

Lahontan Regional Water Quality Control Board

MEMORANDUM

TO: Water Board Members

FROM:

Patty Z. Kouyoumdjian
PATTY Z. KOUYOUMDJIAN

EXECUTIVE OFFICER

LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: JUN 06 2012

SUBJECT: EXEMPTION TO DISCHARGE PROHIBITION CONTAINED IN THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION – KING RESIDENCE PROJECT, PLACER COUNTY

In ten days, I intend to sign the enclosed letter granting an exemption to the discharge prohibition specified in the *Water Quality Control Plan for the Lahontan Region* for the King Residence Project (Project) in Placer County. The exemption will allow the construction of a single-family house and installation of a water well, a water line, a six-inch sewer main and a four-inch service lateral.

The Project site is located south of Truckee at 7828 River Road on the east side of the Truckee River. The Project meets requirements for an exemption to the discharge prohibition.

A public notice soliciting comments on the proposed Project will be posted on the Water Board's website for 10 days. If you have any questions or comments regarding this matter, please contact Tobi Tyler at (530) 542-5435.

Enclosure: Notice of Applicability of General Permit Coverage and 100-year Floodplain Exemption

TT/adw/T: King Residence Memo 5-30-12 TT
File Under: 6A311109003/King Residence

Lahontan Regional Water Quality Control Board

Dr. Tim and Jennifer King
P.O. Box 663
Genoa, NV, 89411

NOTICE OF APPLICABILITY FOR SMALL CONSTRUCTION GENERAL PERMIT AND EXEMPTION FROM THE 100-YEAR FLOODPLAIN DISCHARGE PROHIBITION, KING RESIDENCE PROJECT, PLACER COUNTY (WDID NO. 6A311109003, BOARD ORDER NO. R6T-2003-0004-176)

The Lahontan Regional Water Quality Control Board (Water Board) has received information, including a Notice of Intent and filing fee of \$1,226, to complete a report of waste discharge and Notice of Intent (NOI) to comply with Water Board Order No. R6T-2003-0004 for the King Residence Project (Project). Based upon the information provided, it is our determination that the project is in accordance with the required conditions of our General Waste Discharge Requirements for Small Construction Projects, Including Utility, Public Works, and Minor Streambed/Lakebed Alteration Projects in the Lahontan Region (Small Construction Permit). All of the requirements contained in the Small Construction Permit will be applicable to your project. You are hereby assigned Small Construction Permit Number R6T-2003-0004-176 for the Project. The application also provided information to support granting an exemption from a waste discharge prohibition in the Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan). This Notice of Applicability (NOA) and waste discharge prohibition exemption is based upon the information provided in the application and subsequent correspondence with your consultant, Auerbach Engineering Corporation.

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.

GENERAL PROJECT DESCRIPTION

The Project site is located at 7828 River Road on the east side of the Truckee River, six miles south of Truckee (APN 080-232-052). The Project involves construction of a single-family house, and installation of a water well, a water line, a six-inch sewer main and a four-inch service lateral. Direct impacts to a wetland and stream existing on the southern portion of the lot are avoided by the Project; a portion of the house bridges a spring-fed wetland channel area that is approximately 18 feet by 18 feet. Portions of the proposed residential Project fall within the 100-year floodplain of the Truckee River. The proposed residential structure is outside the 100-year floodplain, but the water well and water service trench, the sewer main trench, and the proposed driveway connecting the proposed residence to the existing access road, are within the 100-year floodplain (elevation 5989 feet above sea level). The existing access road is entirely within the 100-year floodplain and serves existing homes.

The driveway will cover approximately 585 square feet of floodplain. A majority (70%) of this area is compacted and developed with an existing old shed and gravel-covered parking area. Therefore, 30% or 176 square feet of undeveloped floodplain will be newly impacted. The volume of the fill to be placed within the floodplain required for construction of the driveway is estimated to be 25 cubic yards. The Project includes a plan to restore existing disturbed areas of the 100-year floodplain onsite as mitigation for loss of floodplain functions due to the driveway layout.

The water well and water service trench and the sewer main trench locations were chosen based on a 40-foot setback from the Truckee River Interceptor Sewer Main, located approximately down the center of the road. The water service line will impact 36 square feet of floodplain between the well and the road, and 14 square feet of floodplain within the roadway. The total volume of excavated and subsequent fill material for the water service line is approximately 5.3 cubic yards. The sewer main trench falls entirely within the existing roadway or under the driveway footprint. Therefore, these impacts are not included as new disturbance or new impervious coverings. The above information is summarized below.

