
Lahontan Regional Water Quality Control Board

TO: Water Board Members



FROM: Patty Z. Kouyoumdjian
Executive Officer

LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: May 13, 2016

SUBJECT: Exemption to Surface Water Waste Discharge Prohibition within the Lake Tahoe Hydrologic Unit for the Liberty Utilities 650 Transmission Line Upgrade Project, Placer County

In ten days, I intend to sign the enclosed draft 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 install an upgraded power line from Brockway Summit to Kings Beach.

The project will not adversely affect beneficial uses, there is no reasonable alternative to the limited waste discharges proposed, and all applicable controls and mitigation have been incorporated into the Project. The Project meets the findings 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 Bud Amorfini at (530) 542-5463 (bud.amorfini@waterboards.ca.gov), or me at (530) 542-5412 (patty.kouyoumdjian@waterboards.ca.gov), if you have any questions or comments regarding this matter.

Enclosure: Draft Water Quality Certification Order

cc (via email):

: Alissa Turner, Tri Sage Consulting
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Bill Orme, State Water Resources Control Board, Division of Water Quality
Zac Fancher, U.S. Army Corps of Engineers, Sacramento District
Tanya Sheya, California Department of Fish and Wildlife

BA/ma/T: R6T-2016-XXXX_LibUtil650Line401 Exemption Board Notice
File Under: WDID 6A311604002

Lahontan Regional Water Quality Control Board

WDID 6A311604002

Travis Johnson
Liberty Utilities
701 National Avenue
Tahoe Vista, CA 96148
(travis.johnson@libertyutilities.com)

Board Order No. R6T-2016-XXXX Clean Water Act Section 401 Water Quality Certification and Surface Water Waste Discharge Prohibition Exemption for the Liberty Utilities 650 Transmission Line Upgrade Project – Phase 1B, Placer 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 Liberty Utilities (Applicant) for the 650 Transmission Line Upgrade Project - Phase 1B (Project) in Placer County. The application received on April 19, 2016 was deemed complete on April 26, 2016. This Order for WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A311604002. 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 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 or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A311604002
Applicant	Travis Johnson Liberty Utilities 701 National Avenue Tahoe Vista, CA 96148

AMY L. HORNE, PhD, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

Table of Project Information (continued):

Agent	Alissa Turner Tri Sage Consulting 5418 Longley Lane, Suite A Reno, NV 89511
Project Name	Liberty Utilities 650 Transmission Line Upgrade Project – Phase 1B
Project Purpose and Description	<p>The purpose of the Project is to rebuild the existing 650 power line, which is operated at 60kV and serves northern Lake Tahoe. This is the second phase of the Project, of which the first phase was completed in 2015 in the Martis Valley area. The rebuild will allow the line to operate at 120kV capacity and will help address needed electrical reliability improvements. The goals of the Project are to: 1) provide normal capacity for the current and projected loads; 2) provide reliable capacity to assure adequate service to all customers during a single-contingency outage; 3) reduce dependence on the Kings Beach Diesel Generation System; and 4) reduce the risk of the fire hazard and outage durations associated with wooden poles and encroaching vegetation.</p> <p>Construction will consist of installing self-weathering steel poles to replace existing wood poles. The Project consists of rebuilding approximately six (6) miles of existing line, of which approximately 2.2 miles of line will be set back from the existing alignment onto primarily Lake Tahoe Basin Management Unit (LTBMU) lands. The construction activities impacting wetlands and other waters of the U.S. (WOUS) are subject to this Order. New steel poles include direct buried tangent, direct buried and guyed angle, and self-supporting dead-end and/or angle poles with poured-in-place concrete foundations.</p>
Project Type	Utility Line Replacement/Upgrade
Project County	Placer
Project Address or other Locating Information	The Project spans 6.1 miles between Brockway Summit (pole #291170) and the Kings Beach Substation, generally along the State Route 267 alignment. Project components are located on both public and private lands.
Location Latitude/Longitude	Latitude: 39.256768, Longitude: -120.045204
Hydrologic Area	Lake Tahoe Hydrologic Unit (634.00), North Tahoe Hydrologic Area (634.20)
Overall Project Area	6 acres
Receiving Water(s) Name	Lake Tahoe
Water Body Type(s)	Lake
Designated Beneficial Uses	MUN, AGR, IND, GWR, FRSH, POW, REC-1, REC-2, COMM, COLD, WILD, RARE, MIGR, SPWN
Potential Water Quality Impacts	Sediment, turbidity, and construction related pollutants.

