



NONAs: New to the Construction General Permit

NONAs have been in existence for some time under the Industrial General Permit, but with the renewal of the Construction General Permit last year, NONAs were adopted for construction sites across the State. So, what does that mean for construction storm water programs? Can I qualify for a NONA on my site? In this month's edition of **The Monthly Dirt**, we are going to dive into the world of NONAs and help you find out if your project site qualifies for this permit exemption!

What is a NONA: NONA stands for Notice of Non-Applicability. In other words, a NONA is notifying the Water Board that your site is not applicable to the Construction General Permit due to the fact that there is no discharge from your site. The 2022 Permit describes it as the following: *"A discharger claiming "No Discharge" through a Notice of Non-applicability (NONA) as set forth in Water Code § 13399.30 shall meet the following eligibility requirement:*

a. The site's physical location is not hydrologically connected to waters of the United States.

When claiming the "No Discharge" option, the discharger shall submit and certify via SMARTS both the NONA and a No Discharge Technical Report. The No Discharge Technical Report shall identify the site by address or parcel number and demonstrate that the site meets the eligibility requirement described above in Section III.E.1.a. The No Discharge Technical Report shall be signed (wet signature and license number) by a California licensed professional engineer or geologist with hydrological expertise. The Regional Water Board may require the No Discharge Technical Report to be reassessed if it determines that there are errors in the No Discharge Technical Report or if the site is

hydrologically connected to waters of the United States."

The Fact Sheet of the 2022 CGP also states, "Reliance on approved jurisdictional determinations is not allowed in the General Permit for a number of reasons. First, approved jurisdictional determinations delineate the scope of waters of the United States. They do not determine whether an activity results in a discharge to a water of the United States. Second, the scope of waters of the United States is subject to changes based on change of regulations or judicial decisions. Approved jurisdictional determinations are valid for a discrete number of years, and they may not be up-to-date with respect to implementing the current regulations if there is an intervening change during the duration of the validity of the approved jurisdictional determination. Finally, it is likely that the approved jurisdictional determination was requested by another party and in another context, such as the discharge of dredged or fill material. As such, the findings may not be easily extrapolated."

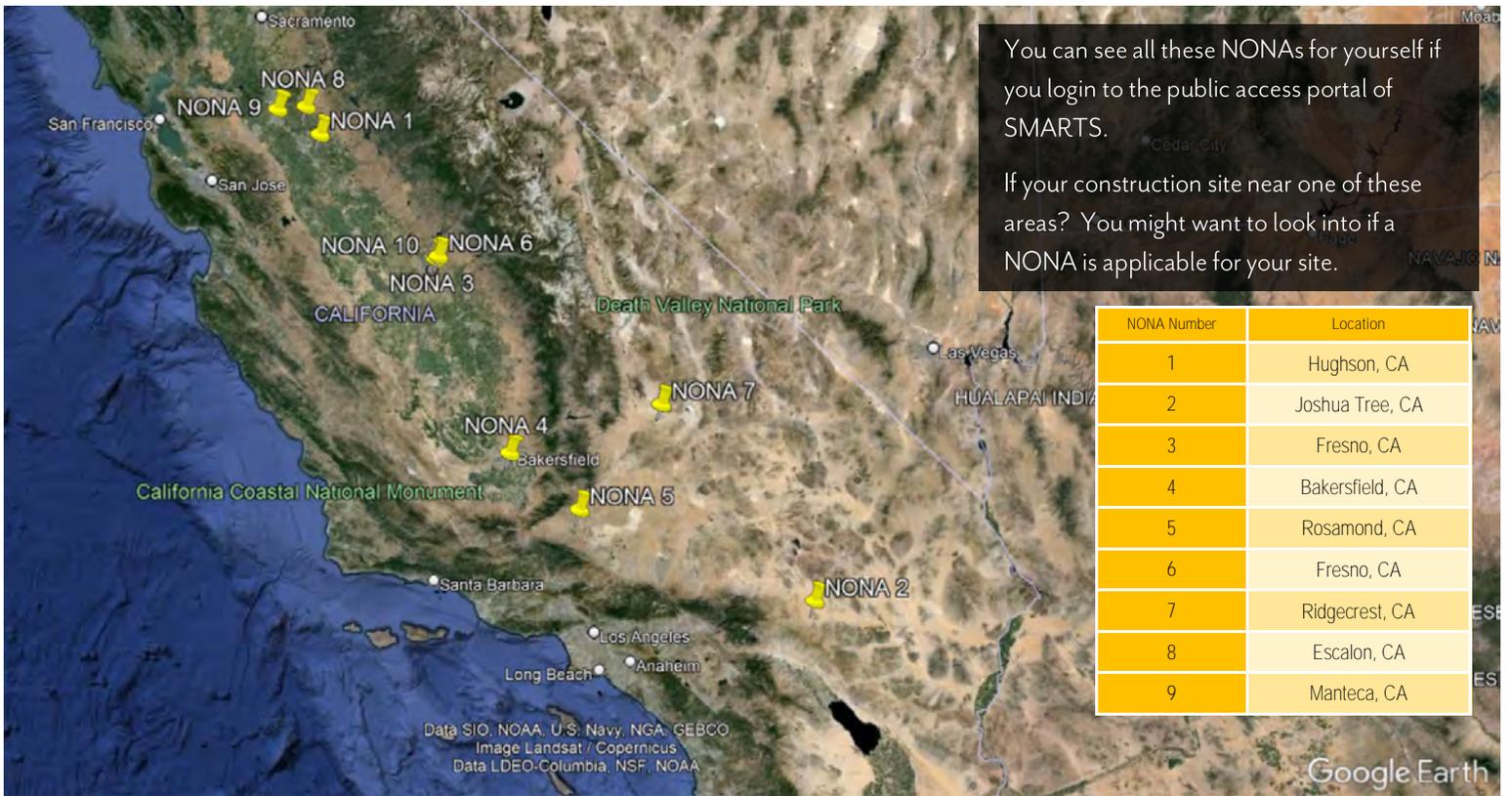
What the process used to be:

Under the 2009 Permit the Water Board recognized there were certain scenarios

where construction projects may not have any discharge and were not connected to the Waters of the United States. But under the 2009 Permit, NONAs didn't exist. Or at least, they didn't exist formally. It was dealt with in a little different way – more of an informal way. The 2009 Permit contained a clause about possibly being exempt from Permit coverage if there were *"discharges occurring in basins that are not tributary or hydrologically connected to waters of the United States."* However, it went on to state that, for more information, the discharger was to contact their Regional Water Board. There was also a Notice of Termination option provided under the 2009 CGP for this same scenario. Essentially under the old permit projects were allowed to be exempted from permit coverage if there was "no way and no how" that water would flow from the project to the Waters of the United States. However, the determination and documentation criteria for these instances was subject to the local Regional Water Board reviewer.

How to obtain a NONA now:

Under the 2022 Permit the non-applicability criteria became standardized and no longer subject to reviewer discretion and interpretation. If you're familiar with the Industrial General Permit, a construction NONA is quite similar, not identical, but



You can see all these NONAs for yourself if you login to the public access portal of SMARTS.

If your construction site near one of these areas? You might want to look into if a NONA is applicable for your site.

NONA Number	Location
1	Hughson, CA
2	Joshua Tree, CA
3	Fresno, CA
4	Bakersfield, CA
5	Rosamond, CA
6	Fresno, CA
7	Ridgecrest, CA
8	Escalon, CA
9	Manteca, CA

similar to the IGP process. The difference between the IGP and the CGP is that for those under the CGP, there's only one requirement for your site in order to qualify for a NONA. **The site's physical location cannot be connected to the Waters of the United States.** (For those interested, under the IGP, the NONA criteria is a bit more stringent and there are two requirements for NONAs – the facility has impoundment capacity for the largest historical storm, or the facility is not hydrologically connected to the Waters of the United States.)

In order to file for a no discharge NONA, you will need to fill out a form on SMARTS, and also submit a **no discharge technical report**. This report must be signed by a California licensed professional engineer or geologist who has hydrological experience. This is the other big change in how non-applicability is being determined, in the new CGP, the Water Board is leaving it up to the professionals to prove that that site is eligible for a NONA and is not hydrologically connected to the Waters of the United States. Now it is not exclusively at the discretion of the Regional Board reviewer. (Of course, the Regional Board still reviews the submitted technical plan for completeness and to check for errors. But as long as the plan is well prepared and stamped by a California licensed professional engineer or geologist with hydrological expertise, the submitted plan will be accepted.) The

technical report needs to demonstrate that the project site does not discharge to an MS4 or to a water body of the United States. This could include ephemeral streams as well. The technical report would also need to demonstrate that storm water from the site does not infiltrate into the subsurface via porous aggregate and become shallow groundwater which is rapidly transmitted laterally to a nearby body of water. Groundwater is not considered Waters of the United States, rather it is considered to be waters of the State. But that doesn't mean the groundwater is not hydrologically connected. We had a site in Maui which was having discussions with the USEPA about whether they were connected to the ocean by water which discharged into the very sandy porous soil. The USEPA said that, just by the proven speed the water met the ocean, they believed it to be hydrologically connected. This can get quite complex and is probably why the Water Board is leaving it up to the professionals to determine if a site is hydraulically disconnected from water of the United States and to create a no discharge technical report. It's a new formalized process even though it existed before in an informal way but it should produce more defensible notices of non-applicability.

Attached to this newsletter is the Water Board's guidance document on submitting a

NONA for the CGP.

How many NONAs are there currently? At the time of the writing of this article, since the reissuance of the 2022 CGP last year, the Water Board has already issued nine NONAs to construction sites across the State. But where are they? Is your site near one and maybe also qualifies for a NONA? The above map shows where these nine NONAs are located to assist you in seeing if you are close to where a NONA has already been filed. The nine NONAs appear to be primarily located in the interior of California in arid or semi-arid areas and are comprised of a mix of residential, commercial, and utility projects. To view more details about the issued NONAs, go to the [SMARTS public user menu](#), filter **Application** for "Construction" and **Application Type** for "NONA".

Please contact us if you have any questions ...

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ENVIRONMENTAL



PRESERVATION RESTORATION PROTECTION

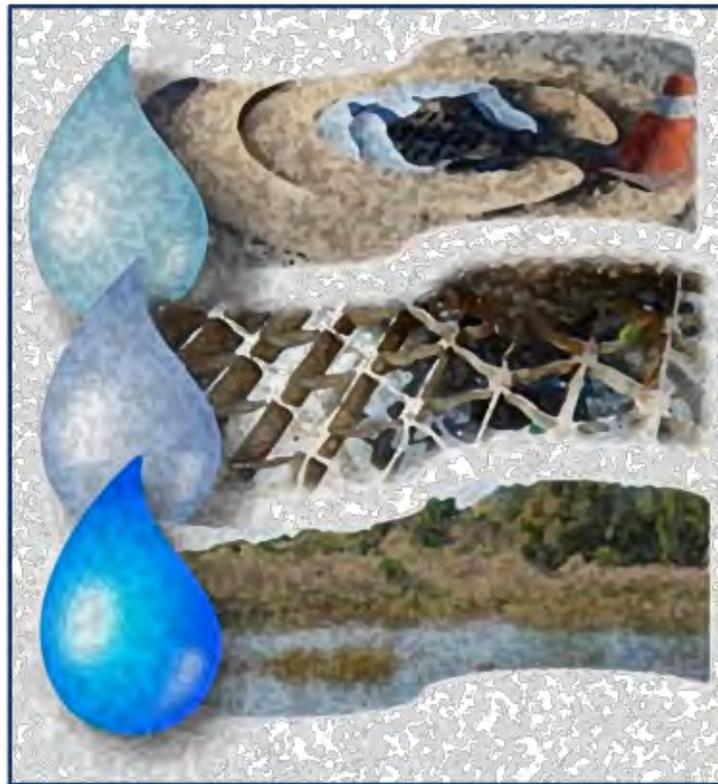


ONLINE QSP/QSD TRAINING

Register for our next online training!
July 23-25, 2024 | wgr-sw.com/training

**STATEWIDE CONSTRUCTION STORMWATER GENERAL PERMIT
DISCHARGER'S GUIDE TO THE STORMWATER MULTIPLE
APPLICATION AND REPORT TRACKING SYSTEM (SMARTS)
DATABASE**

Notice of Non-Applicability (NONA)



