

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

MEETING OF JULY 13, 2011
South Lake Tahoe

ITEM: 8

**SUBJECT: SAWMILL 2A BIKE PATH AND EROSION CONTROL PROJECT,
EL DORADO COUNTY DEPARTMENT OF TRANSPORTATION -
EXEMPTION TO A WASTE DISCHARGE PROHIBITION
CONTAINED IN THE WATER QUALITY CONTROL PLAN FOR
THE LAHONTAN REGION**

DISCUSSION: El Dorado County (the Applicant) has proposed the above-cited Project which involves constructing a Class 1 bicycle path along, but separated from, the southwest side of Sawmill Road in the Lake Tahoe watershed. The bike trail is part of a phased comprehensive trail network designed to link various existing and planned bike paths in the vicinity of the Project area. The asphalt bike trail will cross through California Tahoe Conservancy property, Washoe Meadows State Park property, and private property. Portions of the trail as designed must cross Stream Environment Zones (SEZs) and wetlands. In addition, the Applicant proposes to install drainage improvements and erosion control features to improve water quality draining from the Project area and would capture, convey and treat storm water runoff from Sawmill Road by replacing portions of existing asphalt road pavement with porous pavement and installing rock-lined channels, sediment traps, rock bowls, and grass-lined channels to reduce sediment loads to Angora Creek, the nearby receiving water. The Project would result in discharges of waste earthen materials within SEZs in violation of a waste discharge prohibition in the Water Quality Control Plan for the Lahontan Region (Basin Plan).

Exceptions to the discharge prohibition can be granted under certain circumstances for projects that meet exemption criteria in the Basin Plan. The Basin Plan criteria for exemptions vary somewhat according to project type. This proposal involves two distinct but interrelated project-type impacts: namely, impacts due to the "public recreation" project proposal and impacts associated with the "erosion control" project improvements. In Resolution No. R6T-2008-0031 the Water Board clarified that authority to grant exceptions to discharge prohibitions for public recreation projects is not delegated to the Executive Officer when the public recreation project impacts exceed 2000 square feet of new ground disturbance as they do for the Sawmill 2A Project bike trail element.

El Dorado County has proposed to improve the erosion control elements for the existing Sawmill Road simultaneously with installing the new recreation-project elements. This resolution provides the needed findings to grant discharge prohibition exceptions to allow the proposed discharges and SEZ impacts. The project elements are separately considerable, but largely inseparable as proposed: Because of the interrelationship between the public recreation and erosion control elements of the Project, a denial of the exception for the recreation elements would likely require a redesign of the erosion control elements of the Project, and a denial of the exception for the erosion control elements would likely require a redesign of the recreation elements of the Project.

In addition, the Applicant has proposed that the Water Board allow that the new discharges and SEZ impacts for public recreation are mitigated and offset by SEZ and wetland restoration previously accomplished by the Applicant's nearby Angora Creek and SEZ Restoration Project. Under the proposal, the Water Board would grant credit to the Applicant for the prior SEZ/wetland restoration and reduce the amount of credit available from the Angora Creek and SEZ Restoration Project to offset other potential future SEZ and/or wetland impacts, and not require any additional offsetting SEZ/wetland mitigation on the Sawmill 2A Project site. Water Board staff will establish a tracking system for any credit granted.

A draft Resolution was provided to interested parties by U.S. mail soliciting public comment through July 1, 2011. Public notice was provided through the Water Board's meeting agenda announcement and online availability of the proposed Resolution. No comments were received as of June 23, 2011 (this writing).

RECOMMENDATION:

Adoption of proposed Resolution.

ENCLOSURE	Item	Bates Number
1	Proposed Resolution	08-0003

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

RESOLUTION R6T-2011-(PROPOSED)

**SAWMILL 2A BIKE PATH AND EROSION CONTROL PROJECT, EL DORADO
COUNTY DEPARTMENT OF TRANSPORTATION - EXEMPTION TO A WASTE
DISCHARGE PROHIBITION CONTAINED IN THE WATER QUALITY CONTROL
PLAN FOR THE LAHONTAN REGION**

