

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

MEETING OF FEBRUARY 12-13, 2014

SOUTH LAKE TAHOE

ITEM: 6

SUBJECT: **SOUTH THAOE GREENWAY SHARED USE TRAIL, PHASE 1A PROJECT, CALIFORNIA TAHOE CONSERVANCY – EXEMPTION TO A WASTE DISCHARGE PROHIBITION CONTAINED IN THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION**

CHRONOLOGY: New item.

ISSUE: Should the Water Board issue an exemption to the Basin Plan prohibition on discharges of waste to Stream Environment Zones (SEZs) within the Lake Tahoe Hydrologic Unit for the California Tahoe Conservancy's (CTC) South Tahoe Greenway Shared Use Trail Project?

DISCUSSION: The CTC proposes to construct a 0.48-mile, paved multi-use trail from Glenwood Drive to Herbert Avenue in the City of South Lake Tahoe (Project). The Project is the first phase of a larger 3.86-mile trail planned to extend from Sierra Boulevard to Van Sickle Bi-State Park. The Project is included as Environmental Improvement Project No. 752 in the Tahoe Regional Planning Agency Regional Plan. Approximately 500 linear feet of trail will impact a total of 7,707 square feet of SEZ.

Pursuant to Water Board Resolution No. R6T-2008-0031, the Water Board must consider at a public meeting public whether a waste discharge prohibition exemption should be granted for recreation projects involving more than 2,000 square feet of new development resulting in permanent disturbance in previously undisturbed SEZs. The Water Board may grant exemptions to the prohibition if the Water Board finds the Project meets specific exemption criteria in the Basin Plan. The criteria required for an exemption is met by the Project.

Prior to construction, the California Tahoe Conservancy must receive coverage under the Lake Tahoe Construction General National Pollutant Discharge Elimination System permit. This action will be granted if the Water Board adopts the proposed Resolution. Required mitigation measures and detailed requirements regarding the allowable waste discharge to SEZs are identified in the proposed Resolution and will be enforced through the general construction permit.

The Water Board has notified the CTC, and interested agencies and persons of its intent to adopt this Resolution by mail, by posting to a list server, and posting notice on the Water Board's internet website.

**RECOMMEN-
DATION:** Adoption of the Resolution as proposed.

ENCLOSURE	ITEM	Bates Number
1	Proposed Resolution R6T-2014-(Proposed)	6-5

ENCLOSURE 1

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

RESOLUTION NO. R6T-2014-PROP

**SOUTH TAHOE GREENWAY SHARED USE TRAIL, PHASE 1A PROJECT,
CALIFORNIA TAHOE CONSERVANCY - 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. The California Tahoe Conservancy (Applicant) submitted information to the Water Board requesting an exemption from a prohibition contained in the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) on waste discharges to stream environment zones (SEZs) within the South Tahoe Hydrologic Area (HU No. 634.10) to construct a shared use, paved trail for non-motorized travel (Class 1 trail).
2. The overall project scope is to construct a 3.86-mile trail from Sierra Boulevard to Van Sickle Bi-State Park. The first phase of the project (Phase 1A) is a 0.48-mile segment from Glenwood Drive to Herbert Avenue (hereafter referred to as Project) and is the subject of the request for a prohibition exemption.
3. The Water Board adopted the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). Chapter 5 specifies the following waste discharge prohibition:
 13. "The discharge or threatened discharge, attributable to new development 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."Additionally, "new development" is defined in the Basin Plan as, "...the construction of any structure, including any commercial or residential building, road, driveway or other impervious surface, or any other construction activity resulting in permanent soil disturbance, which had not received all necessary permit approvals before adoption of these prohibitions (before October, 1980)..."
4. A portion of the Project would violate the above-cited prohibition as it involves discharge or threatened discharge of fill material and associated earthen wastes attributable to new development within SEZs in the Lake Tahoe Basin.
5. The Project will provide for public outdoor recreation and is included as Environmental Improvement Project No. 752 in the Tahoe Regional Planning Agency Regional Plan. The Project exceeds the size limits for public outdoor recreation projects sited in SEZs that may be authorized by the Executive Officer

under Resolution No. R6T-2008-0031, which delegates the authority to the Executive Officer to grant exemptions to the discharge prohibition for recreation projects that meet these specific conditions: (1) less than 2000 square feet of new ground disturbance in SEZ, and (2) less than 100 cubic yards of fill or excavation in SEZ will occur. The Project will include approximately 500 linear feet of trail that will impact a total of 7,707 square feet of SEZ. Since the Project exceeds the size limits in Resolution No. R6T-2008-0031, the discharge exemption must be considered by the Water Board.

6. The Basin Plan allows exemptions to the above-cited discharge prohibition (in Finding No. 3) for public outdoor recreation projects that meet the following exemption criteria:

“(a) The project by its nature must be sited in a SEZ.”

The Project is a linear recreation/transportation project that crosses SEZs in two locations – near the junction at Becka Drive and Glenwood Way, and at the terminus at Herbert Ave in the City of South Lake Tahoe. Due to the linear nature of the Project, the trail must interact with SEZs in areas where crossings are necessary to achieve the Project purposes. Therefore, the Project by its very nature must be sited in SEZs at crossing sites.

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

Various alignment alternatives were considered and the Project is designed and sited to minimize SEZ encroachment to the extent feasible.

“(c) Impacts are fully mitigated.”

Temporary impacts to SEZs will be mitigated by using erosion and sediment control BMPs, including seeding and mulching; revegetation of areas where clearing of vegetation or grading is required; and use of filter fences, fiber rolls, and gravel-bags. The Project includes use of permeable fill under asphalt to reduce impacts where the Project is located in SEZs. Permanent impacts to SEZs in the Project area will also be mitigated as described below in 6(d).

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

The Applicant proposes to mitigate 7,707 square feet of permanent SEZ disturbance using 11,560 square feet of credits from the Applicant’s California Land Bank for the Lake Tahoe Hydrologic Unit. The sending parcel for this action is Placer County APN 117-16-08, an SEZ restoration project completed in 2002. The mitigation proposed is equal to 1.5 times the amount of permanent disturbance proposed.

7. Compliance with California Environmental Quality Act (CEQA, Public Resources Code 21000, et seq.) – The Applicant certified a Mitigated Negative Declaration (MND, State Clearinghouse No. 2006112070) on September 2, 2011 and filed a Notice of Determination on September 16, 2011 for the 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.
8. The Water Board has notified the Applicant, and interested agencies and persons of its intent to adopt this Resolution by posting to a list server and on the Water Board's internet website.
9. 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 No. 6, above, the criteria established for exemption to the Basin Plan prohibition stated in Finding No. 3 are satisfied for the Project.
2. The Water Board hereby grants an exemption to the Basin Plan prohibition stated in Finding No. 3 for the Project, on the conditions that:
 - a. Prior to initiating any construction activity or disturbance, the Applicant must obtain a construction stormwater National Pollutant Discharge Elimination System (NPDES) permit for the Project from the Water Board.
 - b. The Applicant must provide written evidence that 11,560 square feet of credits are removed from the California Land Bank, in accordance with Finding No. 6(d).

I, Patty Z. Kouyoumdjian, 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 February 12, 2014.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER