
State Water Resources Control Board

January 4, 2013

VIA E-MAIL AND U.S. MAIL

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**RE: Administrative Civil Liability Complaint No. R6V-2012-0049,
Issued to Arimol Group, Inc.-Lake Arrowhead
THE PROSECUTION TEAM'S REBUTTAL TO ARIMOL GROUP, INC.'S
EVIDENTIARY SUBMISSION**

TO THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LAHONTAN
REGION:

The Prosecution Team hereby submits its rebuttal to the evidentiary submission made by Arimol Group, Inc. in the above-referenced matter.

First, the Prosecution Team presents the following to rebut Arimol Group, Inc.'s contention that the Site at issue was not a common plan of development, thereby making the General Construction Permit inapplicable.

The five (5) parcels which make up the Site at issue in this matter are a contiguous area where multiple, distinct construction activities have and will take place at different times under one plan. It is shown by the parcel/assessor's map and the actual construction performed at the Site. In addition, Mr. Moller, the owner's representative for the five sites stated as much to Water Board staff when they visited the site in January 2012. At

that time Mr. Moller stated he was developing all five parcels using the same developer to expand the existing Serenity site. This is supported by a recent discussion staff had with the Serenity site director Mr. Bobby Rabun, Mr. Moller's self-proclaimed "right-hand man," wherein he stated the structures being built at the Site are for use as housing units for the camp. Mr. Rabun also informed staff that the buildings at the Site did not have kitchens. These statements, along with the Site's location, support the common plan of development.

In this case the soil disturbance for the common plan of development is greater than one acre, thus triggering the requirement to obtain coverage under the General Construction Permit. In addition, the soil disturbance on the 1.8-acre parcel alone likely equals or exceeds one acre. Therefore, Arimol Group, Inc. was required to obtain coverage under the General Construction Permit.

Second, the Prosecution Team submits the following to rebut Arimol Group, Inc.'s contention that the term "forthwith" does not stand for immediately and therefore submission of its Notice of Intent (NOI) was not due until it deemed it due.

To obtain coverage under the General Construction Permit, the Legally Responsible Person must electronically file permit registration documents, including the NOI, prior to the commencement of construction activity that will result in soil disturbance of one or more acres of land. Arimol Group, Inc. was informed in writing as early as November 21, 2011 (see Exhibit No. 3 - Prosecution Team Written Materials) that Arimol's activities needed to be covered under the General Construction Permit and that by **December 9, 2011** Arimol needed to verify that it had in fact filed a NOI for coverage under the General Construction Permit. Based upon Arimol Group, Inc.'s NOI dated April 13, 2012, it had already been actively developing the 1.8-acre parcel since October 1, 2011 (see Exhibit No. 9, - Prosecution Team Written Materials). Development activities creating the basis for issuing the Notice of Non-Compliance included clearing and grading the majority of the 1.8-acre parcel, as first observed by Lahontan Water Board staff during its October 21, 2011 site inspection.

This is an unusual situation. Most persons, in accordance with NPDES storm water discharge regulations and the General Construction Permit, first seek coverage under the General Construction Permit, and then begin construction upon their permit registration documents being accepted by State Water Board staff. For the Board's convenience we have attached a copy of the April 10, 2012 incomplete NOI that Arimol Group, Inc. submitted, which shows the NOI-related information Arimol Group, Inc. was to have submitted prior to beginning construction activities at the Site. In addition, prior to construction, Arimol Group, Inc. would have been required to submit an application for and received 401 certification, a requirement Arimol Group, Inc. was made aware of in the November 21, 2011 Notice of Non-compliance. (see attached 401 certification application)

Despite assuring the Water Board at every step that Arimol Group, Inc. was attempting to comply with orders from staff, Arimol Group, Inc. did not file an NOI by December 9, 2011, as required by the November 21, 2011 Notice of Non-Compliance. Instead, it waited over four additional months to comply, and only after being ordered to do so by the Water Board's CAO. Therefore, by the time the CAO was issued, the NOI was already over five months past due, based upon the October 1, 2011 construction start date provided in the discharger's NOI.

The discharger's counsel has pointed out that in every case the meaning of "forthwith" depends upon the circumstances of the case and the act to be performed. *Lewis v. Curry* (1909) 56 Cal. 93, 101, 103 P. 493. The Prosecution Team agrees. In this case, the Discharger should have filed its NOI by December 9, 2011. The Discharger had known the need for the NOI since at least November 21, 2011. The NOI is a relatively short form, certified by the Legally Responsible Person, which is to be electronically filed. The Prosecution Team disputes that it takes more than 1 day to file an NOI. The Oxford English Dictionary defines the term forthwith as immediately, without delay. "Forthwith," when used in reference to time, is generally construed to mean without delay. *Bottle Min. & Mill Co. v. Kern*, 99 Pac. 994, 996, 9 Cal. App. 527. Given the circumstances of this case and the act to be performed, forthwith should be interpreted as immediately and the penalty should attach as such. Although it may not necessarily mean a time immediately succeeding without an interval, in this case, given the task at hand, the past Notice of Non-Compliance, and repeated staff requests, it does mean a time immediately succeeding without an interval.

Again, based on Arimol Group, Inc.'s contention that it worked very hard to comply with the CAO, it is hard to believe such NOI couldn't be filed in the month the CAO was issued and Arimol Group, Inc. has yet to put forth any excuse as why it couldn't. In fact, Arimol Group, Inc. has yet to put forth any defense as to why it didn't comply with this request in December of 2011 and why it refused to comply until a CAO was issued.

Finally, the Prosecution Team submits the following information to rebut Arimol Group, Inc.'s contention that the Water Board cannot penalize Arimol Group, Inc. under Water Code Section 13268(b)(1) for submitting incomplete reports. Arimol Group, Inc. contends that Water Code Section 13267 only requires that it submit the reports, as it did.

As set forth in the complaint, Order D.5 of the CAO requires the Discharger to submit a technical report that describes the development plan for the Site and that describes, illustrates, and quantifies all land disturbance activities that have occurred since the Discharger acquired the Site in 2011, including those disturbances to drainages, springs, and other surface waters, as well as those proposed in the overall, larger, development plan for the Serenity Lodge Expansion Project. The Order proceeds to set forth in detail the report required by the Regional Board staff.

As set forth in the complaint, Order D.6 of the CAO requires the Discharger to submit a Surface Water Restoration Plan that included specific information set forth in the order. This included a detailed description and illustration (scaled design plans) of the method(s) proposed to divert any flows within the surface waters during soil-disturbing restoration activities and until the restoration sites have been stabilized and can accept flow without discharging sediment-laden water of the Site. The Order proceeds to set forth in detail the report required by the Regional Board staff.

In its evidence submission, Arimol Group, Inc. fails to include the entire language of 13268, which states as follows:

(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

Section 13267(b) states:

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. [emphasis added]

Therefore, it is not only the failure or refusal to submit a report that triggers a penalty, but failure or refusal to submit a report that contains the information the Regional Board requires that violates 13267(b)(1). In this case, the Regional Board required a report that included all of the items set forth in its CAO, Orders D.5 and D.6. Arimol Group, Inc. failed to provide the technical reports required by the Regional Board and as a result violated section 13267 and is subject to penalties set forth in 13268.

If Arimol Group, Inc.'s interpretation were deemed valid, a discharger could turn in a report with little substance and without the technical information needed and requested and avoid all penalties under this section. Taken to its extreme, dischargers who did not want to invest their time and financial resources into a technical report would need only to submit a written report, with little to no technical data, to avoid any penalties under this section. Such an interpretation is contrary to the purpose and intent of sections 13267 and 13268 and would render the two sections almost unenforceable.



Anna Kathryn Benedict
Senior Staff Counsel
Office of Enforcement

Attachments: Arimol Group, Inc. NOI
 401 Certification Application

cc: Via email only

**Lahontan Regional Water Quality Control
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Water Boards Storm Water Multiple Application & Report Tracking System 2		Help	Logout
You are logged-in as: Jan Zimmerman - If this account does not belong to you, please log out.		Navigate To:	
NOTICE OF INTENT - Owner Information			
The Notice of Intent (NOI) is organized into different sections. Please complete all applicable sections before submitting the form. If you want to complete the NOI at a later time, please click on "Save & Exit".			
WDID:	Owner: Nevada Irrigation District 1036 W Main St Grass Valley CA 95945	Status: In-Preparation	Processed Date:
		Certified Date:	NOT Effective Date:
Business Type: Construction	Site: Serenity Lodge 1031 A Meadowbrook Road Crest Park CA 92326		
Owner Info Developer Info Site Info Addtl Site Info Risk Billing Info Attachments Certification Annual Reports Inspections Violations Enforcement Actions Admin Changes Print Notes Status History			
Property Owner Information Populate Contact Info: <input type="text" value="Select"/>			
Operator/Owner Name:	Nevada Irrigation District	Contact First Name:	Gerald
Street Address:	1036 W Main St	Contact Last Name:	Montgomery
Address Line 2:		Title:	
City/State/Zip:	Grass Valley - CA 95945	Phone:	916-476-4903 * Ext: (999-999-9999)
Type:	Private Business	E-mail:	gerald@montgomery-assoc.com (abc@xyz.com)
Federal Tax Id:			
<input type="button" value="Save & Exit"/> <input type="button" value="Save & Continue"/>			
Fields marked with * are mandatory fields.			
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NOTICE OF INTENT - Site Information			
The Notice of Intent (NOI) is organized into different sections. Please complete all applicable sections before submitting the form. If you want to complete the NOI at a later time, please click on "Save & Exit".			
WDID:	Owner: Nevada Irrigation District 1036 W Main St Grass Valley CA 95945	Status: In-Preparation	Processed Date:
Business Type: Construction	Site: Serenity Lodge 1031 A Meadowbrook Road Crest Park CA 92326	Certified Date:	NOT Effective Date:
Owner Info Developer Info Site Info Addtl Site Info Risk Billing Info Attachments Certification Annual Reports Inspections Violations			
Enforcement Actions Admin Changes Print Notes Status History			
Site Information Same as Owner Info Same As Developer Info Clear Info If Different, enter below			
Site Name:	Serenity Lodge	Contact First Name:	Gerald
Street Address:	1031 A Meadowbrook Road	Contact Last Name:	Montgomery
Address Line 2:		Title:	
City:	Crest Park - San Bernardino - Region 6B	Phone:	916-476-4903 * Ext: (999-999-9999)
County:	San Bernardino *	Emergency Phone:	Ext: (999-999-9999)
Regional Board:	Region 6B - Victorville *	E-mail:	gerald@montgomery-assoc.com (abc@xyz.com)
State/Zip	CA 92326		
Total Site Size:	1.8 * Acres Sqft	Latitude:	34.23519 * Longitude: -117.20436 * ? (Decimal degrees only, minimum 5 significant digits Ex: 99.99999)
Additional Information(Construction Specific)			
Total area to be disturbed:	1.8 Acres *	Percent of Total disturbed:	100 %
Imperviousness Before Construction:	50 % *	Imperviousness After Construction:	50 % *
Tract Number(s):			
Mile Post Marker:			
Is the construction site part of larger common plan of development? <input type="radio"/> Yes <input checked="" type="radio"/> No *			
Name of plan or development:			
Construction commencement Date:	10/01/2011 * (MM/dd/yyyy)		
Complete grading date:		Complete project date:	09/30/2012 * (MM/dd/yyyy)
Type of Construction			
<input checked="" type="radio"/> Construction <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Reconstruction <input type="checkbox"/> Transportation <input type="checkbox"/> Utility: <input type="checkbox"/> Other:			
<input type="radio"/> Linear Utility Project <input type="checkbox"/> Above Ground Electrical <input type="checkbox"/> Below Ground <input type="checkbox"/> Gas Line <input type="checkbox"/> Water/Sewer Line <input type="checkbox"/> Communication Line <input type="checkbox"/> Cable Line			

Other:

Save & Exit

Save & Continue

Fields marked with * are mandatory fields.

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Water Boards Storm Water Multiple Application & Report Tracking System 2

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NOTICE OF INTENT - Risk

The Notice of Intent (NOI) is organized into different sections. Please complete all applicable sections before submitting the form. If you want to complete the NOI at a later time, please click on "Save & Exit".

WDID: Owner: Nevada Irrigation District Status: In-Preparation Processed Date:
1036 W Main St Grass Valley CA 95945 Certified Date: NOT Effective Date:

Business Type: Construction Site: Serenity Lodge
1031 A Meadowbrook Road Crest Park CA 92326

[Owner Info](#) [Developer Info](#) [Site Info](#) [Addtl Site Info](#) [Risk](#) [Billing Info](#) [Attachments](#) [Certification](#) [Annual Reports](#) [Inspections](#) [Violations](#)
[Enforcement Actions](#) [Admin Changes](#) [Print](#) [Notes](#) [Status History](#)

SEDIMENT RISK FACTOR WORKSHEET Instructions: Enter R,K and LS factor values. System will calculate watershed erosion estimates and site sediment risk factor		
A. Sediment Risk		
A) R Factor Value: (What's this?)	98.4 factor	* Instructions to Calculate the R-factor
B) K Factor Value (weighted average, by area, for all site soils) (What's this?) ***If not using the SWRCB map (Populate K Factor) upload your analysis on the Attachment Tab prior to submitting to the SWRCB.	0.24	<input type="button" value="Populate K Factor"/>
C) LS Factor (weighted average, by area, for all slopes) (What's this?) ***If not using the SWRCB map (Populate LS Factor) upload your analysis on the Attachment Tab prior to submitting to the SWRCB.	7.39	<input type="button" value="Populate LS Factor"/>
Watershed Erosion Estimate (=R*K*LS) in tons/acre	174.52	
Site Sediment Risk Factor Low Sediment Risk: < 15 tons/acre Medium Sediment Risk: >= 15 and <75 tons/acre High Sediment Risk: >= 75 tons/acre	High	

RECEIVING WATER (RW) RISK FACTOR WORKSHEET

A. Watershed Characteristics

A.1.(a) Does the disturbed area discharge directly or indirectly to a 303(d) listed waterbody impaired by sediment?	<input type="button" value="Populate Receiving Water Risk"/> No Yes = High, No = Low Statewide Map of High Receiving Water Risk Watersheds	Low
OR		
A.1.(b) Is the disturbed area located within a sub-watershed draining to a 303(d) listed waterbody impaired by sediment?	Yes = High, No = Low Statewide Map of High Receiving Water Risk Watersheds	Low
OR		
A.2. Is the disturbed area located within a planning watershed draining to a waterbody with designated beneficial uses of COLD, SPAWN AND MIGRATORY?		

C. Combined Risk Level Matrix

		Sediment Risk		
		Low	Medium	High
Receiving Water Risk	Low	Level1	Level2	
	High	Level2		Level3

Project Sediment Risk: High
Project Receiving Water Risk: Low
Project Combined Risk: Level2

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Update Regional Board

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**APPLICATION FOR
CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION
AND/OR WASTE DISCHARGE REQUIREMENTS FOR
PROJECTS INVOLVING DISCHARGE OF DREDGED AND/OR FILL MATERIAL
TO WATERS OF THE U.S. AND/OR WATERS OF THE STATE**

California Regional Water Quality Control Board, Lahontan Region (Water Board)

IMPORTANT: Complete this form if you are proposing dredge and/or fill activities in (1) waters of the U.S. subject to a Clean Water Act (CWA) section 404 permit from the U.S. Army Corps of Engineers (Corps) and a state section 401 water quality certification (WQC), or (2) waters of the State, subject to State issuance of Porter-Cologne Water Quality Control Act Waste Discharge Requirements (WDRs)¹. If the project involves a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license, a 401 WQC application should be sent to the State Water Resources Control Board's Division of Water Rights. Please use the *Instructions for Completing the Application (Instructions)* for guidance in filling out this form (see http://www.waterboards.ca.gov/lahtontan/water_issues/programs/clean_water_act_401/index.shtml). **If this application form is not complete, action on your application may be delayed and/or certification may be denied.** When attaching additional sheets to supplement information provided within the form, the **supplemental documents must be specifically referenced (by page number) within the application.**

1. OWNER AND AGENT INFORMATION

a) Applicant name and/or organization:	b) Agent Name and/or Organization (if applicable):
Address:	Address:
Phone No.	Phone No.
Fax No.	Fax No.
E-mail address:	E-mail address:
Have you previously contacted the Water Board staff regarding this project? <input type="checkbox"/> NO <input type="checkbox"/> YES	
Staff contacted _____	Date(s) contacted _____

STATEMENT OF AUTHORIZATION

I hereby authorize _____ to act in my behalf as my agent in the processing of this Clean Water Act Section 401, or other proposed dredge/fill activity, Application (Application), and to furnish upon request, supplemental information in support of this Application.

Applicant's Title and Name

Applicant's Signature

Date

¹ In some cases where a CWA section 404 permit will not be issued by the Corps for the project, coverage under General WDRs (GWDRs) may be appropriate. This application can be used to apply for coverage under the following GWDRs:

- Lahontan Water Board Order No. R6T-2003-0004, *GWDRs for Minor Streambed/Lakebed Alteration Projects Excluding the Lake Tahoe Hydrologic Unit*, for soil disturbing work within the high water mark of water bodies (excluding the Tahoe basin) in the Lahontan Region or the 100-year floodplain areas in the Truckee and Little Truckee River Hydrologic Units, and is not regulated by the Army Corps of Engineers under Clean Water Act section 404.
- State Water Resources Control Board Order No. 2004-0004-DWQ, *Statewide GWDRs for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction*, for projects with proposed dredged and/or fill discharges to waters of the State that do not exceed two-tenths of an acre, 400 linear feet of stream bank or shoreline, and 50 cubic yards of dredged material. ("Waters of the State" is defined pursuant to Water Code section 13050, subdivision (e) as "any surface water or groundwater, including saline waters, within the boundaries of the state.") Additional information and applications for the above-cited Orders can be found at the Water Board's website (<http://www.waterboards.ca.gov/lahtontan/>) under links to Permitting Questions/General Permits.

2. PROJECT INFORMATION

Project Name or Title:	
Project Location Information	
Street Address (if applicable):	
City, Town or Place Name:	
County:	
Latitude and Longitude (in decimal format) for center of project, <u>and</u> either end of project for linear projects <u>or</u> at least 3 locations for non-linear projects	Latitude _____ Longitude _____ (center)
	Latitude _____ Longitude _____
Directions to access site:	
Parcel Number(s) (if applicable):	
Other locating information:	
<input type="checkbox"/> Attach topographic maps and site plans of required quality and detail that clearly indicate the (1) regional location of the project area, (2) existing pre-project conditions, and (3) proposed post-project conditions and the location existing waters on-site or in proximity to the site. See Attachment 1 for map and drawing recommendations.	
Overall Project scope, purpose(s) and final goal (for example: development, stabilization, restoration, replacement, etc.):	
Project Description (Provide a complete detailed description of entire activity. Refer to the checklist in Section 2 of the <i>Instructions</i> for assistance on what information to include. Attach additional pages as necessary.)	
Total Project Size (area within the boundaries of the project in square feet and/or acres):	
Site description of the entire project area (including areas outside jurisdictional waters):	
Area and linear feet of waterbodies present within the Project area: Total Area: _____ square feet _____ acres; Total Linear Feet: _____ feet Type (stream, wetland, lake, playa, riparian):	
Proposed Schedule (proposed start date, duration, inactive periods, and completion dates):	

3. WATERBODY IMPACT: (The following must be completed for each proposed action where fill or other material will be temporarily or permanently discharged to a wetland or other waters of the U.S. or State, and/or where material will be excavated from a waters of the U.S or State. Include any temporary disturbance to wetland or other waters.)

a) Waterbody Name(s) Clearly indicate on a published (for example, USGS) map of suitable detail, quality, and scale to allow the certifying agency to easily identify the area(s) and waterbody(ies) receiving any discharge. Information below should be included on the map. **See Attachment 1 for map and drawing recommendations.**

b) Photos: Original, dated photographs clearly illustrating impact area (location of photo views should be noted on plans; for repairs include photos of existing structures).

c) Fill and Excavation Information: Indicate in ACRES and/or LINEAR FEET the proposed waters to be impacted, and identify the impact(s) as permanent and/or temporary for each waterbody type listed below:

i. Fill-related Impacts (for definition of fill, see <i>Instructions</i>)						
Waterbody Type	Permanent			Temporary		
	Acres	Linear Feet	Fill Volume	Acres	Linear Feet	Fill Volume
Wetland						
Lake						
Stream						
River						
Riparian						
Playa						
Other						

Mark with X all wetland and/or other waters that would be impacted by proposed project:

Riverine	Lacustrine (assoc. w/ lakes)	Palustrine (wet areas – either connected or isolated)	
<input type="checkbox"/> Intermittent Stream	<input type="checkbox"/> Lake	<input type="checkbox"/> Freshwater Marsh	<input type="checkbox"/> Spring
<input type="checkbox"/> Ephemeral Stream	<input type="checkbox"/> Pond	<input type="checkbox"/> Salt Marsh (non-tidal)	<input type="checkbox"/> Bog
<input type="checkbox"/> Creek	<input type="checkbox"/> Lagoon	<input type="checkbox"/> Seasonal Wetland	<input type="checkbox"/> Fen
<input type="checkbox"/> Swale	<input type="checkbox"/> Reservoir	<input type="checkbox"/> Vernal Pool	
<input type="checkbox"/> River	<input type="checkbox"/> Playa	<input type="checkbox"/> Seep	<input type="checkbox"/> Other (_____)
<input type="checkbox"/> Floodplain	<input type="checkbox"/> Other (_____)	<input type="checkbox"/> Wet Meadow/Pasture	

If the proposed Project is in flowing waters:

- (a) Describe how water will be diverted around work area (include Water Diversion Plan, if applicable).

- (b) Flow rates and volumes for the two-, ten-, fifty- and 100-year storm events (Q_2 , Q_{10} , Q_{50} , Q_{100}), or any other recurrent interval determined to be necessary for the full evaluation of effects of the proposed activity, may be required for the completion of the application, at the discretion of the Water Board. If the applicant has knowledge indicating that flow rates and volumes or other pertinent hydrological data would be necessary for the full evaluation of the project, the applicant should provide that information with the application.

- (c) If the proposed Project includes bank hardening, hydraulic constrictions (e.g.; undersized culverts, bridges, etc.) or other potentially channel destabilizing influences, describe how the Project proposes to mitigate these influences.

Indicate all type(s) of material, including earthen, proposed to be discharged to wetlands and/or other waters of State or U.S.:

ii. Dredge/Excavation Impacts (for definition of dredge, see *Instructions*)

Purpose: _____

Is this new dredging or maintenance dredging?

Type of material to be dredged: _____

Dredging Method: _____

Depth below ordinary high water (OHW): _____ Area in acres or square feet: _____

Cubic Yards: above OHW: _____ below OHW: _____

Method of Transfer and Containment: _____

Method and location of spoil disposal: _____

Results of analyses conducted on dredged material composition: _____

Mark with X all wetland and/or other waters that would be impacted by proposed dredging project:

Riverine	Lacustrine (assoc. w/ lakes)	Palustrine (wet areas – either connected or isolated)	
<input type="checkbox"/> Intermittent Stream	<input type="checkbox"/> Lake	<input type="checkbox"/> Freshwater Marsh	<input type="checkbox"/> Spring
<input type="checkbox"/> Ephemeral Stream	<input type="checkbox"/> Pond	<input type="checkbox"/> Brackish Marsh	<input type="checkbox"/> Bog
<input type="checkbox"/> Creek	<input type="checkbox"/> Lagoon	<input type="checkbox"/> Seasonal Wetland	<input type="checkbox"/> Fen
<input type="checkbox"/> Swale	<input type="checkbox"/> Reservoir	<input type="checkbox"/> Vernal Pool	
<input type="checkbox"/> Riparian	<input type="checkbox"/> Playa	<input type="checkbox"/> Seep	<input type="checkbox"/> Other (_____)
<input type="checkbox"/> Floodplain	<input type="checkbox"/> Other (_____)	<input type="checkbox"/> Wet Meadow/Pasture	

d) Is the water body “isolated” (excluded from CWA regulation per Court decisions or CWA exemptions – see *Instructions* for definition of “isolated”)? Yes No If yes, provide U.S. Army Corps of Engineers (Corps) disclaimer letter or other source of disclaimer information.

e) Does the proposed project involve in-channel hydromodification, floodplain modification, stream restoration, or bank stabilization? Yes No

If yes, completing the checklist in Attachment 2 may be required. If the applicant has knowledge sufficient to complete the checklist, the applicant should provide that information with the application. See *Instructions* for more information.

f) Is any portion of the proposed project in a Stream Environment Zone (Lake Tahoe watershed only) or 100-year floodplain of Lake Tahoe or its tributaries (see *Instructions* for definitions)?

Yes No If yes, see Basin Plan prohibition requirements in Attachment 3 for the Lake Tahoe basin. Attach information to support the Water Board findings required to consider exempting the Project from applicable Basin Plan prohibitions.

g) Is any portion of the proposed project in the 100-year floodplain of the Truckee River or its tributaries (see *Instructions* for definitions)? Yes No

If yes, see Basin Plan prohibition requirements in Attachment 4 for Truckee or Little Truckee River watersheds. Attach information to support the Water Board findings required to consider exempting the Project from applicable Basin Plan prohibitions.

4. DELINEATION INFORMATION for WETLANDS AND OTHER WATERS:

Name of person delineating extent of waters of U.S. and/or waters of the State:	Date(s) of delineation (attach delineation worksheets):
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Title:

Affiliation and Statement of Qualifications:

Was the delineation performed according to the Corps’ Supplemental Guidelines?

a) Arid West Supplement: Yes No **b) Western Mountains, Valleys and Coast Supplement:** Yes No

Has the delineation been verified by the Corps? Yes No

If no, provide delineation map sent to Corps for verification. If yes, provide date of verification _____.

Provide a copy of the verification letter from Corps **and verified delineation map** .

5. IMPACT AVOIDANCE

AVOIDANCE OF DIRECT IMPACTS Describe alternatives considered, including alternative sites to avoid impacts to waterbodies within the project area, including, but not limited to, redesigning the project to completely avoid all impacts to waters. See checklist within *Instructions* for assistance on what information to include.

6. IMPACT MINIMIZATION

MINIMIZATION OF DIRECT IMPACTS

a) If project impacts are unavoidable, describe alternatives analyzed to minimize impacts to water bodies within the project area. Examples include, but are not limited to, bridge or arch culvert instead of round culvert, bioengineering stabilization practices instead of riprap alone. Discuss both in terms of temporary (for example, land disturbance by grading) and permanent impacts (for example, new paving). See *Instructions* for assistance on what information to include.

b) List ALL Best Management Practices (BMPs) proposed to minimize impacts during project implementation and post-project to ensure water quality impacts are minimized. See the checklist in the *Instructions* for assistance on what information to include.)