_____ El Dorado County _____

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. El Dorado County Department of Transportation (Applicant) submitted information to the Water Board to complete a Report of Waste Discharge (ROWD) and an Application for Clean Water Act Section 401 Water Quality Certification (Water Quality Certification) for the Sawmill 2A Bike Path and Erosion Control Project (hereinafter referred to as the "Project"). The primary purpose of the Project is to construct a Class 1 bike path aligned next to Sawmill Road between Lake Tahoe Boulevard and just south of Echo View Drive. The Applicant has also proposed erosion control and treatment Best Management Practices (BMPs) for storm water runoff from Sawmill Road as part of this Project.
2. The Project site is located south of Lake Tahoe Boulevard along Sawmill Road between Highway 50 and Lake Tahoe Boulevard (Sections 18, 19, and 20 within Township 12 North, Range 18 East).
3. The Project involves constructing a Class 1 bicycle path along the southwest side of Sawmill Road. The eight-foot wide asphalt trail will have shoulders two feet wide on each side and will cross through California Tahoe Conservancy property, Washoe Meadows State Park property, and private property. Another component of the Project will be to install drainage improvements and erosion control features to improve water quality draining from the Project area. The Applicant has proposed to capture, convey and treat storm water runoff from Sawmill Road by replacing approximately 5,700 square feet of existing asphalt road pavement with porous pavement and installing 1,125 square feet of rock-lined channels, sediment traps, rock bowls, and grass-lined channels to reduce sediment loads to Angora Creek, the nearby receiving water.
4. The bike path will cross several ephemeral drainages classified as Stream Environment Zones (SEZs) due to the alignment of Sawmill Road between the hillside on the northeast and Angora Creek on the southwest. The Project will require permanent and temporary disturbance to areas designated as SEZs. The Applicant evaluated several alternatives during the planning phase of the Project and chose the current plan, which will increase coverage in land capability district 1b

(SEZ) by 6,179 square feet. The bike trail alignment was chosen to minimize disturbance and impacts; it is as close to the road as possible in the wetland areas by Lake Tahoe Boulevard and in the drainages that cross under Sawmill Road. Culverts will convey flows beneath the bike path in the SEZ areas and rock will be used to slow the flows and promote infiltration.

5. The Water Board adopted the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). Chapter 5 specifies the following discharge prohibition:

The discharge or threatened discharge, attributable to new development or permanent disturbance in Stream Environment Zones, of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral or earthen materials, to Stream Environment Zones in the Lake Tahoe Basin is prohibited.

6. The proposed Project would violate the above-cited prohibition as it involves land disturbance and discharge of earthen and fill material within SEZs in the Lake Tahoe Basin. The Project will disturb a total of 14,598 square feet of SEZs due to temporary and permanent disturbance. Construction of the bike path will temporarily disturb by grading or permanently disturb by hard coverage a total of 6707 square feet of SEZ. The disturbance includes (a) grading and paving for a new bike path and (b) removing, replacing and extending existing culverts for Sawmill Road to pass beneath the bike path. Construction of the erosion control improvements will temporarily and/or permanently disturb 7891 square feet of SEZ for dredge and fill impacts from grading and improvements constructed in wetland and SEZ.
7. The primary purpose of the bike trail element of the Project is public recreation. The other purpose of the Project is to provide improved erosion and drainage control for the portion of Sawmill Road from Lake Tahoe Boulevard to just south of Echo View Drive. These elements are evaluated separately below.
8. The Basin Plan allows exemptions to the above-cited discharge prohibition for public recreation projects that meet the following exemption criteria:

- (a) The project by its nature must be sited in a Stream Environment Zone.

The bike trail Project element is a linear recreation/transportation project that parallels an existing County-maintained road that crosses several minor stream channels. Because SEZ areas are adjacent to Sawmill Road and because small stream channels cross perpendicular to Sawmill Road, the bike path must cross SEZ areas to accomplish the Project goal of connecting Highway 50 to Lake Tahoe Boulevard with a Class 1 bike path that is not located on the roadway. The proposed bike path is part of the Tahoe Regional Planning Agency's (TRPA) adopted Bicycle and Pedestrian Master Plan and is a key link in El Dorado County's planned and existing bicycle path network. The Project, by its nature, must be sited in SEZs.

- (b) There is no feasible alternative which would reduce the extent of SEZ encroachment.

The bike path has been designed to minimize SEZ encroachment by placing the bike path as close to the road as possible in SEZ areas. The bike path has also been designed to cover existing previously disturbed SEZ areas wherever possible. Where SEZ areas are perpendicular to the bike path, the SEZ encroachment has been minimized in the most sensitive SEZ boundaries by using appropriately sized culverts under the bike trail so as not to adversely alter hydrologic function of the ephemeral channels.

- (c) Impacts are fully mitigated.

Temporary impacts to water quality will be mitigated by using erosion and sediment control BMPs, such as seeding, mulching and tackifying on moderately steep slopes and rock slope protection on steeper slopes; revegetation of areas where clearing of vegetation or excavation is required; and use of filter fences, fiber rolls, and gravel-bags. Permanent impacts to SEZs in the Project area will be mitigated through an off-site restoration project that the Applicant completed in 2010. The mitigation site is the Angora Creek and SEZ Restoration Project near View Circle in El Dorado County. The Angora Creek and SEZ Restoration Project is estimated to have restored or enhanced approximately 6.85 acres (298,392 square feet) of SEZ and/or wetland within and adjacent to the Angora Creek, subject to verification by the Water Board, a portion of which restoration is sufficient to mitigate for the impacts of the proposed new bike path. Wetlands in the Lake Tahoe Hydrologic Unit are also SEZs.

- (d) SEZs are restored in an amount 1.5 times the area of SEZ disturbed or developed for the project.

The bike trail Project elements involve restoring disturbed areas where feasible, but will increase hard coverage and reduce soft coverage such that, with other permanent disturbance, a total of 6,707 square feet of permanent development or disturbance will occur that requires offsetting mitigation. To comply with the mitigation requirement of 1.5 times the area permanently disturbed or developed, the Project will utilize (for the first time) a total of 10,061 square feet of wetland and SEZ restoration credit from the Angora Creek and SEZ Restoration Project site, where 298,392 square feet of SEZ was restored in 2010; $298,392 - 10,061$ leaves a total of 288,331 square feet available for future restoration credit from the Angora Creek and SEZ Restoration Project site.

9. The Basin Plan also allows exemptions to the above-cited discharge prohibition for erosion control projects that meet the following exemption criteria:

- (a) The project, program, or facility is necessary for environmental protection.

The Project will capture, convey and treat storm water runoff from County administered rights of way by installing approximately 5,700 square feet of porous pavement, 1,125 square feet of rock-line channels, sediment traps, rock bowls, and grass-lined channels to reduce sediment load. The erosion control elements of the Project are necessary for environmental protection and water quality improvements.

- (b) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the Stream Environment Zone.

The erosion control and water quality Best Management Practices (BMPs) are designed for areas where problems with erosion and water quality exist, which typically are the areas with culverts and drainage areas next to the road. In most cases, SEZ areas were delineated where culverts exist, which is where the water quality improvements must be installed. Various alternatives were considered during the design process and the county's environmental review process under the California Environmental Quality Act (CEQA). There is no reasonable alternative to avoid or further reduce the extent of encroachment into the SEZ.

- (c) Impacts are fully mitigated.

The impacts from the Project will be fully mitigated by the incorporation of temporary BMPs during construction and permanent (post-construction) BMPs to prevent soil erosion and water quality degradation downstream of the Project area. Temporary impacts will be mitigated by restoring vegetation in disturbed areas and stabilizing the areas from erosion with vegetation and soil cover treatments. Permanent BMPs include sediment traps, rock bowls, grass-lined swales and rock-lined channels, which will trap sediment discharges from roadways.

10. Compliance with California Environmental Quality Act (CEQA, Public Resources Code 21000, et seq.) – The Applicant certified a Mitigated Negative Declaration (MND, State Clearinghouse No. 2009102016) on December 8, 2009, and filed a Notice of Determination on December 10, 2009 for the Sawmill 2 Bike Path and Erosion Control Project, pursuant to the CEQA. The Water Board, acting as a CEQA Responsible Agency in compliance with California Code of Regulations, Title 14, section 15096, has considered the Applicant's MND for the Project and mitigation measures incorporated into the MND to reduce potentially significant water quality impacts to less than significant. As a result of the analysis, the Water Board finds the mitigation measures in the MND are adequate to reduce potentially significant water quality impacts to less than significant levels. The Applicant has applied for and must obtain a Clean Water Act Section 401 Water Quality Certification (WQC) Order from the Water Board to implement the Project. The Water Board will file a Notice of Determination for the above-referenced MND with the State Clearinghouse concurrently with this WQC that includes conditions and monitoring requirements to

verify the implementation of the water quality-related aspects of the Applicant's CEQA Mitigated Negative Declaration.

11. The Water Board has notified the Applicant and interested agencies and persons of its intent to adopt this Resolution.
12. The Water Board, in a public meeting, heard and considered all comments and determined that the Project satisfies the exemption criteria stated above.

THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to Finding Nos. 8 and 9, above, the criteria established for exemption to the Basin Plan prohibition stated in Finding No. 5 is satisfied for the Sawmill 2A Bike Path and Erosion Control Project.
2. The Water Board hereby grants an exemption to the Basin Plan prohibition stated in Finding No. 5 for the Sawmill 2A Bike Path and Erosion Control Project.
3. Prior to initiating any construction activity or disturbance in waters of the U.S., SEZ, or other waters subject to State regulation, the Applicant must obtain for the Project a WQC Order from the Water Board.
4. The above-cited WQC Order must require submittal of a post-2010 wetland delineation, verified by the U.S. Army Corps of Engineers (or a wetland delineator trained and certified equivalently), for the Angora Creek and SEZ Restoration site to verify the area of wetlands restored at that site are sufficient to ensure 10,061 square feet of SEZ impact mitigation for the Sawmill 2A Bike Path and Erosion Control Project.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on **July 13, 2011**.

HAROLD J. SINGER
EXECUTIVE OFFICER

Attachments: A. Project Vicinity Maps
 B. Project Site Map