<i>Project Features</i>	<i>Area (square feet)</i>	<i>Volume (cubic yards)</i>
Driveway	176 sf	25 cy
Water Well and Service Trench	36 sf	5 cy
Total	212 sf	30 cy

The Project includes restoring functional values to the previously-disturbed areas on the parcel.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

The Water Board has adopted a *Water Quality Control Plan for the Lahontan Region* (Basin Plan), which specifies the following discharge prohibition:

“4(c) the discharge or threatened discharge, attributable to human activities, of solid or liquid waste materials including soil, silt, clay, sand, and other organic or earthen materials to lands within the 100-year floodplain of the Truckee river or any tributary to the Truckee River is prohibited.”

The proposed Project would violate the prohibition as it involves alterations and threatened discharges within the 100-year floodplain of the Truckee River. The Water Board may grant an exception to the above-cited prohibition under certain conditions.

PROHIBITION EXEMPTION

The Basin Plan allows that the Water Board may grant exemptions to the above-cited discharge prohibition for new projects that meet the following exemption criteria:

- a) *The Project purpose is included in one or more of the five categories listed in Section 4.1 of the Lahontan Basin Plan: “(1) projects solely intended to reduce or mitigate existing sources of erosion or water pollution, or to restore the functional value to previously disturbed floodplain areas; (2) bridge abutment, approaches, or other essential transportation facilities identified in an approved county general plan; (3) projects necessary to protect public health or safety or to provide essential public services; (4) projects necessary for public recreation; and (5) projects that will provide outdoor public recreation within portions of the 100-year floodplain that have been substantially altered by grading and/or filling activities which occurred prior to June 26, 1975.*

The purpose of the Project is to construct a residence outside the 100-year floodplain of the Truckee River. A 585 square foot section of floodplain will be impacted to install a driveway approach to the residence. This is considered an approach over waters under project type (2) above. The associated utilities are project elements needed to protect public health or safety or provide essential public services, and will affect 36 square feet of floodplain.

- b) *There is no reasonable alternative to locating the project or portions of the project within the 100-year floodplain.*

The parcel on which the Project is located is partially within the 100-year floodplain. The plan for the residential structure avoids the 100-year floodplain. However, access to the structure is needed from the existing road, which is within the floodplain. Building a bridge or alternative approach is unreasonable due to costs and/or site constraints. Encroachment by utilities has been minimized to the extent practicable. There is no reasonable alternative to locating the Project within the 100-year floodplain.

- c) *The project, by its very nature, must be located within the 100-year floodplain.*

Access to the otherwise buildable lot is necessary to complete the Project. Therefore, the Project, by its very nature, must be located within the 100-year floodplain to get across the floodplain.

- d) *The project incorporates measures that will ensure any erosion and surface runoff problems caused by the project are mitigated to levels of insignificance.*

Staging for all phases of the Project and construction access to the building site will be within the existing gravel parking area to minimize the construction footprint. Restoration of the staging area will commence after building construction is finalized in order to facilitate staging and construction access. Excavation equipment will access the building site using the proposed driveway footprint. Access to the southerly side of the wetland swale for excavation of the footing for the spanned portion of the building will use the existing skid road. Mulch will be placed on all disturbed soil areas 24 hours prior to any forecasted rain event. The wetland will be bordered with orange construction fence. Fiber rolls will be installed along contours and silt fences will be installed at the toe of slopes. The proposed Project has incorporated sufficient measures to ensure erosion and surface runoff problems are mitigation to levels of insignificance.

- e) *The project will not individually or cumulatively with other projects, directly or indirectly, degrade water quality or impair beneficial uses of water.*

The proposed Project includes measures to mitigate for the loss of floodplain by restoring 890 square feet of 100-year floodplain on the Project site. The Project therefore will not individually or cumulatively, directly or indirectly, degrade water quality or impair beneficial uses of water.

- f) *The project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the ground water flow treatment capacity from existing conditions. All 100-year floodplain areas and volumes lost as a result of the project must be completely mitigated by restoration of previously-disturbed floodplain within or as close as practical to the project site. The restored, new, or enlarged floodplain shall be of sufficient area and volume to more than compensate for the flood flow attenuation capacity, surface flow treatment capacity, and ground water flow treatment capacity which are lost as a result of the project. This finding will not be required for: (1) essential public health or safety projects, (2) projects to provide essential public services for which the Regional Board finds such mitigation measures to be infeasible because the financial resources of the entity proposing the project are severely limited, or (3) projects for which the Regional Board finds (based on evidence presented by the proposed discharger) that the project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the ground water flow treatment capacity from existing conditions.*

Approximately 890 square feet of 100-year floodplain is proposed for restoration to mitigate for the loss of functioning floodplain due to the construction of the driveway and water line. The mitigation area will restore approximately 33 cubic yards of impacted floodplain that has been compacted by heavy equipment and past use of the area as a snow dump and parking area. The floodplain restoration plan includes annual monitoring for at least two growing seasons, and end after the season in which final success criteria are met. Monitoring reports will be submitted to the Water Board. The Project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the ground water flow treatment capacity from existing conditions.