1. Construction BMPs

- Summary of Erosion and Sediment Control and Stormwater Treatment Measures

- Summary of Source Control Measures

2. Post-Construction BMPs

7. COMPENSATORY MITIGATION

This section must be completed if there are unavoidable impacts.

a) Goals of Mitigation:

b) Describe the mitigation area and mitigation site characteristics in a Draft Compensatory Mitigation Plan using the Minimum Requirements for a Draft Compensatory Mitigation Plan in Attachment 5.

7. COMPENSATORY MITIGATION (continued)

c) Proposed Mitigation Site:

Does mitigation involve OFFSITE (outside project area) temporary or permanent impacts not included in this application? Yes No

If yes, has an Application been provided for dredge and fill impacts at the site used for mitigation? Yes No

If not, explain:

d) Indicate in ACRES and LINEAR FEET (where appropriate) the total quantity of wetlands or other **waters** proposed to be created, restored and/or enhanced for purposes of providing compensatory mitigation (see *Instructions* for the terms created, restored, enhanced, preserved):

Water Body Type	Created (acres, linear feet)	Restored (acres, linear feet)	Enhanced (acres, linear feet)	Preserved (acres, linear feet)
Wetland				
Stream				
Lake/Reservoir				
Riparian				
Other				
Isolated Waters				

Is the mitigation site owned by the applicant? Yes No

If no, provide the name(s), address(es), and phone number(s) of the land owner and evidence (e.g., agreements, contracts, etc.) that the applicant has the necessary approvals to implement mitigation at this location. If the land is to be purchased, provide the expected date that the purchase will be complete.

e) Provide the location of the Compensatory Mitigation:

Street Address _____
 County _____ City _____
 Assessor's Parcel Number(s) _____
 Hydrologic Unit, Area, and Subarea _____
 Latitude _____ Longitude _____ (Center Reading)
 Latitude _____ Longitude _____
 Latitude _____ Longitude _____
 Latitude _____ Longitude _____
 Latitude _____ Longitude _____

f) Expected Construction Completion Date for Mitigation:

g) Contact information for person or organization monitoring:

Name: _____ Phone: _____
 Address: _____ Fax: _____
 Email: _____

h) MITIGATION BANK/IN-LIEU FEE PROGRAM (If proposed, See *Instructions*.)

Mitigation Bank/In-Lieu Fee Name: _____
 Name of Mitigation Bank/In-Lieu Fee Operator: _____
 Office Address of Operator/Phone Number: _____
 Mitigation Bank/In-Lieu Fee Location: Latitude: _____ Longitude: _____
 County: _____ City: _____
 Mitigation Bank/In-Lieu Fee Water Body type(s): _____
 Mitigation Area Purchased (acres or linear feet) and cost (dollar): _____

8. THREATENED/ENDANGERED SPECIES

Attach any Biological Assessments, Surveys, Formal Consultation Determination letters, and Mitigation Proposals as necessary, completed or available.

Is coordination with the US Fish and Wildlife Service required for this project according to the Federal Endangered Species Act?
 If yes, list species that could be impacted: _____
 _____,
 and provide Biological Report or Assessment.
 Yes (provide copy of Biological Report) No (explain basis of determination below)

If you have attached additional documentation, cite here and index them within the application package: _____

Is coordination with the State of California Department of Fish and Game required for this project according to the California Endangered Species Act?
 Yes (provide copy of Biological Report) No (explain basis of determination below)

9. FEDERAL PERMIT(S) APPLIED FOR OR ISSUED (e.g., Army Corps of Engineers Clean Water Act Section 404 Permit – Individual or Nationwide) Provide copies of the permit application(s) and name(s) of staff contacts within each agency.

AGENCY & CONTACT INFO	PERMIT TITLE	FILE DATE	FILE NUMBER (if known)	Issuance Date (if issued):	PERMIT TYPE (if known, i.e. Nationwide Permit Number(s), Regional General Permit No.(s), or Individual Permit)
Does the project require a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please submit 401 WQC application to State Water Board.					

10. STATE LICENSE(S), PERMIT(S) OR AGREEMENT(S) APPLIED FOR OR ISSUED

(Please list all other required license(s), permit(s), or agreement(s), including local regulatory approvals, and submit a final or draft copy if available. Include information on any de-watering, NPDES permit, storm water construction permits, or Streambed or Lakebed Alteration Agreements).

AGENCY & CONTACT INFORMATION	LICENSE, PERMIT, or AGREEMENT	PERMIT NUMBER	APPROVAL DATE
Does the project involve more than one acre of land disturbance and thus require an NPDES Storm Water Construction Permit? <input type="checkbox"/> Yes <input type="checkbox"/> No Has a Storm Water Pollution Prevention Plan been prepared? <input type="checkbox"/> Yes (attach copy) <input type="checkbox"/> No If no, explain why no copy has been prepared:			

11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE
(California Public Resources Code section 21000 et seq.)

CEQA Document Type: (Environmental Impact Report, Negative Declaration, etc.) _____
CEQA Project Title: _____
Lead Agency and Contact Information:
Agency: _____ **Contact Name:** _____ **Phone No.:** (____) _____
Address:

State Clearinghouse No.: _____
Has the document been certified/approved by the Lead Agency and/or has a Notice of Exemption been filed?
 Yes No
If yes, include a copy of the certification. If no, provide the expected approval date and document type.

12. APPLICATION FEE

Provide an initial fee deposit of \$944.00 with the application per Title 23, Division 3, Chapter 9, Article 1, Sections 2200, 2200.4, 2200.5 And 2200.6 of the California Code of Regulations. Additional fees, based on the extent of impacts, may be due upon certification. A fee schedule and calculator can be found at: http://www.waterboards.ca.gov/water_issues/programs/cwa401, but if additional fees are required, you will be notified in writing. **Make the check for \$944.00 payable to: State Water Resources Control Board.**
Is a check enclosed?
 Yes: Check Number: _____, **Amount: \$** _____
 No (explain why)

13. PAST/FUTURE PROPOSALS BY THE APPLICANT

Briefly list/describe any projects carried out in the last five years or planned for implementation in the next five years that are in any way related to the proposed activity or that impact the same receiving body of water.

14. HAS ANY PORTION OF THE WORK BEEN INITIATED?

No work within waters of the State and or U.S. has occurred.
 Yes. Describe the initiated work within waters of the State and/or U.S., and explain why it was initiated prior to obtaining a permit. Indicate whether any enforcement action has been taken by any government agency (federal, state, or local agency). Attach additional pages as necessary.

15. CERTIFICATION

The person certifying this application must meet one of the following descriptions and be acting on behalf of the applicant listed in Item 1:

- I certify that I am the owner of property on which proposed project would occur.
- I certify that as a municipal agency, I am a principal executive officer or ranking elected official.
- I certify that as a state agency or other non-federal public agency, I am a principal executive officer or ranking elected official.
- I certify that for a federal agency, I am the chief executive officer of the agency, or I am the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- I certify that I am a general partner for a partnership.
- I certify that I am the proprietor for a sole proprietorship.
- I certify that for a corporation or association, I am the President, Vice President, Secretary, or Treasurer of the corporation or association and in charge of a principal business function, or I perform similar policy or decision making functions for the corporation or association:

- I certify that for a corporation, I am the Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), and authority to sign documents has been assigned or delegated to me in accordance with corporate procedures.
- I certify that for a trust, I am a trustee.

This application and/or discharge report is filed for proposed work impacting waters of the State and/or waters of the U.S. described in this application. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I further certify that I possess the authority to undertake the work described herein. In addition, if impacts to waters deemed by the US Army Corps of Engineers to be outside federal jurisdiction are proposed, I certify that the provisions of Water Board Order R6T-2003-0004 or State Water Board Order No. 2004-0004-DWQ will be complied with.

Signature of Applicant

Date

Print Name & Title of Applicant

Mail the completed application package to the appropriate office based on project location:

For projects north of Conway Summit:

Lahontan Regional Water Quality Control Board
Water Quality Certification Program
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96151

For projects south of Conway Summit:

Lahontan Regional Water Quality Control Board
Water Quality Certification Program
14440 Civic Drive, Suite 200
Victorville, CA 92392

Is your application complete? Did you:

- Include the \$944 application fee?
- Complete all fields within this application, and refer to the *Instructions* for additional guidance on what information is required?

Attachments:

- 1) Minimum Requirements for Maps and Drawings
- 2) Stream Hydrology Checklist
- 3) Exemption criteria for Basin Plan Prohibition for Lake Tahoe and its tributaries
- 4) Exemption criteria for Basin Plan Prohibition for Truckee and Little Truckee Rivers and its tributaries
- 5) Minimum Requirements for a Draft Compensatory Mitigation Plan