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**Lahontan Regional Water Quality Control Board**

# MEMORANDUM

**TO:** Water Board Members

*Patty Z. Kouyoumdjian*

**FROM:** PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER  
**LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD**

**DATE:** August 23, 2012

**SUBJECT: EXEMPTION TO DISCHARGE PROHIBITION CONTAINED IN THE  
WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION –  
BIG MEADOW CREEK WATERSHED FIRE REGIME RESTORATION  
PROJECT, EL DORADO COUNTY**

In ten days, I intend to grant an exemption to the discharge prohibitions specified in the Water Quality Control Plan for the Lahontan Region for the above-referenced Project.

The Project involves meadow, riparian corridor, and aspen stand restoration, achieved through conifer removal and use of prescribed fire in stream environment zones in the Big Meadow Creek watershed. The Project is proposed by the US Forest Service Lake Tahoe Basin Management Unit and will be implemented entirely by hand crew operations.

Public Notice regarding granting the prohibition exemption was published on the Water Board's internet site as required.

If you have any questions or comments regarding this matter, please contact Laurie Scribe at (530) 542-5465.

**Attachment: Draft Prohibition Exemption**

LS/aw/T:LTBMU 2012 Big Meadow SEZ Proh Exemption  
Filing Name: (new file) WDID 6AT60912080/US Forest Service – LTBMU, Big Meadow Timber Waiver (2012)/El Dorado County

## Lahontan Regional Water Quality Control Board

Nancy Gibson  
Lake Tahoe Basin Management Unit  
35 College Dr.  
South Lake Tahoe, CA 96150

### **EXEMPTION TO THE STREAM ENVIRONMENT ZONE WASTE DISCHARGE PROHIBITION WITHIN THE LAKE TAHOE HYDROLOGIC UNIT, BIG MEADOW CREEK WATERSHED FIRE REGIME RESTORATION, US FOREST SERVICE LAKE TAHOE BASIN MANAGEMENT UNIT, EL DORADO COUNTY**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete application for coverage under Board Order number R6T-2009-029, Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region (Timber Waiver), from the United States Forest Service Lake Tahoe Basin Management Unit (Applicant) for the Big Meadow Creek Watershed Fire Regime Restoration Project (Project) in El Dorado County. The Water Board also received 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 Project is assigned the following reference number: Waste Discharger Identification (WDID) No. 6AT60912080. Please use this reference number in all future correspondence regarding this Project.

#### **PROJECT DESCRIPTION**

The Project is located in the Big Meadow Creek watershed south of Highway 89 in the Luther Pass area. The purpose of the proposed Project is to improve and restore aspen, meadow, and montane riparian communities while simultaneously reducing the risk of catastrophic wildfires by treating hazardous fuels within the Project area. The Project involves removal of conifers from meadows, aspen stands, riparian corridors and the adjacent uplands entirely through manual hand crew operations. The Applicant will use prescribed fire, including both pile and broadcast burning, to dispose of thinned material. The Project includes approximately 27 acres of hand thin and burning treatments in Lake Tahoe Hydrologic Unit Stream Environment Zones (SEZ) planned for 2012. Piles created this year will be ready for burning in 2014 or 2015. This Project will be regulated under the Timber Waiver (Board Order No. R6T-2009-0029). This waiver identifies pile burning in SEZs as an activity that is subject to a prohibition in the Basin Plan. None of the other elements of the Project are subject to this prohibition. The criteria for exemptions to the prohibition which are the subject of this letter are specific to the pile burning element of the Project.

## **WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION**

To protect beneficial uses and achieve water quality objectives for the waters of Lake Tahoe and its tributaries, the Basin Plan specifies the following discharge prohibition (Basin Plan section 5-2; page 5.2-4):

*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.*

## **PROHIBITION EXEMPTION CRITERIA**

Chapter 5 of the Basin Plan allows exemptions to the above-cited discharge prohibition for erosion control, habitat restoration, wetland restoration, SEZ restoration, and similar projects, programs, and facilities if all of the following findings can be made:

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

The Applicant is implementing the Project to provide favorable conditions for improvement of meadow ecosystems, riparian corridors, and aspen stands, and to reduce the risk of catastrophic wildfire adjacent to these areas. Historic activities (including logging and livestock grazing) and decades of fire suppression have degraded the ecological health and function of meadows, aspen stands, and riparian corridors in the Big Meadow Creek watershed. This Project will reduce conifer encroachment, reduce fuel loading, and stimulate the growth of desirable native riparian vegetation to sustain desirable animal and plant communities.

- b) *There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the SEZ.*

The purpose of the Project is to enhance meadow, riparian, and aspen communities. There are no reasonable alternatives that would reduce the extent of encroachment in the SEZ because the Project, by its very nature, must be located in the SEZ. The Project is located in a wilderness area with no road access and will be implemented by hand crews which makes it infeasible to relocate the thinned material out of the SEZ.

*c) Impacts are fully mitigated.*

The Applicant has proposed a list of Design Features that will be used during Project implementation to mitigate impacts to the SEZ. The Design Features are consistent with those listed in Attachment Q of the 2009 Timber Waiver. Attachment Q lists examples of Design Features for pile burning within Waterbody Buffer Zones. The following are some of the Design Features for the Project:

1. No piles will be placed within 50 feet of intermittent and perennial channels and within 10 feet of ephemeral channels.
2. Piles will be placed in a non-linear pattern where possible, while maintaining approximately 20 feet average spacing between piles.
3. The maximum pile size would not exceed 10 foot diameter by five foot in height.
4. No more than 30% of any SEZ acre may be occupied with piles, and no more than 15% of any SEZ acre may be burned within a unit each year.
5. Burning piles in aspen stands will be avoided when possible, and when piles are located in aspen stands, they will be located outside the extent of lateral roots to the greatest extent possible.
6. No fire line construction would take place within SEZs. Wet lines would be used in these areas.
7. Rehabilitate control lines using hand tools and hand crews.

### **CEQA COMPLIANCE**

Water Board staff have determined the Project will not have a significant impact and is exempt from the provisions of the California Environmental Quality Act (CEQA). The applicable exemption is found in the California Code of Regulations, title 14, section 15304 – Minor Alterations to Land.

The Applicant found that this Project is categorically excluded from documentation in an environmental assessment or environmental impact statement pursuant to the National Environmental Policy Act. The Applicant originally listed the proposed Project on their Schedule of Proposed Action on July 1, 2007. They then conducted a 30-day public scoping period beginning on November 3, 2008. A 30-day public comment period began on April 8, 2009 for the pre-decision memo. The decision memo implementing the Project was signed by the Forest Supervisor on August 18, 2009. .

### **ADDITIONAL CONDITIONS**

Project activities must not cause a violation of the Basin Plan, or cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the California Water Code.

**PROHIBITION EXEMPTION GRANTED**

The Water Board has notified the Applicant and interested agencies and persons of its intent to grant this prohibition exemption. This Project will be regulated under the Timber Waiver. The Applicant has incorporated appropriate Design Features into the Project. The Water Board Executive Officer has considered all comments and determined that the Project satisfies all Basin Plan exemption criteria. I hereby grant an exemption.

If you have questions, please contact Laurie Scribe at (530) 542-5465.

PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

LS adw/T: LTBMU 2012 Big Meadow SEZ PE  
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