DELEGATION OF AUTHORITY FOR GRANTING AN EXEMPTION

The Water Board has delegated authority to the Water Board Executive Officer to grant exemptions to the 100-year floodplain discharge prohibition in the Truckee River Hydrologic Unit for specific discharges where the proposed Project meets the conditions required for a waiver of waste discharge requirements or for approval under general waste discharge requirements or a general National Pollutant Discharge Elimination System permit (NPDES). The Project will be regulated under the terms and conditions of the Small Construction Permit.

The other criteria that the Project must satisfy for delegation authority to be granted to the Water Board Executive Officer are as follows:

1. *The project is within the following size limitations:*
 - less than 1000 square feet of new impervious overage, or*
 - less than 2000 square feet of new ground disturbance, or*
 - less than 100 cubic yards of fill or excavation; **or***
2. *The project's primary purpose is to reduce, control, or mitigate existing sources of erosion or water pollution; **and***
3. *The project meets the exemption criteria set forth in the Basin Plan.*

The Project is less than the above size limitations and meets the exemption criteria set forth in the Basin Plan.

PROHIBITION EXEMPTION GRANTED

As demonstrated above, the Project meets the conditions and criteria for an exemption to the 100-year floodplain waste discharge prohibition. The applicant has incorporated appropriate BMPs into the Project to ensure that any erosion and surface runoff problems caused by the Project are minimized to the levels of insignificance. A draft notice of exemption was posted on the Water Board website

and distributed through an interested persons mailing list allowing at least ten (10) days to submit comments. The Project is hereby granted an exemption to the above-cited waste discharge prohibition.

CEQA COMPLIANCE

The Water Board has determined that granting an exception to the waste discharge prohibition for this Project is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq.). In accordance with Section 15303, the basis for CEQA exemption is "New Construction or Conversion of Small Structures." A Notice of Exemption will be filed with the State Clearinghouse concurrently with issuing this Order.

AMENDMENT TO MONITORING AND REPORTING PROGRAM R6T-2003-0004

By this NOA, I am amending Monitoring and Reporting Program R6T-2003-0004 of the General Permit to include additional monitoring and reporting requirements pursuant to California Water Code, section 13267. Pursuant to California Water Code section 13267, subdivision (a), the Water Board may investigate the quality of any waters of the state within its region "in establishing or reviewing any water quality control plan or waste discharge requirement." The need for a technical report pursuant to California Water Code section 13267, subdivision (b) must bear a reasonable relationship to the benefits to be obtained from the report. This revised order for technical report submittal is necessary to verify compliance with the proposed restoration plan, which is required to mitigate for the loss of functioning floodplain due to the construction of the driveway and water line. The additional requirements are as follows:

- 1) The Applicant must provide a report to the Lahontan Water Board documenting construction of the floodplain restoration area no later than **November 15, 2013**. The report must include an "as-built" plan, including topographic map with resolution at least to the nearest foot, and must describe any problems encountered or variances from the approved design. The report must also include photographs showing the sites before and after construction.
- 2) The mitigation site must be monitored annually for a period of two years or as necessary thereafter to achieve a success criterion of at least 75% aerial ground cover from native species, and other criteria specified in the reports filed for the discharge.
- 3) Monitoring reports acceptable to the Executive Officer must be provided annually for a minimum of two years, or until success criteria are met, starting on **November 15, 2014**. The reports must describe the results of monitoring performed during the previous year and progress towards achieving the performance standards and Project objectives in the application. The reports must also describe any problem(s) encountered during the year, and explain actions taken or proposed to address the problem(s), and a schedule for

completion. Reports must be provided to the Executive Officer under cover letter signed by the Applicant committing to implementation of appropriate action to address any problems.

- 4) A final mitigation report, acceptable to the Executive Officer, must be provided to the Lahontan Water Board at the end of two years (by **November 15, 2015**) indicating whether performance standards have been met and the status of compliance with the requirements above. Additional requirements may be imposed at that time if success standards have not been met to the satisfaction of the Executive Officer.

GENERAL INFORMATION

1. The Project must be constructed in accordance with the requirements contained in the Permit and in accordance with the information submitted in the Notice of Intent, and other application materials.
2. The required annual fee for waste discharge requirements (as specified in the annual billing you will receive from the State Water Resources Control Board) must be submitted until the Notice of Applicability is officially revoked. Revocation procedures are specified in Section IV.C. of the Permit.
3. Failure to abide by the conditions of the Permit could result in an enforcement action as authorized by provisions of the Porter-Cologne Water Quality Control Act.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Tobi Tyler, Water Resources Control Engineer, at (530) 542-5435 or Alan Miller, P.E., Chief, North Basin Regulatory Unit, at (530) 542-5430.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Brian Clark, Auerbach Engineering