Last Revised: February 2024

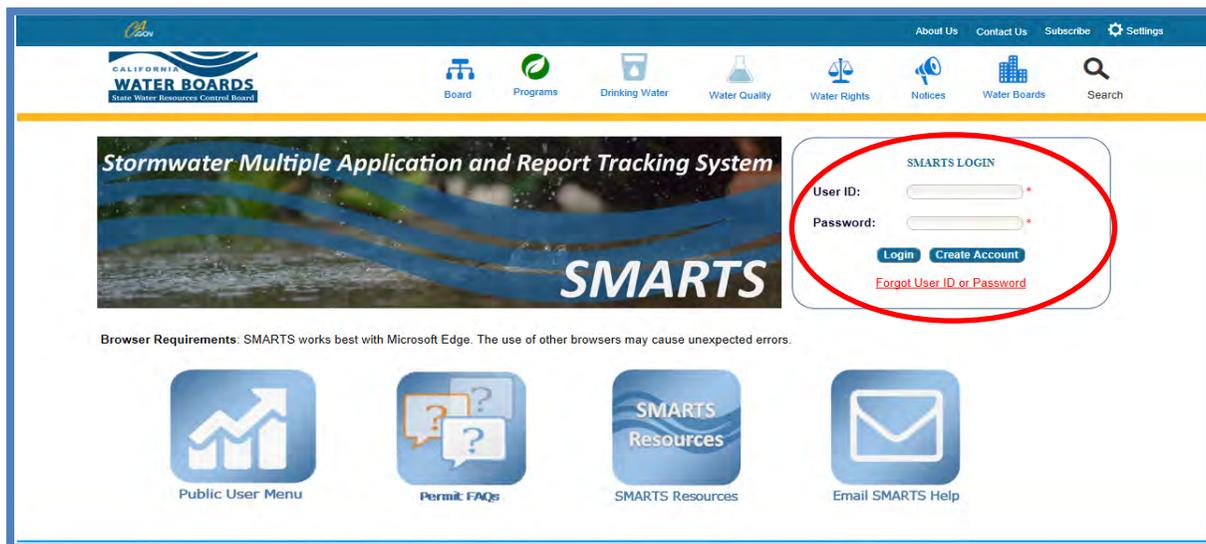
Statewide Construction Stormwater General Permit (CGP) – Notice of Non-Applicability (NONA)

Construction sites that are not hydrologically connected to waters of the United States may opt to file for a NONA instead of a Notice of Intent. A construction site is not hydrologically connected when the site does not discharge precipitation directly into a water of the United States.

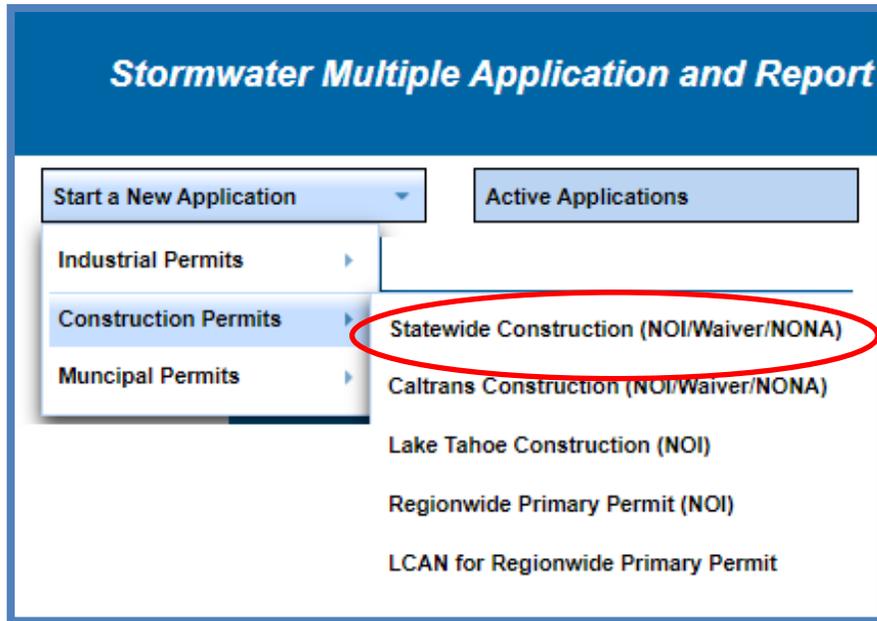
Construction sites that are not hydrologically connected filing a NONA select the “No Discharge” option and are required to upload a No Discharge Technical Report. The No Discharge Technical Report demonstrates the construction site does not discharge to a Waters of the United States and shall be signed (wet signature and license number) by a California licensed professional engineer or geologist with hydrological expertise.

The Notice of Non-Applicability must be certified and submitted by either the Legally Responsible Person (LRP) or Duly Authorized Representative (DAR). This guide provides general guidance for the LRP or DAR to complete a Notice of Non-Applicability certification. For additional questions, contact the SMARTS Help Desk at stormwater@waterboards.ca.gov.

1. Log into [SMARTS](https://smarts.waterboards.ca.gov): (<https://smarts.waterboards.ca.gov>)
Browser Requirements: SMARTS best works with Google Chrome or Microsoft Edge. Use of other browsers may cause unexpected errors.



- From the main menu, go to the “Start a New Application” drop-down list, select “Construction Permits”, and then select “Statewide Construction (NOI/Waiver/NONA)”.



- Select the organization record to start the new application for or create a new organization record. Only an LRP user account has the option to create new organizations. DAR or Data Entry Person (DEP) users may only link the new application to an existing organization previously linked. If there are no options to select or create an organization, if registered as a DAR or DEP, contact the LRP to link the user account or contact the stormwater help desk to verify the user account is set up as an LRP. Click “Next” to continue.



- Verify, add, or remove users linked to the new application. Users already linked to the organization automatically populate in this section. To add additional users to the application, click the applicable buttons “Add LRP”, “Add DAR”, or “Add DEP”. Click “Confirm and Create Application” button to continue:

Note: LRPs may link additional LRPs and DARs with the same email domain, or DEPs. For assistance linking a DAR with a different email domain, contact the Stormwater Help Desk at stormwater@waterboards.ca.gov. DARs may only link DEPs; and DEPs cannot link or delink any user.

Home > Select Organization > Display Existing User(s)

Application Type: Statewide Construction (NOI/Waiver/NONA)

[Add LRP](#) [Add DAR](#) [Add DEP](#) [Confirm and Create Application](#)

Below is a list of User(s) currently linked to the Organization Help Desk

Legal Responsible Person

First Name	Last Name	Email	User Account	Delink User
Matthew	Shimizu	matthewshimizu25@gmail.com	687982	

Duly Authorized Representative

First Name	Last Name	Email	User Account	Delink User
No records found.				

Data Entry Person

First Name	Last Name	Email	User Account	Delink User
No records found.				

- Select the “Notice of Non-Applicability” option and continue to fill out the NONA. Click the “Create Application” button to continue.

[Back](#) > Initial Application Questions

Select Application Type

[Notice of Intent](#)
[Erosivity Waiver](#)
[Notice of Non-Applicability](#)

Application Type: Notice of Non-Applicability

- Is the site's physical location hydrologically connected to the Waters of the United States?
 Yes No
- Has the [No Discharge Technical Report](#) been developed and signed by a professional engineer or a geologist?
 Yes No

[Create Application](#)

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6. Owner Information

Enter all required owner information on the “Owner Information” tab and select “Save & Continue”. All fields marked with a red asterisk must be completed. Once complete, click “Save & Continue”.

Permit Type: Traditional:Construction - NONA Application ID: 568650 Status: Not Submitted

Owner Information Enter the Owner Contact Information

Populate contact information from linked user: LEGAL_RESPONSIBLE_PERSON ▾

Owner Name: * Test Org

Street Address: * 1001 I Street

Address Line 2:

City/State/Zip: * Sacramento CA 95814

Type: * Other ▾ Definitions

Federal Tax ID:

Contact First Name: * Matthew

Contact Last Name: * Shimizu

Title: Scientific Aid

Phone: 916-341-5536 Ext: (999-999-9999)

E-mail: * matthewshimizu25@gmail.com (abc@xyz.com)

[Save & Continue](#) Fields marked with * are mandatory fields.

7. On-Site Contact Information

Enter all required on-site contact information. The on-site contact is someone who is available on-site that oversees day to day operation of the construction activities. Select “Save & Continue” once all fields are complete.

Permit Type: Traditional:Construction - NONA Application ID: 568650 Status: Not Submitted

Owner Information **Enter the on-site contact person. This is the person present on-site that oversees day to day construction activities**

On-Site Contact Information Select the contact from the drop box or enter the contact information into the fields: Select ▾

Company Name: *

Street Address: *

Address Line 2:

City/State/Zip: * CA

Contact First Name: *

Contact Last Name: *

Title:

Phone: * Ext: (999-999-9999)

Email: * (abc@xyz.com)

[Save & Continue](#) Fields marked with * are mandatory fields.

8. Site Information

Enter all required site information.

Permit Type: Traditional:Construction - NONA Application ID: 568638 Status: Not Submitted

Enter the Site Information

Owner Information
On-Site Contact Information
Site Information
Additional Site Information
Attachments
Certification
Linked Users

Site Name: *
Street Address: *
Address Line 2:
City/State/Zip: * All CA
Latitude: *
Longitude: * [Lookup Map](#)
Total Site Size: * Acres
Total Planned Disturbed Acreage * Acres
Tract Number(s):
Mile Post Marker:
Construction Start Date: * (mm/dd/yyyy)
Complete Grading Date: (mm/dd/yyyy)
Final Stabilization Date: * (mm/dd/yyyy)

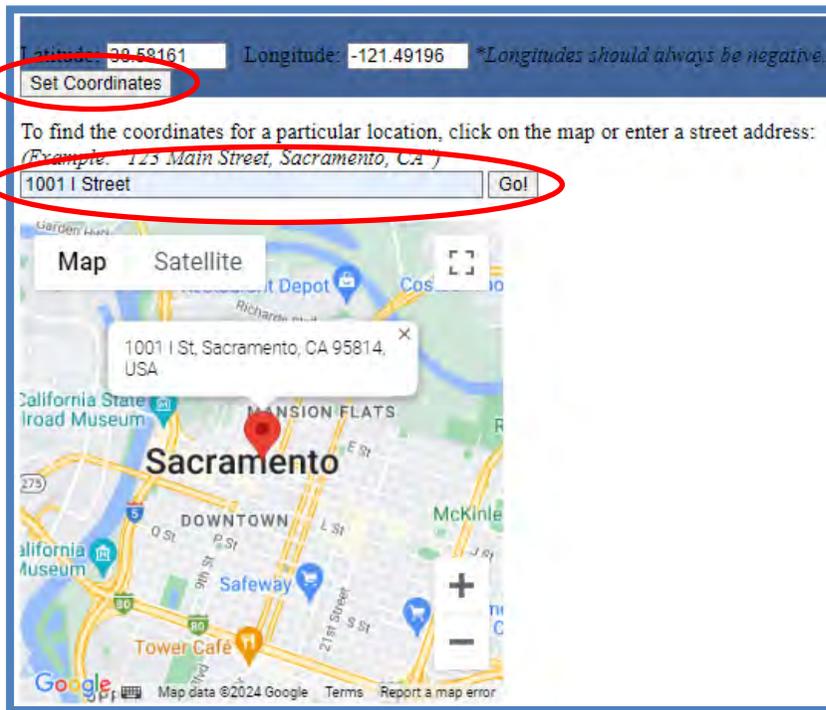
[Save & Continue](#) Fields marked with * are mandatory fields.

If the construction site does not have a specific street address, enter the general location of the site (i.e. between Main St and Front Rd.).

The latitude and longitude are entered as decimal degrees. If those values are not known, use the “Lookup Map” link. This tool allows users to either enter the site’s address or select a point on a map to determine the latitude and longitude.

Latitude: *
Longitude: * [Lookup Map](#)

Enter the street address and select “Go!”. Click “Set Coordinates” to populate the latitude and longitude.



9. Additional Site Information

The information listed in the “Additional Site Information” tab are generated based on the coordinates entered on the “Site Information” tab. Review the data listed and select “Save & Continue”.

A screenshot of a web form titled "Additional Site Information". At the top left, it shows "Permit Type: Traditional:Construction - NONA" and "Application ID: 568650". At the top right, it shows "Status: Not Submitted". On the left side, there is a vertical list of tabs: "Owner Information", "On-Site Contact Information", "Site Information", "Additional Site Information" (which is highlighted in green), "Attachments", "Certification", and "Linked Users". The main content area is titled "Enter Additional Site Information" and contains three mandatory fields: "County: *", "Regional Board: *", and "Regional Water Board email: *". Each of these fields has a "Select" dropdown menu. Below the fields is a "Save & Continue" button. A note at the bottom right states "Fields marked with * are mandatory fields."

10. Attachments

Upload the No Discharge Technical Report by selecting “Upload Attachment”.

