

Lahontan Regional Water Quality Control Board

August 26, 2016

WDID 6A291607005

Water Board Members,

Exemption to the Discharge Prohibition within the Truckee River Hydrologic Unit for the Truckee-Donner Recreation and Park District Public Pier Replacement Project-Pier 2, Nevada County

In ten days, I intend to sign the enclosed Order 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 an existing pier in Donner Lake.

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 (patty.kouyoumdjian@waterboards.ca.gov), or Elizabeth van Diepen, Scientific Aide, at (530) 542-5492 (elizabethvandiepen@waterboards.ca.gov), if you have any questions or comments regarding this matter.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Enclosure: Draft Water Quality Certification Order

cc: John Shaffer, Truckee-Donner Recreation and Park District
Gavin Ball, Consulting Land Use Planner
Krystal Bell, U.S. Army Corps of Engineers, Sacramento District
Tiffany Good, Tahoe Regional Planning Agency
Ninette Lee, California State Lands Commission
Tanya Sheya, California Department of Fish and Wildlife
Elizabeth van Diepen, Lahontan Water Board

LVD/ma/T: TDRPD Public Pier 2 Replacement-Board Notice
File Under: ECM / WDID 6A291607005

Lahontan Regional Water Quality Control Board

WDID 6A291607005

John Shaffer
Truckee-Donner Recreation and Park District
8924 Donner Pass Road
Truckee, CA 96161
jshaffer@tdrpd.org

Board Order No. R6T-2016-XXXX, Clean Water Act Section 401 Water Quality Certification for the Truckee-Donner Recreation and Park District Public Pier Replacement Project – Pier 2, Nevada County

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act (CWA) section 401 Water Quality Certification (WQC) application and application filing fee from John Shaffer (Applicant) for the Truckee-Donner Recreation and Park District (TDRPD) Public Pier Replacement Project – Pier 2 (Project) in Nevada County. The application received on July 21, 2016 was deemed complete on August 18, 2016. This WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A291607005. 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 (CCR), 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 WQC, except that if the thirtieth day following the date of this WQC 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.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A291607005
Applicant	John Shaffer Truckee-Donner Recreation and Park District 8924 Donner Pass Road Truckee, CA 96161 jshaffer@tdrpd.org

Table of Project Information (continued):

Agent	Gavin Ball P.O. Box 313 Truckee, CA 96161 gavinball@litol.com									
Project Name	TDRPD Public Pier Replacement Project – Pier 2									
Project Purpose and Description	The proposed Project involves removing the existing pier and replacing it with a new pier eight feet to the west. Eight 8-inch x 8-inch wood pilings will be removed and replaced with four 10.75inch steel pilings.									
Project Type	Outdoor Recreation									
Project County	Nevada									
Project Address or other Locating Information	Northwest side of Donner Lake									
Location Latitude/Longitude	Latitude: 39.324619, Longitude: -120.281128									
Hydrologic Unit	Hydrologic Unit, 635.00									
Overall Project Area	0.018 acres									
Receiving Water(s) Name	Donner Lake									
Water Body Type	Lake									
Designated Beneficial Uses	MUN, AGR, FRSH, NAV, REC-1, REC-2, COMM, COLD, WILD, RARE, SPWN									
Potential Water Quality Impacts	Discharge of materials and wastes into the lake from pier demolition and construction activities and turbidity during pile removal and driving activities.									
Area of Water(s) Within the Overall Project Area	792 square feet									
Impacts of Fill and Excavation to Waters of the State, including Waters of the U.S. (WOUS)	Water -body Type	Temporary			Permanent					
					Physical Loss of Area			Degradation of Ecological Condition		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
<i>Lake</i>	0.00008		0.53	0.00006		0.75				

Table of Project Information (continued):

Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under Nationwide Permits 18 and 33, pursuant to CWA section 404.
Non-Compensatory Mitigation	Construction will occur under a lake level of 5,928 feet above mean sea level or lower to allow for dry operations. An erosion control fence will be installed around the side and downhill perimeter of the Project site. An amphibious vessel will be utilized, with all materials from the demolished pier contained within the vessel or on adjacent piers.
Compensatory Mitigation	None required.
Application Fee	\$200 (Low-Impact Discharge)
Fees Received	\$200
Estimated Annual Active Discharge Fee ¹	\$0
Estimated Post-Discharge Monitoring Fee ¹	\$0

¹The actual Annual Active Discharge Fee will be calculated using the fee schedule in effect at the time the annual fee is assessed per California Code of Regulations, Title 23, section 2200(a)(3).

CEQA COMPLIANCE

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (CEQA; Public Resources Code sections 21000, et seq.). In accordance with section 15302, the basis for CEQA exemption is "Replacement or Reconstruction." A Notice of Exemption (enclosed) will be filed with the State Clearinghouse concurrently with issuing this WQC.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITIONS

The Water Board has adopted a Water Quality Control Plan (Basin Plan) which, in Chapter 4.1, specifies the following discharge prohibitions:

1. *The discharge attributable to human activities, of any waste or deleterious materials to surface waters of the Truckee River Hydrologic Unit or Little Truckee River Hydrologic Unit is prohibited.*
2. *The discharge or threatened discharge attributable to human activities, of any waste to lands within the 100-year floodplain of the Truckee River, Little Truckee River, and their tributaries is prohibited.*

The Project has the potential to discharge waste to Donner Lake, a tributary of the Truckee River, and to lands within the 100-year floodplain of Donner Lake.

BASIN PLAN DISCHARGE PROHIBITION EXEMPTION CRITERIA AND FINDINGS

1. The Water Board may grant exemptions to Prohibition 1, above, provided the following specific criteria are satisfied:
 - a. *The discharge of waste will not, individually or collectively, directly or indirectly, adversely affect beneficial uses.*

The Project will take place above the lake's water level and employ Best Management Practices (BMPs), including an erosion control perimeter fence. Since piling removal and installation will occur on a dry surface, discharges will not affect beneficial uses of Donner Lake.

