

Lahontan Regional Water Quality Control Board

September 17, 2014

Stan Hill
City of South Lake Tahoe
1052 Tata Lane
South Lake Tahoe, CA 96150

BOARD ORDER NO. R6T-2014-0082, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DON CHEEPO-ALTA MIRA OUTFALL DEBRIS PROJECT, EL DORADO COUNTY, WDID 6A091409001

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application and application filing fee from the City of South Lake Tahoe (Applicant) for the Don Cheepo-Alta Mira Outfall Debris Project (Project) in El Dorado County on September 3, 2014. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A091409001. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code Section 13320 and California Code of Regulations, title 23, Sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A091409001
Applicant	City of South Lake Tahoe 1052 Tata Lane South Lake Tahoe, CA 96150
Agent	Stan Hill City of South Lake Tahoe 1052 Tata Lane South Lake Tahoe, CA 96150
Project Name	Don Cheepo-Alta Mira Outfall Debris Project

AMY L. HORNE PHD, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

2501 Lake Tahoe Blvd., So. Lake Tahoe, CA 96150 | www.waterboards.ca.gov/lahontan

Table of Project Information Continued:

Project Purpose and Description	Removal of concrete and metal debris from the beach area in the interest of clearing the beach for a more accessible public use. Once the beach is clear of the debris, an energy dissipation device consisting of 8" to 12" diameter rock will be located under the newly sloped 18-inch diameter corrugated metal pipe (CMP) to provide surface protection from stormwater discharging from the pipe. The existing concrete structure will be broken and lifted onto an amphibious watercraft. The debris will be transferred to a dump truck and disposed of at a public landfill site in Carson City, Nevada. Approximately two cubic yards of 8" to 12" native rock will be installed around and beneath the new outfall.						
Project Type	Fill/Excavation- Bank and Channel Modification- Outfall Structures						
Project County	El Dorado						
Project Address or other Locating Information	3339 Lake Tahoe Blvd. South Lake Tahoe, CA 96150						
Location Latitude/Longitude	Latitude:38.9462°N, Longitude:119.9704W (Center)						
Hydrologic Unit(s)	Hydrologic Unit, 634.30						
Overall Project Area	200 square feet (0.00046 acres) [40 linear feet]						
Receiving Water(s) Name	Lake Tahoe						
Water Body Type(s)	Lake						
Designated Beneficial Uses	MUN, AGR, IND, FRSH, NAV, REC-1, REC-2, COMM, COLD, WILD, BIOL, MIGR, SPWN						
Potential Water Quality Impacts	Discharge of earthen materials to wetlands, waters of the state and waters of the U.S. (WOUS)						
Area of Water(s) within the Overall Project Area	Total area: 200 square feet, 40 linear feet						
Impacts of Fill to Waters of the State, including WOUS	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>		40	2		40	
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>						
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a Nationwide Permit, pursuant to Clean Water Act Section 404.						
Non-Compensatory Mitigation	Removal of the concrete debris will occur when the lake level is below the work area.						
Compensatory Mitigation	The removal of the existing debris is a requirement by the California State Lands Commission as part of an agreement with the California Tahoe Conservancy to purchase the property and open up the beach for public use. The Project restores 200 square feet of beach for future public use and to remove a public safety hazard.						
Applicable Fees	\$1,201						
Fees Received	\$1,201						

CEQA COMPLIANCE

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.). In accordance per Title 14 CCR, Chapter 6, Section 1530, the basis for CEQA exemption is "Existing Facilities." A Notice of Exemption was filed by the City of South Lake Tahoe on August 25, 2014.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

The Water Board specifies the following discharge prohibition in the Water Quality Control Plan for the Lahontan Region (Basin Plan) in Section 5.2 - *Waste Discharge Prohibitions* subsection- *Discharge Prohibitions for the Lake Tahoe Hydrologic Unit (Hu)*:

"(13) The discharge or the threatened discharge, attributable to new development in Stream Environment Zones, of solid or liquid waste materials including soil, silt, clay, sand, and other organic or earthen materials to Stream Environment Zones in the Lake Tahoe Basin is prohibited."

The proposed Project is located with a Stream Environment Zone within the Lake Tahoe Hydrologic Unit. The Project entails the removal of an existing concrete drainage structure and the placement of approximately two cubic yards of native rock as an energy dissipater for the newly replaced stormwater outfall. The Basin Plan states,

"'New Development' does not include maintenance or repair of an existing structure or the replacement of any existing structure with another structure on the same parcel of no greater land coverage."

Because this Project is a repair and replacement of an existing structure, the prohibition does not apply.

SECTION 401 WATER QUALITY CERTIFICATION

Authority

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under Section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under a Nationwide Permit pursuant to CWA Section 404.

California Code of Regulations (CCR) title 23, Section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA Section 401. The Project qualifies for such WQC.

Standard Conditions

Pursuant to CCR title 23, Section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code Section 13330 and CCR title 23, Section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR title 23, Section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action must be conditioned upon total payment of the full fee required under CCR title 23, Section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither Project construction activities nor operation of the Project may cause a violation of the Basin Plan, may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the California Water Code.
5. The Project must be constructed and operated in accordance with the Project described in the application for WQC that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and

implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.

8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code Section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. Sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all applicable requirements of the Endangered Species Act for the Project authorized under this certification.

Additional Conditions

Pursuant to CCR title 23, Section 3859(a), the following additional conditions are requirements of this certification:

1. Water Board staff must be notified 48 hours prior to commencement of ground disturbance.
2. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
3. Storage of construction equipment and vehicular access along the shoreline is prohibited.
4. Measures to prevent and minimize compaction of soils and sediments below ordinary high water must be implemented.
5. The Applicant must stabilize from erosion all areas of temporary impacts to waters of the state and all other areas of temporary upland disturbance which could result in a discharge or a threatened discharge to waters of the state.
6. The Applicant must not conduct Project activities within waters of the state during a rainfall event, or during any period when site conditions would lead to erosion that would violate receiving water objectives. The Applicant must provide materials necessary to prevent water degradation on site, and must ensure that all stabilization procedures are in place and effective prior to any rainfall event.

7. The Applicant must permit Water Board staff or its authorized representative upon presentation of credentials:
 - a. Entry onto Project premises;
 - b. access to copy any record required to be kept under the terms and conditions of this Order;
 - c. inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order; and
 - d. sampling of any discharge or surface water covered by this Order.

8. A final report, acceptable to the Executive Officer, must be provided within 90 days of completion of the Project or by **January 15, 2015**, whichever is sooner. The report must include before construction and after construction photos and a discussion of any changes to the permitted Project plans that were made.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of Clean Water Act Section 401(d), 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.

2. In response to a suspected violation of any condition of this certification, the State Water Board or the 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 report the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

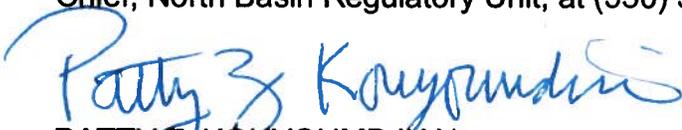
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

Section 401 Water Quality Certification Requirements Granted

I hereby issue this order certifying that any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of state law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

Except insofar as may be modified by any preceding conditions, all WQC certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Kelsi Buts, Scientific Aid, at (530) 542-5446 or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430.


PATTY Z KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Bill Orme, State Water Resources Control Board, Division of Water Quality
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