) of the CWA, 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.

- b) In response to a suspected violation of any condition of this Certification, the State Water Board or a Regional Water Quality Control Board (Regional 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 State Water Board deems appropriate, provided that the burden, including cost, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the report.
- c) In response to any violation of the conditions of this Certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

**12. NWP 4 – Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities:** No activities that could be permitted under NWP 48 - Commercial Shellfish Aquaculture Activities, shall be permitted under this certification of NWP 4.

**13. NWP 6 – Survey Activities:** No survey activities involving directional drilling which may cause a discharge of drilling fluids, compounds, or “muds” due to ground fractures (i.e., “frac-outs”) to waters of the state are permitted under this certification of NWP 6.

**14. NWP 12 – Utility Line Activities:** Because of the number, geographic scale, and variety of potential environmental impacts that are possible under NWP 12, permanent impacts due to any activities under this certification of NWP 12 are prohibited. Routine utility line construction and maintenance activities in waters of the state are permitted when the proposed activity qualifies for a CEQA exemption, and when all of the following conditions are met:

**a. Location Restrictions**

Lake Tahoe Basin: Any project work occurring in the Lake Tahoe Basin is prohibited.

Multiple Regional Water Boards: Any project which may discharge to the jurisdiction of more than one Regional Water Board is prohibited.

**b. Overall Project Size Restrictions**

Total Area: The total ground disturbance of any project is limited to a maximum of 5 acres.

Total Length: The total utility line length of any project is limited to a maximum of 5 miles.

**c. Restrictions on Project Impacts to Waters of the State**

Area: Not more than one-half (½) acre of temporary impacts to waters of the state are permitted under this certification for any project.

Length: Not more than a total of 400 linear feet of temporary impacts to waters of the state for any project is permitted under this certification.

Project footprint: Maintenance of existing facilities which replaces but does not increase the size or impact of the existing facility is permitted, if the impact area and length requirements above are observed.

Duration: Temporary impacts permitted by this certification shall be as short as practicable, but in no case more than 90 days, during the construction phase of the project. The construction phase commences with the first activity involving the movement of earth or the discharge of dredged or fill material (e.g., site grading). Site restoration activities for temporary impacts to waters of the state must be completed as soon as possible after completion of construction, and in no case shall conclude more than 30 days after of the completion of construction activities.

**d. *Permitting Restrictions***

Stacking: For any project subject to this certification, the project may not receive more than one NWP 12.

Rivers and Harbor Act Section 10: Projects requiring a permit under section 10 of the federal Rivers and Harbors act are prohibited.

**e. *In-Waters Work Restrictions***

Work Sites: Placement of work areas, including pull sites, laydown yards and staging areas, in waters of the state is prohibited.

Hydrology: Applicants excavating with any water of the state shall, upon completion of construction, restore hydrologic functions of the site to comport with the requirements of the applicable water quality control plan (Basin Plan)..

Construction activity shall not result in the draining of any water of the state, including wetlands. This may be accomplished through the use of clay blocks, bentonite, or other suitable material (as approved by the Regional Water Boards) to seal the trench.

Trenching: Trenching across streams with flowing water is prohibited.

Directional Drilling: Utility line activities involving directional drilling are prohibited to avoid potential impacts from the discharge of drilling fluids, compounds, or "muds" due to ground fractures (i.e., "frac-outs") to any waters of the state.

Overhead Crossings: Construction, replacement, or maintenance of overhead utility lines (e.g., telephone or electric lines) spanning any water of the state is permitted when such spans require no more than minor trimming of existing vegetation at the site. Any span which removes or substantially alters existing mature riparian trees is prohibited.

Hardscape: Installation of any new or expanded stream channel or bank armor, including: riprap; concrete channel liners; geotextile liners; in-stream armor over or surrounding a utility line or pipes; or, similar artificial structural components placed to prevent channel or bank erosion or movement is prohibited.

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**f. Construction Activity Restrictions**

**Topsoil:** For any excavation, including utility line trenches, during construction, the top 6 to 12 inches of topsoil shall be removed and stockpiled separately. Following installation of the utility line(s), the topsoil shall be replaced and seeded with native vegetation.

**Forested Wetlands:** Land clearing of forested wetlands or riparian areas for installation or maintenance of utility lines is prohibited.

**Roads:** New road construction is prohibited. Maintenance of utility line access roads under this NWP shall be confined to the previously existing road prism. Grading of throughout roads, including any road having a running surface lower than the surrounding terrain on both sides of the road, is prohibited.

