

Lahontan Regional Water Quality Control Board

TO: Water Board Members

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

DATE: February 25, 2015

SUBJECT: EXEMPTION TO THE STREAM ENVIRONMENT ZONE WASTE DISCHARGE PROHIBITION WITHIN THE LAKE TAHOE HYDROLOGIC UNIT, BIG MEADOW CREEK WATERSHED FIRE REGIME RESTORATION PROJECT, U.S. FOREST SERVICE LAKE TAHOE BASIN MANAGEMENT UNIT, EL DORADO AND ALPINE COUNTIES

In ten days I intend to grant an exemption to the discharge prohibition specified in the Water Quality Control Plan for the Lahontan Region for the portion of the above-referenced Project involving pile burning in stream environment zones.

The Project involves pile burning in stream environment zones in the multiple locations on the California side of the Lake Tahoe basin. The Project is proposed by the United States Forest Service Lake Tahoe Basin Management Unit and will be implemented primarily by hand crew operations. The purpose of the proposed Project is to improve and restore aspen communities and to address excessive forest fuel loading on the California side of the Lake Tahoe basin.

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 me at patty.kouyoumdjian@waterboards.ca.gov (530.542.5412) or Jim Carolan at jim.carolan@waterboards.ca.gov (530.542-5477).

Attachment: Draft Prohibition Exemption

Lahontan Regional Water Quality Control Board

February 24, 2015

Jeff Marsolais
Forest Supervisor
United States Forest Service – LTBMU
35 College Avenue
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 Project, U.S. Forest Service Lake Tahoe Basin Management Unit, El Dorado and Alpine Counties

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete application for coverage under Board Order number R6T-2014-0030, Conditional Waiver of Waste Discharge Requirements for Waste Discharges Resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region (2014 Timber Waiver), from the United States Forest Service Lake Tahoe Basin Management Unit (Enrollee) for the Aspen Community Restoration Project (Project) in El Dorado and Alpine Counties. 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. 6AT60914122. Please use this reference number in all future correspondence regarding this Project.

PROJECT DESCRIPTION

The purpose of the proposed Project is to improve and restore aspen communities and to address excessive forest fuel loading on the California side of the Lake Tahoe basin. The Project involves removal of conifers from within and adjacent to aspen stands through mechanical and hand crew operations. The Enrollee will use prescribed fire, including both pile and broadcast burning, to dispose of thinned material. The Project includes approximately 278.2 acres of burning treatments in Lake Tahoe Hydrologic Unit Stream Environment Zones (SEZ).

This Project will be regulated under the 2014 Timber Waiver (Board Order No. R6T-2014-0030). The Project requires an exemption to a Basin Plan prohibition to burn a small number of piles, approximately 35, that were placed between 10 and 25 feet distant from Class III watercourses.

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 attributable to human activities of any waste or deleterious material to Stream Environment Zones (SEZs) in the Lake Tahoe HU 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) *There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment below the highwater rim of Lake Tahoe, within the 100-year floodplain, or within the SEZ; and*

The purpose of the Project is to enhance 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 conifer thinning and removal was implemented primarily by hand crews which makes it physically and economically infeasible to relocate the thinned material out of the SEZ. The piles have been curing in their present location for a number of years and moving them further from the Class III watercourses for burning would create a new area of SEZ disturbance.

The Enrollee is implementing the Project to restore aspen communities which have been in decline due to conifer encroachment. Decades of fire suppression and historic land uses have degraded the ecological health and function of aspen stands and the biological diversity they support. This Project will reduce conifer encroachment, the primary risk factor in this area, and thereby increase aspen regeneration, the spatial extent of aspen stands, and the diversity and abundance of aspen community species.

- b) *Impacts are fully mitigated.*

The Enrollee has proposed a list of Design Features and a monitoring program, described fully in Exhibit C of the Enrollee's 2014 Timber Waiver application, which will be used during Project implementation to monitor and mitigate potential impacts to the SEZ. The Design Features are consistent with those listed in Attachment Q of the 2014 Timber Waiver. Attachment Q lists examples of Design Features for pile burning within Waterbody Buffer Zones. The monitoring program is consistent with the 2014 Timber Waiver.

c) *The project is necessary for public health, safety, or environmental protection.*

The burning of these piles is necessary to eliminate this source of residual fuel loading as a result of hand thinning of conifers. Reducing residual fuels is necessary for environmental protection.

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 Enrollee 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 Enrollee originally listed the proposed Project on their Schedule of Proposed Action in January 2008. They then conducted a 30-day public scoping period beginning on September 16, 2008. A 30-day public comment period began on April 3, 2009 for the pre-decision memo. The decision memo implementing the Project was signed by the Forest Supervisor on July 24, 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 Enrollee and interested agencies and persons of its intent to grant this prohibition exemption. This Project will be regulated under the 2014 Timber Waiver. The Enrollee has incorporated appropriate Design Features into the Project and will adhere to the conditions in the 2014 Timber Waiver. 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 Jim Carolan at jim.carolan@waterboards.ca.gov or (530) 542-5477.

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER