

Lahontan Regional Water Quality Control Board

## MEMORANDUM

TO: Water Board Members

FROM:

  
Patty Z. Kouyoumdjian  
Executive Officer

**LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD**

DATE:

**JAN 08 2013**

SUBJECT: **EXEMPTION TO THE 100-YEAR FLOOD PLAIN PROHIBITION WITHIN THE LITTLE TRUCKEE RIVER HYDROLOGIC UNIT FOR THE LITTLE TRUCKEE RIVER BRIDGE REPLACEMENT AND CHANNEL RESTORATION PROJECT, SIERRA COUNTY**

In ten days, I intend to sign the enclosed memorandum granting an exemption to the above-cited discharge prohibition specified in the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). The exemption will allow the Project proponent to replace a bridge on Fibreboard Road and restore a portion of the stream channel to a more natural state.

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.

Please contact me at (530) 542-5412, or Bud Amorfini at (530) 542-5463, if you have any questions or comments regarding this matter.

Enclosure: Draft Water Quality Certification Order

## Lahontan Regional Water Quality Control Board

January 2, 2013

Bryan Davey  
Sierra County Public Works Department  
PO Box 98  
Downieville, CA 95936

### **ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND PROHIBITION EXEMPTION FOR LITTLE TRUCKEE RIVER BRIDGE REPLACEMENT PROJECT, SIERRA COUNTY, WDID 6A461210005**

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 Sierra County Public Works Department (Applicant) for the Little Truckee River Bridge Replacement Project (Project) on Old Fibreboard Road in Sierra 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 Order for WQC and waste discharge prohibition exemption hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A461210005. 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### **PROJECT DESCRIPTION**

#### **Table of Project Information:**

WDID Number	6A461210005
Applicant	Sierra County Public Works Department PO Box 98 Downieville, CA 95936
Agent	Bryan Davey Sierra County Public Works Department PO Box 98 Downieville, CA 95936

DON JARDINE, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

**Table of Project Information continued:**

Project Name	Little Truckee River Bridge Replacement Project						
Project Purpose and Description	The Project purpose is to restore natural stream channel conditions by removing and replacing an undersized bridge. The Project includes removing existing bridge abutments that impede flow and replacing the structure with a longer bridge span such that the new abutments will be outside the ordinary high water mark and floodplain of the stream. Concrete debris will be transported to an approved disposal site and material removed from the channel widening will be recycled as road fill for the new bridge approaches. A temporary bridge will be placed adjacent to the existing structure while the permanent bridge is constructed.						
Location (closest City & County)	Downieville, Sierra County						
Location Latitude/Longitude	Latitude: 39.491258; Longitude: -120.294929						
Hydrologic Unit(s)	Little Truckee River Hydrologic Unit, 636.00						
Project Area	0.75 acres						
Receiving Water(s) Name	Little Truckee River						
Water Body Type(s)	Stream						
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, POW, REC-1, REC-2, COMM, COLD, WILD, RARE, MIGR, SPWN						
Area of Water(s) of the U.S. (WOUS) within the Project area	0.21 acres						
Project Impacts (Fill) to Waters of the State, including Waters of the U.S.	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>				0.01	181	25
	<i>Wetland</i>	0.01	225	25			
<b>Total</b>							
Project Impacts (Dredge/Excavation) to Waters of the State, including Waters of the U.S.	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yard
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	0.04	220	1,411			
	<i>Wetland</i>						
<b>Total</b>							
Federal Permit(s)	The Applicant applied for a CWA section 404 permit from the U.S. Army Corps of Engineers (USACE), Sacramento District (Krystal Bell – Project Manager) during September 2012.						
Non-Compensatory Mitigation	Impacts to Environmentally Sensitive Areas (ESAs) will be avoided and protected by ESA fencing. Potential direct impacts to streams and fisheries will be avoided by conducting work during seasonal low water levels when the existing bridge abutments will be above the water line of the stream. Construction site BMPs will follow Caltrans Standard Plans and include sediment controls and stabilization, good housekeeping, spill prevention and response,						

	and concrete washout controls. Staging will be conducted along the existing road where it is already disturbed. Bridge approaches will be paved approximately 100 feet on each side of the new bridge. Bridge runoff will be directed to a new sediment trap prior to spreading on the floodplain.
Compensatory Mitigation	None is required for repair and replacement; however, the Project restores an additional 0.04 acres and removes up to 1,400 cubic yards of material that is currently constricting the channel compared with natural conditions. The Project will result in a net gain of channel area and volume, as well as restoring riparian/wetland habitat along the channel margins.
Applicable Fees	<b>\$944</b> (\$944 flat fee for restoration projects).
Fees Received	\$944

**CEQA COMPLIANCE**

The Water Board, acting as a CEQA Responsible Agency in compliance with California Code of Regulations, Title 14, section 15096, has determined that the Project is categorically exempt according to the California Code of Regulations (CCR) title 14, section 15302, replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with this Order.

**WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION**

The Water Board has adopted a Basin Plan, in which Chapter 4 specifies the following discharge prohibition for the Little Truckee River Hydrologic Unit:

*"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 and earthen materials to lands within the 100-year floodplain of the Little Truckee River or any tributary to the Little Truckee River is prohibited."*

The Project involves the threatened discharge of earthen materials to the Little Truckee River that could violate the above-cited prohibition.

**100-YEAR FLOODPLAIN WASTE DISCHARGE PROHIBITION EXEMPTION**

Chapter 4 (Implementation) of the Basin Plan states "The Regional Board may grant exemptions to prohibition 4(c) above as it applies to the Little Truckee River HU . . . for the repair or replacement of existing structures, provided that the repair or replacement does not involve the loss of additional floodplain area or volume. . . . Prior to granting any such exemption, the Regional Board shall require demonstration by the proposed discharger that all applicable Best Management Practices (BMPs) and mitigation measures have been incorporated into the Project to minimize any potential soil erosion and/or surface runoff problems."

The floodplain elevation has not been mapped; however, the visual evidence indicates that the current and new bridge elevation, as well as the new abutments, will be located above the floodplain of the river. The Project will increase the channel and floodplain area by 0.04 acres and the volume by over 1,400 cubic feet. The Project includes appropriate construction and post-construction BMPs to minimize any potential soil erosion and/or surface runoff problems. Work will be conducted during the time stream elevations are below the work area, which is included as a condition of this Order.

The Project meets the criteria for granting an exemption.

### **EXEMPTION GRANTED**

In accordance with Resolution R6T-2008-0031, the Water Board delegated its authority to the Executive Officer to grant exemptions to the Basin Plan prohibition cited above where: a. The Executive Officer has the authority to authorize the Project under an ... individual WQC order; b. the Project meets the exemption ... criteria set forth in the Basin Plan; and ... e. the Project is a repair or replacement of existing facilities...

The Project will be regulated under a Clean Water Act (CWA) section 401 WQC, meets the exemption criteria set forth in the Basin Plan, and is to replace an existing facility. The Project is hereby granted an exemption to the above-cited waste discharge prohibition.

Except in emergency situations, the Executive Officer shall notify the Water Board and interested members of the public of the intent to issue an exemption at least ten (10) days before the exemption is issued. A notice of exemption will also be posted on the Water Board website and distributed through an interested persons mailing list allowing at least ten (10) days to submit comments.

### **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 waters of the United States, 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 fee required for WQC under Section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under Nationwide Permit No. 23 pursuant to CWA section 404.

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 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 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 that 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. In-stream work must be conducted during seasonal low water levels when the existing bridge abutments will be above the water line of the stream.
2. No land disturbance is authorized between October 15 and May 1 the following year unless granted a variance by the Executive Officer. All disturbed areas must be winterized during the period between October 15 and May 1 the following year.
3. No debris, cement, concrete (or wash water therefrom), oil or petroleum products, paints, or other hazardous materials must enter into or be placed where it may be washed from the Project site by rainfall or runoff into waters of the State. When operations are completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported into waters of the State.
4. The Applicant must immediately (within two hours) notify Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. A written notification of the adverse condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.
5. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Measures must include the cleaning of all equipment and gear that has been in an infested site with water heated to 120 degrees Fahrenheit or more, the use of weed-free erosion control materials (including straw), and the use of weed-free seeds and plant material for revegetation of disturbed areas.

6. Rock materials must be washed and free of adhered soil materials prior to placement into 100-year floodplains. The discharge of wastewater to surface waters from rock washing is not authorized by this Order.
7. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
8. An emergency spill kit must be at the Project site at all times.
9. All disturbed areas must be stabilized after construction. A final report documenting the completed work, stabilization measures, and post-construction BMPs must be submitted to the Water Board within 30 days of project completion.
10. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.

### **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 an 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

Bryan Davey -8-  
Sierra County Public Works Department

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 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 Bud Amorfini, Engineering Geologist, at (530) 542-5463 or Alan Miller at (530) 542-5430.

PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

cc: Gary Kelley/California Department of Fish and Game, Rancho Cordova Office  
(via email at [GOKELLEY@dfg.ca.gov](mailto:GOKELLEY@dfg.ca.gov))  
Jason Brush / Wetlands Regulatory Office (WTR-8), US EPA, Region 9  
(via email at [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov))  
Krystal Bell/ U.S. Army Corps of Engineers, Sacramento Office  
(via email at [Krystal.Bell@usace.army.mil](mailto:Krystal.Bell@usace.army.mil))  
Bill Orme / State Water Resources Control Board, Division of Water Quality  
(via email at [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov))

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