**Facilities:** Construction or expansion of substations is prohibited. Construction of any new intake or outfall structure is prohibited. Construction, replacement, or expansion of facilities in any ocean, bay, tidal waters or the shores thereof is prohibited.

**15. NWP 36 - Boat Ramps:** NWP 36 is certified for projects meeting all of the following requirements:

- a) A waiver from the District Engineer allowing the project to exceed the 20 foot width or 50 cubic yard limits stated in NWP 36 shall disqualify the project or activity from this certification. Activities that proceed under NWP 36 with a waiver from the District Engineer are required to obtain an individual 401 water quality certification.
- b) b. Boat ramps installed under this NWP may not excavate into banks to a depth greater than the depths of the material used to construct the ramp itself.
- c) c. Any material excavated to prepare a site for placement of the permitted fill material must be properly disposed of in an upland area. The disposal area must be located at a sufficient distance away from flowing or standing water such that the excavated material does not erode or move in any way into any water of the state. The disposal area shall be identified in the required pre-construction notification.
- d) d. No construction requiring the construction of cofferdams or other dewatering structures for the purpose of installing materials such as concrete ramps below existing water lines is permitted.
- e) e. To prevent the release of uncured cement or cement components into water, use of concrete in areas where ramps may be submerged before the concrete is fully cured is prohibited.
- f) f. Use of this certification of NWP 36 is prohibited in the Lake Tahoe Basin, Little Truckee or Truckee River watersheds.

**16. Waivers by the Corps:** Any waiver of the Corps' NWP conditions or regional conditions for a proposed project shall disqualify that project from enrollment under this certification.

**17. Tahoe Basin:** Any activity under this certification is prohibited if it occurs within the 100-year floodplain of the Little Truckee or Truckee River watersheds. Any such discharge is prohibited by the Water Quality Control Plan for the Lahontan Region.

**NOTIFICATION REQUIREMENTS:** Applicants are required to submit notification to the Regional Water Board and State Water Board as directed in Attachment A, *2012 Notification Procedures for Certified Nationwide Permits*. For all other NWP's, application for an individual certification is required, regardless of the Corps' PCN requirements.

**B. DENIAL WITHOUT PREJUDICE:**

Table B presents the remaining 37 NWP's for which State Water Board staff proposes denial of certification without prejudice. These NWP's are: 2, 3, 7, 8, 13, 14, 15, 16, 17, 18, 19, 21, 23, 24, 25, 27, 29, 30, 31, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50 and the new NWP's 51 and 52. These NWP's have a wide breadth and scope of activities such that their potential direct, indirect, and cumulative impacts could reasonably invalidate their exemption from CEQA. CWA Section 401 certification of projects authorized by these 37 NWP's will be considered on an individual, project-specific basis. Any of these 37 NWP's may be considered by the State Water Board for certification in the future.

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**TABLE B Nationwide Permits Denied Certification Without Prejudice**

<b>NWP No.</b>	<b>Nationwide Permit Description</b>	<b>NWP No.</b>	<b>Nationwide Permit Description</b>
2	Structures in Artificial Canals	33	Temporary Construction, Access and Dewatering
3	Maintenance	34	Cranberry Production Operations
7	Outfall Structures and Associated Intake Structures	35	Maintenance Dredging of Existing Basins
8	Oil and Gas Structures on the Outer Continental Shelf	37	Emergency Watershed Protection and Rehabilitation
13	Bank Stabilization	38	Cleanup of Hazardous and Toxic Waste
14	Linear Transportation Projects	39	Commercial and Institutional Developments
15	U.S. Coast Guard Approved	40	Agricultural Activities
16	Return Water from Upland Contained Disposal Areas	41	Reshaping Existing Drainage Ditches
17	Hydropower Projects	42	Recreational Facilities
18	Minor Discharges	43	Stormwater Management Facilities
19	Minor Dredging	44	Mining Activities
21	Surface Coal Mining Activities	45	Repair of Uplands Damaged by Discrete Events
23	Approved Categorical Exclusions	46	Discharges in Ditches
24	Indian Tribe or State Administered Section 404 Programs	47	RESERVED - Not Applicable
25	Structural Discharges	48	Commercial Shellfish Aquaculture Activities
26	RESERVED – not applicable	49	Coal Remining Activities
27	Aquatic Habitat Restoration,	50	Underground Coal Mining Activities
29	Residential Developments	51	Land-Based Renewable Energy Generation Facilities.
30	Moist Soil Management for Wildlife	52	Water-Based Renewable Energy Generation Pilot Projects.
31	Maintenance of Existing Flood Control Facilities		

**C. CEQA:**

The state's certification of the Corps' NWP is a discretionary action that is subject to the environmental review requirements of the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.) For the certification of the NWP, the State Water Board is the public agency required to determine whether its issuance of a certification will result in a significant effect on the environment. "A significant effect on the environment" means a substantial adverse change in the physical conditions which exist in the area affected by a proposed project.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) contain a listing of categories of projects which have been determined not to have a significant effect on the environment. (Pub. Resources Code, § 21084.) In order to complete the environmental review required to issue this certification within the Corps' mandated sixty-day review period, the State Water Board may only issue a conditional certification for those NWP that clearly fit within one or more categorical exemptions.

The State Water Board finds that the NWP authorized by this certification, when implemented in a manner consistent with the terms of the NWP and all conditions set forth herein, do not result in a significant effect on the environment. As described in Table A, each of the NWP certified by the State Water Board qualifies for one or more categorical exemptions.

Additionally, these categorical exemptions do not apply when certain exceptions occur. (Cal. Code Regs., tit., 14, § 15300.2.) In cases where a project may fall under an exception to the CEQA categorical exemptions, the project is not eligible for coverage pursuant to this certification. In these cases, the applicant will need to apply for an individual water quality certification. Some of the CEQA exceptions are explicitly stated as a condition to this certification (e.g., Condition 10).

State and Regional Water Board staff shall verify that proposed projects under the 2012 NWP are CEQA exempt by reviewing the information submitted in the applicant's notification. If it is determined that the proposed project activities are not exempt, then this certification shall not apply.

There are, however, four 2012 NWP that do not require notification to the State or Regional Water Board:

1. Aids to Navigation;
4. Fish and Wildlife Harvesting, enhancement, and attraction devices and activities;
9. Structures in Fleeting and Anchorage areas; and,
10. Mooring Buoys.

The State Water Board finds that the applicant's notification information is not necessary to determine whether activities covered by any of these four NWP qualify for the listed CEQA exemptions in Table A above.

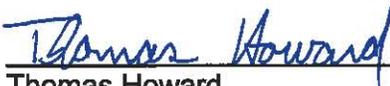
The 2012 NWP 1, 9 and 10 were reissued unmodified by the Corps. The routine placement or maintenance of navigational aids, buoys, moorings and structures in anchorage areas will not cause a significant environmental effect when implemented in accordance with the NWP and certification conditions. In addition, existing statutes and regulations governing those activities (e.g., the California Harbors and Navigation Code, the federal Rivers and Harbors Act, etc.)

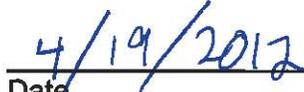
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ensure minimal environmental impacts from these activities. Therefore, notification is not needed to verify qualification for the CEQA exemption. The State Water Board finds that activities authorized by these three NWP's will not cause any significant environmental effect, including to "sensitive environments" or due to "unusual circumstances" (Cal. Code Regs., tit. 14, §15300.2, subds.(a) & (c).).

The 2012 NWP 4 was reissued unmodified by the Corps. The routine placement of devices such as crab pots and duck blinds, activities such as clam digging, and deployment of open water fish concentrators such as "sea kites" will not cause a significant environmental effect when implemented in accordance with the certification conditions. In addition, existing statutes and regulations governing those activities ensure minimal environmental impacts from those activities. Therefore, notification is not needed to verify qualification for the exemption. The State Water Board finds that the activities authorized by NWP 4 will not cause any significant environmental effect, including to "sensitive environments" or due to "unusual circumstances" (Cal. Code Regs., tit. 14, §15300.2, subds.(a) & (c).).

For those NWP's that are not being certified, Staff notes that CEQA only applies to a public agency's discretionary approval of projects. Consequently, the rejection or disapproval of a project is not subject to CEQA. (Pub. Resources Code, § 21080, subd. (b)(5).). Therefore, CEQA does not apply to any NWP not authorized pursuant to this certification.

  
\_\_\_\_\_  
Thomas Howard  
Executive Director  
State Water Resources Control Board

  
\_\_\_\_\_  
Date

Attachments:

Attachment A: *2012 Notification Procedures for Certified Nationwide Permits*

## **Attachment A**

### **2012 Notification Procedures and Requirements for Certified Nationwide Permits**

#### **Notification Requirements:**

*(In the following discussion, a “Pre-construction Notification” (PCN) is the document submitted to the Corps; a “notification” is the document submitted to the State Water Board and Regional Water Board.)*

Applicants for the 2012 certified Nationwide Permits (NWP) are required to submit notification to the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Board (Regional Water Board) as directed below.