The screenshot shows the application interface for a permit. At the top, it displays "Permit Type: Traditional Construction - NONA", "Application ID: 568650", and "Status: Not Submitted". On the left, there is a navigation menu with buttons for "Owner Information", "On-Site Contact Information", "Site Information", "Additional Site Information", "Attachments" (highlighted in green), "Certification", and "Linked Users". The "Upload Attachment" button in the top navigation bar is circled in red. Below the menu, there is a "Files Uploaded" section with a table header: "Attachment ID", "File Type", "File Title", "File Description", "Document Date", "Part No.", "Date Attached", "Upload By", and "Delete". The table currently contains no records, with the text "No records found." below it. A "Continue" button is located at the bottom of the interface.

- **Attachment File Type:** Select “No Discharge Technical Report.” Additional files such as “Supporting Documentation” may be attached as applicable.
- **Attachment Title:** Enter the title of the document.
- Click **“Choose File”**: Locate the file on the computer and select it.
- **Upload Files:** Select “Upload Files” when all attachments are ready to be uploaded.
- After the file(s) are uploaded, select “Continue”.

Note: The maximum file size is 100MB and the file name should not be longer than 30 characters and does not contain any special characters or symbols.

The screenshot shows the application interface for uploading an attachment. At the top, it displays "Permit Type: Traditional Construction - NONA", "Application ID: 568650", and "Status: Not Submitted". On the left, there is a navigation menu with buttons for "Owner Information", "On-Site Contact Information", "Site Information", "Additional Site Information", "Attachments" (highlighted in green), "Certification", and "Linked Users". The "Upload Attachment" button in the top navigation bar is circled in red. Below the menu, there is a form with the following fields: "Attachment File Type" (with a dropdown menu), "Attachment Title", "File Description", "Part No." (with a dropdown menu), "Document Date" (with a date picker), and "File Name" (with a "Choose File" button circled in red). Below the form, there are buttons for "Upload Files", "Cancel", and "Add New Row". Below the form, there is a "Files Uploaded" section with a table header: "Attachment ID", "File Type", "File Title", "File Description", "Document Date", "Part No.", "Date Attached", "Upload By", and "Delete". The table currently contains no records, with the text "No records found." below it. A "Continue" button is located at the bottom of the interface.

11. Certification

Select “Perform Completion Check”.

Permit Type: Traditional:Construction - NONA Application ID: 568650 Status: Not Submitted

Owner Information Perform the completion check to verify that all required information is completed. Click the button below to start completion check.

On-Site Contact Information **Perform Completion Check**

The “Perform Completion Check” function provides the user with a notification of any errors that must be corrected prior to certification of the NONA.

Permit Type: Traditional:Construction - NONA Application ID: 565729 Status: Not Submitted

Owner Information The application appears to be incomplete. Please correct the errors shown below before the application can be certified.

On-Site Contact Information

Site Information

Additional Site Information

Error Message	Tab to Correct
Total Site Size (acres) on the Site Information tab is a required field.	Site Information
Required Document: No Discharge Technical Report. Please upload a No Discharge Technical Report on the Attachments tab and verify the correct File Type is selected.	Attachments

After the completion check errors are identified, go back to the “Certification” tab and “Perform Completion Check” again. If no errors display, continue to certify the NONA.

Any user may perform this check, but if a DEP performs the check, the system provides a “Notify LRP/DAR” button. Pressing the button notifies the LRP or DAR the NONA is complete and requires their certification. The LRP or DAR should review the prepared NONA for accuracy prior certifying.

The LRP or DAR must have the signed electronic authorization form on file before the application can be certified. If the form is not on file, select “Print E-Authorization Form,” sign with original wet signature preferably in blue ink, then mail it to the Water Boards.

LRP or DAR Certification

There are two options for the LRP or DAR to submit the NONA:

- a. The LRP or DAR may access the “Documents Ready for Certification” SMARTS menu option if notified by the DEP.
 - Select the NONA to certify by checking the box next to the Application ID.
 - Check the box next to the certification statement, answer the security questions, and enter the user account password.
 - Click “Certify Selected” to submit the NONA.

Home > Certification Documents Detail

Below is a list of applications and/or reports that are ready to be submitted. Select the application or report to submit by checking the Select Box.
 Note: If the Select Box is not displayed, your Signed Electronic Authorization Form has not been received.