- b. *There is no reasonable alternative to the waste discharge.*

The Project involves replacing pilings that must be located below the lake's Ordinary High Water Mark to serve its purpose. The primary Project activity that threatens to discharge waste (sediment) is removing the existing wooden pilings and driving the steel pilings into the lake bottom. Since operations will be completed under dry conditions (i.e. above the lake's water level), any waste discharges will be easily contained.

- c. *All applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.*

All debris and staging will be contained on an amphibious vessel. Deploying and maintaining BMPs will minimize potential adverse impacts to water quality and beneficial uses.

2. The Water Board may grant exemptions to Prohibition 2, above, for the repair, replacement, or relocation of existing structures, provided that the repair, replacement or relocation does not reduce or adversely affect the existing floodplain function. Prior to granting any such exemption, the Water Board shall require demonstration by the proposed discharger that all applicable and practicable control and mitigation measures have been incorporated into the project such that potential adverse impacts to water quality and beneficial uses are the minimum necessary to complete the project.

The Project is intended to replace the existing structures located at the site. No loss of floodplain function will occur in implementation of this Project. As noted in exemption findings for Prohibition 1, above, applicable BMPs will ensure adverse impacts of construction on water quality are minimized.

The proposed Project meets the criteria for granting an exemption, as noted above.

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 WOUS 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 the fees required for WQC under section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under Nationwide Permit Nos. 18 and 33 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 WQC:

1. This WQC 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 WQC 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 WQC 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 WQC 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 *Water Quality Control Plan for the Lahontan Region* (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 WQC application that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which this WQC was granted. Any significant changes to this Project that would have a

significant or material effect on the findings, conclusions, or conditions of this WQC, 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 WQC and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this WQC 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 CWA, 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 WQC, 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 CWA.
8. This WQC does not authorize any act which 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 sections 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 WQC, 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 WQC.

Additional Conditions

Pursuant to CCR title 23, section 3859(a), the following additional conditions are requirements of this WQC:

1. The Project must take place when Donner Lake levels are below an elevation of 5,928 feet above mean sea level in order to ensure dry operations.
2. Prior to initiating construction of the Project, the Applicant must provide documentation of whether there are any subsurface utilities in the area of construction. This can be accomplished by: (1) contacting all utilities (both public and private) that provide service in the area and documenting these contacts; (2) contacting Underground Service Alert, and documenting this contact; or (3) some other equivalent affirmative action to determine and document whether or not there are any subsurface utilities in the area of construction. The area of construction is defined as any area within the project boundaries where there will be excavation, construction of borings, or driving of piles or other structures into the subsurface.

If subsurface utilities are located in the construction area, the Applicant must also provide a utility avoidance plan that will be followed during construction.

3. A copy of this WQC Order, a copy of the complete WQC application submitted to the Water Board, and the utility avoidance plan (if required by additional condition above) must be available at the Project site during construction of the Project.
4. To minimize impacts to water quality, an erosion control fence must be used during project implementation. The control measures must be inspected and maintained as necessary to prevent discharge of sediment outside the containment area.
5. Construction equipment must be clean and free from oil, grease, and loose metal material and must be removed from service if necessary to protect water quality.
6. Debris, cement, concrete (or wash water therefrom), oil or other petroleum products must not be allowed to enter into or be placed where they 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 any areas adjacent to the work area where such material may be transported into waters of the state.
7. The Applicant must immediately 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 WQC, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC section 13267(b), 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.
8. An emergency spill kit must be at the project site at all times.
9. The Applicant must permit Water Board staff or its authorized representative upon presentation of credentials:
 - a. Entry onto Project premises, including all areas on which Project activities are located or in which records are kept.
 - b. Access to copy any record required to be kept under the terms and conditions of this WQC.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this WQC.
10. The Applicant must ensure that Contractor employs necessary measures to prevent the introduction or spread of noxious/invasive weeds within the Project and staging areas. These measures may include the treatment of onsite infestations, the cleaning of all equipment and gear that has been in an infested

site, 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.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this WQC, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of CWA 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 WQC.
2. In response to a suspected violation of any condition of this WQC, the State Water Board or the Water Board may require the holder of any permit or license subject to this WQC 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 WQC, the Water Board may add to or modify the conditions of this WQC as appropriate to ensure compliance.

Section 401 Water Quality Certification Requirements Granted

I hereby issue this WQC certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA 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 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, and (b) compliance with all applicable requirements of the Basin Plan.

As a reminder, I would ask that your application be submitted electronically. Please send all correspondence to the Water Board's email address at Lahontan@waterboards.ca.gov and include your Facility Name in the Subject Line.

We look forward to working with you in your efforts to protect water quality. Please contact me at (530) 542-5412 (patty.kouyoumdjian@waterboards.ca.gov), Elizabeth van Diepen, Scientific Aide, at (530) 542-5492 (elizabeth.vandiepen@waterboards.ca.gov), or Alan Miller, Senior Water Resources Control Engineer, at (530) 542-5430 (alan.miller@waterboards.ca.gov) if you have any questions or comments regarding this permit.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Enclosure: CEQA Notice of Exemption [if applicable]

cc: Gavin Ball, Consulting Land Use Planner
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Bill Orme, State Water Resources Control Board, Division of Water Quality
Krystal Bell, U.S. Army Corps of Engineers, Sacramento District
Tanya Sheya, California Department of Fish and Wildlife
Alan Miller, Lahontan Water Board
Elizabeth van Diepen, Lahontan Water Board

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