Applicants enrolling under NWPs 5, 6, 11, 12, 20, 22, 28, 32, and 36 are required to submit a signed notification and fees. Applicants enrolling under NWPs 1, 4, 9, and 10 are not required to submit a notification or fees to the State Water Board or a Regional Water Board. The fact that an applicant does not need to submit a notification or pay a fee does not relieve the applicant from adhering to all other conditions of this Certification. Failure to comply with the conditions listed in this Certification may subject a permittee to administrative and/or judicial enforcement.

#### **Notification Procedures and Instructions:**

The notification shall be submitted on the 2012 Certified Nationwide Permit Notification Form, which is provided below.

The signed notification shall be received by the appropriate Regional Water Board, with a copy to the State Water Board, not less than 45 days before any activity which may result in a discharge is commenced. To avoid project delays, the applicant should submit the notification as early as possible.

Note that projects requiring compensatory mitigation or which may affect federal or state endangered or listed species do not qualify for CEQA exemptions, and are thus would not meet the conditions of this certification. In this case, an application for an individual certification should be submitted to the appropriate Regional Water Board or, if the project may discharge to the jurisdiction of more than one Regional Water Board, then the application should be submitted to the State Water Board.

#### **Response to Notifications:**

The Regional Water Board is responsible for responding to a notification. Response to notifications will be either a Notice of Exclusion (NOE), which informs the applicant that the proposed activity is not qualified for enrollment under this certification, or a Notice of Applicability (NOA), informing the applicant that the proposed activity is qualified for this certification. A NOE may be rescinded and a NOA may be issued upon receipt of additional information requested by Regional Water Board staff.

**Timing:**

If the applicant does not receive a NOE or NOA from the Regional Water Board within 45 days of the date of receipt of the signed notification, the applicant may assume that the project meets the conditions of certification and may proceed with the project under the conditions of the NWP and this certification. In no case may the project commence before the appropriate fee is paid.

**Instructions for Completion of the  
2012 Certified Nationwide Permits Notification Form**

Notifications and the appropriate fee shall be submitted to the 401 Program Manager for the affected Regional Water Board, and a copy of the notification shall be submitted to State Water Board's Division of Water Quality, 401 Certification Program Manager. Addresses and web site information are provided in the *2012 Certified Nationwide Permit Notification Form*. A copy of this form follows these instructions.

Forms may also be obtained by contacting the staff of the applicable Regional Water Board.

Fees may be changed at any time. To determine the correct fee, consult the "Dredge and Fill Fee Calculator" under "Resources for Applicants" at: [http://www.waterboards.ca.gov/water\\_issues/programs/cwa401](http://www.waterboards.ca.gov/water_issues/programs/cwa401), or contact the Regional Water Board staff. Please attach the fee check to the first page of the signed notification form.

**(a) Provide the name, address, telephone number and, if available, e-mail address of:**

- 1) the applicant; and
- 2) the applicant's agent (if an agent is submitting the notification).

All regulatory actions, including waivers of action, by any federal agencies must be disclosed in Items (b) and (c).

**(b) Provide complete identification of all federal licenses/permits** being sought for or applying to the proposed activity, including the:

- 1) federal agency;
- 2) type (e. g., Nationwide Permit Number); and
- 3) file number(s) assigned by the federal agency(ies), if available.

For each permit identified in (b) above, provide complete copies of either:

- 1) the application(s) for federal license(s)/permit(s) being sought for the activity; or
- 2) if no federal applications are required, any notification(s) concerning the proposed activity issued by the federal agency(ies); or
- 3) if no federal notification is issued, any correspondence between the applicant and the federal agency(ies) describing or discussing the proposed activity.

**(c) Copies of any final and signed federal permits, licenses, and agreements.**

- 1) Provide copies of any final and signed federal, licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity.
- 2) If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.
- 3) If no application, notification, correspondence, or other document must be exchanged between the applicant and federal agency(ies) prior to the start of the activity, the notification to the State Water Board and appropriate Regional Water Board shall include a written statement to this effect. (Note: Certification is denied for any activity requiring the issuance or renewal of more than one federal license or permit; see Condition 7 of the certification).

**(d) Provide final copies of all state permits** being sought for or applying to the proposed activity, as directed for federal permits in (c) above.

**(e) Provide final copies of all local permits** being sought for or applying to the proposed activity, as directed for federal permits in (c) above.