Applications

Select	Application ID	Permit Type	Operator/Owner Name & Address	Facility/Site Name & Address	Application PDF
<input type="checkbox"/>	570968	Construction	Test Org 1001 I Street Sacramento CA 95814	Test NONA 1 777 I Street Adelanto CA 90001	Application PDF

Certification & Submission Checklist

You can now certify the above documents by completing the form below:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I am also aware that my user ID and password constitute my electronic signature and any information I indicate I am electronically certifying contains my signature. I understand that my electronic signature is the legal equivalent of my handwritten signature. My signature on this form certifies that my electronic signature is for my own use, that I will keep it confidential, and that I will not delegate or share it with any other person. Should I wish to delegate such authority, I will do so formally in writing and electronically notify the State Water Board using SMARTS of such delegation within 10 days of the delegation. I further certify that I will protect my electronic signature from unauthorized use, and that I will contact the State Water Board, within two business days of discovery, if I suspect that my electronic signature has been lost, stolen, or otherwise compromised.

Certified By

Certifier Name: Matthew Shimizu
 Certifier Title: Scientific Aid
 Date: 03/12/2024

Please answer your security question before certifying the document.

What is your mother's maiden name? *
 Enter your password: *

- b. If the NONA is not listed in the “Documents Ready for Certification” SMARTS menu option, the LRP or DAR may access the NONA directly.
- Log in and go to “Pending Applications” in the main menu.
 - Locate and open the applicable number.
 - Click on the “Certification” tab and perform the completion check.
 - Check the box next to the certification statement, answer the security questions, and enter the user account password.
 - Click “Certify Application” to submit the NONA.

Permit Type: Traditional:Construction - NONA Application ID: 568650 Status: Not Submitted

Your Application Fee is \$0

Certification & Submission Checklist

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, * or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

I am also aware that my user ID and password constitute my electronic signature and any information I indicate I am electronically certifying contains my signature. I understand that my electronic signature is the legal equivalent of my handwritten signature. My signature on this form certifies that my electronic signature is for my own use, that I will keep it confidential, and that I will not delegate or share it with any other person. Should I wish to delegate such authority, I * will do so formally in writing and electronically notify the State Water Board using SMARTS of such delegation within 10 days of the delegation. I further certify that I will protect my electronic signature from unauthorized use, and that I will contact the State Water Board, within two business days of discovery, if I suspect that my electronic signature has been lost, stolen, or otherwise compromised.

Please enter your password and answer to the security question before certifying this application.

What city were you born? *
 Enter your password: *

Certify Later adds the application to the Documents Ready for Certification where multiple applications may be certified at the same time.

The LRP or DAR must have the signed electronic authorization form on file before the NONA may be certified. If the authorization form is not on file, select “Print E-

Authorization Form,” then mail in with an original wet ink signature¹ preferably in blue ink, into one of the addresses listed on the form.

12. After certification, a confirmation screen displays the details of the NONA certification. The user may download a copy of the NONA certification by selecting the “Download Copy of Record” button. The “Copy of Record” is a zip file that contains information pertaining to the submission. It contains a PDF summary of the submitted report and any uploaded attachments.

Permit Type: Traditional Construction - NONA NONA ID: 4 19NNA2787 Order No: 2022-0057-DWQ **Status: NONA Submitted**

Certified Date: 01/11/2024 Processed Date:

Owner Information	NONA ID	4 19NNA2787
On-Site Contact Information	SWRCB Application No.	SA568650
Site Information	Permit Type	Construction
Additional Site Information	Certification Date	01/11/2024
Attachments	Certifier Name	Matthew Shimizu
Certification	Certifier Title	Scientific Aid

Print

Requirements **Download Copy of Record**

¹ **Note:** Photocopies, scanned, emailed, or faxed forms are not accepted.

13. A NONA Identification number (NONA ID) is assigned once the application is certified by the LRP.

Permit Type: Traditional:Construction - NONA	NONA ID: 4 19NNA2787	Order No: 2022-0057-DWQ	Status: NONA Submitted
Certified Date: 01/11/2024	Processed Date:		

14. To print a copy of the receipt letter, go to the "Print" tab.

Permit Type: Traditional:Construction - NONA	NONA ID: 4 19NNA2787	Order No: 2022-0057-DWQ	Status: NONA Submitted
Certified Date: 01/11/2024	Processed Date:		
Owner Information	Print Copy		
On-Site Contact Information	Current NONA	Current NONA	
Site Information	Receipt Letter	Receipt Letter	
Additional Site Information	Return Letter	Return Letter	
Attachments	Fields marked with * are mandatory fields.		
Certification			
Print			

Make sure to reference the NONA ID and/or the Application ID in any communications with the Water Boards.