**(f) Provide a copy of any draft or final CEQA document(s), if available, prepared for this activity.** Staff may request copies of all CEQA documents if needed to evaluate the project and its compliance with the terms of this Certification.

**(g) Provide a description of your project.** This should include a full, technically accurate description, including the purpose and final goal, of the entire activity (Cal. Code Regs., tit. 23, § 3831(e)) or project (Pub. Resources Code, § 21065), including:

- 1) address (including city and county), assessor's parcel number and, if available, the longitude and latitude of the project site;
- 2) a map of appropriate scale and detail to show the project area, key project features, and location of the project in relation to identifying landmarks (e.g., roads, towns, other significant named features);
- 3) name(s) and hydrologic unit(s) of any receiving water body(ies) that may receive a discharge;
- 4) type(s) of receiving water body(ies) (e. g., stream channel, lake/reservoir, ocean/estuary/bay, or wetland). For each water body type reported here, provide the total estimated quantity of waters of the United States and the types of discharge material(s) that may cause a temporary impact (or minor permanent impact, in the case of NWP 36) to waters. The estimated quantity of waters to be adversely impacted by any discharge shall be reported in acres and, for channels, shorelines, riparian corridors, and other linear habitat, linear feet. Cubic yards of dredged for fill material shall be reported for all impacts. Significant adverse impacts under this order are not permitted;
- 5) any delineation report submitted to the Corps for stream, wetland, or other aquatic resources that would be impacted by the proposed activity or project;
- 6) the total size (in acres), length (in feet) where appropriate, type, and description of the entire project area, including areas outside of jurisdictional waters of the United States;
- 7) a brief list/description, including estimated adverse impacts of any projects implemented by the project applicant within the last five years or planned for implementation by the applicant within the next five years that are in any way related to the proposed activity or

that may impact the same receiving water body(ies) as the proposed activity. For purpose of this item, the water body extends to a named source or stream segment identified in the relevant Regional Water Quality Control Plan (Basin Plan);

- 8) A description of any steps that have been or will be taken to avoid or minimize loss of or significant adverse impacts to beneficial uses of waters of the state, including on-site restoration of the project area; and
- 9) a discussion of any potential cumulative impacts.

**(h) The applicant or authorized agent must sign the document.** The notification must be signed by the applicant or the applicant's agent (if an agent is submitting the notification). The notification must include a statement that the submitted information is complete and accurate. ***The State Water Board is unable to process electronically signed notifications at this time. Notifications bearing the original signature of the applicant or applicant's agent must be submitted as paper forms until further notice.***

**Table 1 - 2012 Comparison of Corps and 401 Certification Notification Requirements for Certified Nationwide Permits**

<b>NWP No.</b>	<b>Nationwide Permit Description</b>	<b>Corps Pre-construction Notification (PCN) Requirements</b>	<b>401 Certification Notification Requirements</b>
<b>1</b>	<b>Aids to Navigation</b>	No PCN Required.	No Notification Required.
<b>4</b>	<b>Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities</b>	No PCN required.	No Notification Required.
<b>5</b>	<b>Scientific Measurement Devices</b>	No PCN required.	<b>Notification Required.</b>
<b>6</b>	<b>Survey Activities</b>	No PCN Required.	<b>Notification Required.</b>
<b>9</b>	<b>Structures in Fleeting and Anchorage Areas</b>	No PCN required.	No Notification Required.
<b>10</b>	<b>Mooring Buoys</b>	No PCN required.	No Notification Required.
<b>11</b>	<b>Temporary Recreational Structures</b>	No PCN required (except to reservoir managers at Corps Reservoirs).	<b>Notification Required.</b>
<b>12</b>	<b>Utility Line Activities</b>	PCN required under certain conditions.	<b>Notification Required.</b>
<b>20</b>	<b>Response Operations for Oil and Hazardous Substances</b>	No PCN required.	<b>Notification Required.</b>
<b>22</b>	<b>Removal of Vessels</b>	No PCN except for historic structures and operations in Special Aquatic Sites.	<b>Notification Required.</b>
<b>28</b>	<b>Modification of Existing Marinas</b>	No PCN required.	<b>Notification Required.</b>
<b>32</b>	<b>Completed Enforcement Actions</b>	No PCN Required.	<b>Notification Required.</b>
<b>36</b>	<b>Boat Ramps</b>	PCN Required.	<b>Notification Required.</b>

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**2012 Certified Nationwide Permit Notification Form  
TO COMPLY WITH THE TERMS OF  
GENERAL WATER QUALITY CERTIFICATION OF 2012 NATIONWIDE PERMITS  
ORDER NUMBER SB12002GN**

**A SIGNED NOTIFICATION MUST BE RECEIVED BY THE STATE WATER BOARD AND THE  
APPROPRIATE REGIONAL WATER BOARD NO LESS THAN 45 DAYS BEFORE ANY PROJECT  
ACTIVITY**

This application is for coverage under Order No. SB12002GN for Nationwide Permit:

**Mark only one item**

Scientific Measurement Devices	NWP 5 <input type="checkbox"/>
Survey Activities	NWP 6 <input type="checkbox"/>
Temporary Recreational Structures	NWP 11 <input type="checkbox"/>
Utility Line Activities	NWP 12 <input type="checkbox"/>
Response Operations for Oil and Hazardous Substances	NWP 20 <input type="checkbox"/>
Removal of Vessels	NWP 22 <input type="checkbox"/>
Modification of Existing Marinas	NWP 28 <input type="checkbox"/>
Completed Enforcement Actions	NWP 32 <input type="checkbox"/>
Boat Ramps	NWP 36 <input type="checkbox"/>

**Important Note:** The applicant listed shall be the party responsible for compliance with the Clean Water Act, California Water Code, applicable Water Quality Control Plan, and 401 Certification Conditions and is typically the property/facility owner. The authorized agent is the individual or team that is authorized by the applicant to provide information to the Regional Water Board on behalf of the applicant (responsible party).

<b>(a) Applicant Identification</b>			
Name and Title of Applicant			
Applicant Mailing Address			
City	County	State	Zip
Email	FAX		Phone (office) Phone (cell)
<p><b>→FEE CHECK: Attach fee check here, payable to State Water Resources Control Board.</b></p>			

<b>(a) Continued</b> Applicant Authorized Agent Name			
Authorized Agent Title and Affiliation			
Agent Mailing Address			
City	County	State	Zip
Email	FAX		Phone (office) Phone (cell)

<b>(b) – (c) – (d) – (e) Other Permits/Licenses/Agreements/Plans (attach copies to this notification as described in the instructions)</b>
(b) & (c) Federal (Type and Permit/License Number)
(d) State (Type and Permit/License/Agreement Number)
(e) Other County, City, etc. (Type and Permit/License Number)
Other Required Documents or Plans (for example SWPPP)

<b>(f) CEQA</b>	
CEQA Notice of Exemption (exemption name and number)	
Notice of Completion or Notice Availability	
Attach draft or final CEQA Notice of Exemption, Notice of Completion or Notice of Availability. Staff may request copies of all CEQA documents if needed to evaluate the project.	

**(g) Full Project Description and Location**

Project Name

1. Site Location/Address

Nearest Cross Street(s) if applicable

County

Total size of Site (acres)

Assessor's Parcel Number

2. Provide latitude/longitude for the approximate center of discharge area; for linear projects, provide coordinates for each end of project in degrees/minutes/seconds (DMS) to the nearest ½ second.

DMS: N. Latitude      Deg. \_\_\_\_\_ Min. \_\_\_\_\_ Sec. \_\_\_\_\_  
W. Longitude      Deg. \_\_\_\_\_ Min. \_\_\_\_\_ Sec. \_\_\_\_\_  
N. Latitude      Deg. \_\_\_\_\_ Min. \_\_\_\_\_ Sec. \_\_\_\_\_  
W. Longitude      Deg. \_\_\_\_\_ Min. \_\_\_\_\_ Sec. \_\_\_\_\_

Attach a map of at least 1:24000 (1" = 2000') detail of the proposed discharge site (e.g., USGS 7.5 minute topographic map) and **pre-project photos**.

Provide detailed directions to project location, include identifying landmarks (roads, towns, or other identifying land marks).

**Project Description**

**Total size and detailed description of the entire project** including areas outside of jurisdictional waters of the United States. A full, technically accurate description, including the purpose and final goal, of the entire activity (Cal. Code Regs., tit. 23, § 3831(e)) or project (Pub. Resources Code, § 21065).

Proposed project start date

Expected date of completion

<b>(g) (3) Hydrologic Information (From the Regional Water Board Basin Plan)</b>	
<b>Receiving Water(s)</b>	
<b>Hydrologic Unit(s)</b>	

<b>(g) (4) Project Impacts (Fill)*</b>			
<b>Waterbody Type</b>	<b>Acres**</b>	<b>Linear Feet</b>	<b>Cubic Yards</b>
<i>Lake</i>			
<i>Ocean</i>			
<i>Riparian Zone</i>			
<i>Stream Channel</i>			
<i>Vernal Pool</i>			
<i>Wetland</i>			

\* The quantity of waters to be adversely impacted by any discharge shall be reported in acres for wetland, vernal pool; and in linear feet and acres for channels, streambed/streambank, shorelines and riparian corridors. Cubic yards shall also be reported for all impacts.

\*\* Provide acres to three decimal places (e.g., 0.006).

<b>(g) (4) Project Impacts (Dredge*/Excavation)*</b>			
<b>Waterbody Type</b>	<b>Acres**</b>	<b>Linear Feet</b>	<b>Cubic Yards</b>
<i>Lake</i>			
<i>Ocean</i>			
<i>Riparian Zone</i>			
<i>Stream Channel</i>			
<i>Vernal Pool</i>			
<i>Wetland</i>			

\* The quantity of waters to be adversely impacted by any discharge shall be reported in acres for wetland, vernal pool; and in linear feet and acres for channels, streambed/streambank, shorelines and riparian corridors.

\*\* Provide acres to three decimal places (e.g., 0.006).

**(g) (5)(6)** Report the total size (in acres), length (in feet) where appropriate, type, and description of the entire project area, including areas outside of jurisdictional waters of the United States. Attach delineation report as submitted to Corps of Engineers, if required.

**(g) (7) Previous Projects**

Provide a brief list/description, including estimated adverse impacts of any projects implemented by the project applicant within the last five years or planned for implementation by the applicant within the next five years that are in any way related to the proposed activity or that may impact the same receiving water body(ies) as the proposed activity. For purpose of this item, **the water body extends to a named source or stream segment identified in the relevant Regional Water Quality Control Plan (Basin Plan).**

**(g) (8) (9) Avoidance, Minimization and Cumulative Impacts**

Describe any steps that have been taken or will be taken to avoid or minimize loss of or significant adverse impacts to beneficial uses of waters of the state, including on-site restoration of the project area. Include a discussion of any potential cumulative impacts.

Reminders:

1. This Notification must be signed and received no less than 45 days before any activity commences which may result in a discharge.
2. Upon receipt of a signed Notification, the Regional Water Board will either respond with a Notice of Exclusion (NOE) which informs the applicant that the proposed activity is not qualified for coverage or a Notice of Availability (NOA) informing the applicant that the proposed activity is qualified for coverage.
3. The project may not proceed until the appropriate permit fee is received by the Regional Water Board.
4. The appropriate fee is located on the fee calculator at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/#resources](http://www.waterboards.ca.gov/water_issues/programs/cwa401/#resources)
5. Water Boards addresses and phone numbers are located at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/staffdirectory.pdf](http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/staffdirectory.pdf)
6. If the applicant does not receive an NOE or an NOA from the Regional Water Board within 45 days of the date of receipt of the Notification, the applicant may assume that the project meets the conditions of certification and may proceed with the project under the conditions of the NWP and Order number SB12002GN.
7. **References in the form to attached documents must include the name of the document, the page number and paragraph number.**

**STATEMENT OF AUTHORIZATION** (Required when applicant is designating an authorized agent )

I hereby authorize \_\_\_\_\_ to act on my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

\_\_\_\_\_  
PRINT NAME OF APPLICANT (NOT THE AUTHORIZED AGENT)

\_\_\_\_\_  
SIGNATURE OF APPLICANT (NOT THE AUTHORIZED AGENT)

\_\_\_\_\_  
DATE

Application is hereby made for a permit to authorize the work described in this application. I certify, under penalty of perjury, that this application is complete and accurate to the best of my knowledge. I further certify that I possess the authority to undertake the work described herein, or am acting as the duly authorized agent of the applicant. In addition, I certify property owner responsibility and liability for compliance with permit conditions issued for this project for compliance with any future authorization or amendments thereto.

\_\_\_\_\_  
PRINT NAME AND TITLE OF APPLICANT (OR AGENT)

\_\_\_\_\_  
SIGNATURE OF APPLICANT (OR AGENT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINT NAME AND TITLE OF LANDOWNER (OR AGENT)

**For Staff Use ONLY**

<b>WDID Number</b>	<b>Regional Board Office</b>	<b>Date Notification Received</b>
<b>File Number</b>	<b>Check Amount</b>	<b>Check #</b>

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CALIFORNIA  
**Water Boards**  
 STATE WATER RESOURCES CONTROL BOARD  
 REGIONAL WATER QUALITY CONTROL BOARDS

P.O. Box 100, Sacramento, CA 95812-0100  
[www.waterboards.ca.gov](http://www.waterboards.ca.gov)

Office of Public Affairs: (916) 341-5254  
 Office of Legislative Affairs: (916) 341-5251  
 Office of the Ombudsman (916) 341-5254

Water Quality information: (916) 341-5455  
 Water Rights information: (916) 341-5300  
 Financial Assistance information: (916) 341-5700

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARDS**

**NORTH COAST REGION (1)**  
[www.waterboards.ca.gov/northcoast](http://www.waterboards.ca.gov/northcoast)  
 5550 Skylane Blvd., Suite A  
 Santa Rosa, CA 95403  
 E-mail: [info1@waterboards.ca.gov](mailto:info1@waterboards.ca.gov)  
 (707) 576-2220 TEL • (707) 523-0135 FAX

**CENTRAL COAST REGION (3)**  
[www.waterboards.ca.gov/centralcoast](http://www.waterboards.ca.gov/centralcoast)  
 895 Aerovista Place, Suite 101  
 San Luis Obispo, CA 93401  
 E-mail: [info3@waterboards.ca.gov](mailto:info3@waterboards.ca.gov)  
 (805) 549-3147 TEL • (805) 543-0397 FAX

**LAHONTAN REGION (6)**  
[www.waterboards.ca.gov/lahontan](http://www.waterboards.ca.gov/lahontan)  
 2501 Lake Tahoe Blvd.  
 South Lake Tahoe, CA 96150  
 E-mail: [info6@waterboards.ca.gov](mailto:info6@waterboards.ca.gov)  
 (530) 542-5400 TEL • (530) 544-2271 FAX

**SAN FRANCISCO BAY REGION (2)**  
[www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay)  
 1515 Clay Street, Suite 1400  
 Oakland, CA 94612  
 E-mail: [info2@waterboards.ca.gov](mailto:info2@waterboards.ca.gov)  
 (510) 622-2300 TEL • (510) 622-2460 FAX

**LOS ANGELES REGION (4)**  
[www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)  
 320 W. 4th Street, Suite 200  
 Los Angeles, CA 90013  
 E-mail: [info4@waterboards.ca.gov](mailto:info4@waterboards.ca.gov)  
 (213) 576-6600 TEL • (213) 576-6640 FAX

**Victorville branch office**  
 14440 Civic Drive, Suite 200  
 Victorville, CA 92392  
 (760) 241-6583 TEL • (760) 241-7308 FAX

**COLORADO RIVER BASIN REGION (7)**  
[www.waterboards.ca.gov/coloradoriver](http://www.waterboards.ca.gov/coloradoriver)  
 73-720 Fred Waring Dr., Suite 100  
 Palm Desert, CA 92260  
 E-mail: [info7@waterboards.ca.gov](mailto:info7@waterboards.ca.gov)  
 (760) 346-7491 TEL • (760) 341-6820 FAX



**CENTRAL VALLEY REGION (5)**  
[www.waterboards.ca.gov/centralvalley](http://www.waterboards.ca.gov/centralvalley)  
 11020 Sun Center Drive, Suite 200  
 Rancho Cordova, CA 95670  
 E-mail: [info5@waterboards.ca.gov](mailto:info5@waterboards.ca.gov)  
 (916) 464-3291 TEL • (916) 464-4645 FAX

**Fresno branch office**  
 1685 E Street, Suite 200  
 Fresno, CA 93706  
 (559) 445-5116 TEL • (559) 445-5910 FAX

**Redding branch office**  
 415 Knollcrest Drive  
 Redding, CA 96002  
 (530) 224-4845 TEL • (530) 224-4857 FAX

**SANTA ANA REGION (8)**  
[www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)  
 3737 Main Street, Suite 500  
 Riverside, CA 92501-3339  
 E-mail: [info8@waterboards.ca.gov](mailto:info8@waterboards.ca.gov)  
 (951) 782-4130 TEL • (951) 781-6288 FAX

**SAN DIEGO REGION (9)**  
[www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)  
 9174 Sky Park Court, Suite 100  
 San Diego, CA 92123  
 E-mail: [info9@waterboards.ca.gov](mailto:info9@waterboards.ca.gov)  
 (858) 467-2952 TEL • (858) 571-6972 FAX

★ **State Water Resources Control Board** (Headquarters)  
 1001 I Street, Sacramento, CA 95814

State of California  
 Edmund G. Brown Jr., Governor

California Environmental Protection Agency  
 Linda S. Adams, Acting Secretary

State Water Resources Control Board  
 Charles R. Hoppin, Chair