Table of Project Information (continued):

Area of Water(s) within the Overall Project Area	0.008 acres								
Impacts of Fill and Excavation to Waters of the State, including 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>Stream Channel</i>	.002	5					.006	22	
Federal Permit(s)	The Applicant has applied for and received coverage under U.S. Army Corps of Engineers (USACE) Nationwide Permit 12 (#2015-00058) pursuant to CWA section 404.								
Non-Compensatory Mitigation	<p>All pole locations have been selected to avoid wetlands and other waters. No vehicle access is required through wetlands. Where vehicles and equipment are required for construction access across drainages, the following procedures will be followed:</p> <p>Streambed and Drainage Crossings</p> <ul style="list-style-type: none"> • Cross, if possible, when streambed is dry. • Install Dry Rock Ford crossings where indicated when a streambed/drainage crossing is required and disturbance of the streambed could result in downstream siltation and/or sedimentation. Most of the Dry Rock Ford (DRF) installations identified occur where DRF crossings already exist, but have degraded to some extent. • Install temporary bridging where indicated when a potentially wet streambed/drainage crossing is required and water passage is to be maintained. All temporary bridging installations are temporary and are to be removed when construction is complete, with streambeds and surrounding areas stabilized as necessary. • Maintain all storm water Best Management Practices (BMPs) and monitor in accordance with the project Storm Water Pollution Prevention Plan (SWPPP). • Remove all temporary construction storm water BMPs at the conclusion of the work, and stabilize all areas disturbed by construction. 								

Table of Project Information (continued):

Compensatory Mitigation	Temporary impacts to 0.002 acres of stream channels will be restored to preexisting conditions by loosening compacted soils, restoring surface residue/organic layer, and reseeded. For permanent impacts to 0.006 acres of stream channel, the Applicant will pay an amount of \$2,106 ¹ to the Truckee River Watershed Council for the purpose of implementing a portion of the Middle Martis Creek Restoration Project. Proof of agreement and confirmation of payment is required by August 1, 2016 .						
	Mitigation for Temporary Impacts (CIWQS mitigation/restoration table side B)						
	Aquatic Resource Type	Unit	Establishment	Re-establishment	Rehabilitation	Enhancement	Preservation
	Stream Channel	Acres		.002			
		Linear Feet		5			
	Mitigation for Permanent Degradation of Ecological Condition (CIWQS mitigation/restoration table side B)						
	Aquatic Resource Type	Unit	Establishment	Re-establishment	Rehabilitation	Enhancement	Preservation
Stream Channel	Acres	.009					
	Linear Feet	33					
Application Fee	\$200						
Fees Received	\$200						
Estimated Annual Active Discharge Fee	\$0 (not applicable to "Low Impact Discharge" projects)						

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

The Water Board has adopted a *Water Quality Control Plan for the Lahontan Region* (Basin Plan) which, in Chapter 5.2, specifies the following discharge prohibition:

1. The discharge attributable to human activities of any waste or deleterious material to surface waters of the Lake Tahoe HU is prohibited.

The Project involves the discharge attributable to human activities of waste (e.g., earthen materials) to minor surface waters (intermittent, ephemeral, and perennial drainages/streams) in the Lake Tahoe HU.

¹ 0.006 acres permanent impact X \$150,000/acre X 1.5:1 mitigation ratio X 1.2 administration cost X 1.3 contingency cost

EXEMPTION CRITERIA AND FINDINGS

An exemption to Prohibition 1 may be granted whenever Water Board finds all of the following:

- a. The discharge of waste will not, individually or collectively, directly or indirectly, adversely affect beneficial uses, and

The total impact to surface waters is less than 350 square feet, which is split between five separate drainage locations. Due to the limited extent of impacts and mitigation described herein, beneficial uses will not be adversely affected.

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

The Project is a linear project that must cross drainages to be completed. All permanent pole locations have been designed to avoid surface waters. However, construction access requires that equipment cross five drainages to complete the Project. There is no reasonable alternative to the waste discharge at these locations.

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

As described in the Table of Project Information herein, all applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.

EXEMPTION GRANTED

Resolution No. R6T-2015-0038 delegates to the Executive Officer the authority to grant exemptions to Basin Plan waste discharge prohibitions. The Project meets the conditions in the Basin Plan for granting an exemption. A notice of exemption will be posted on the Water Board website and distributed through an interested-persons mailing list, allowing at least 10 days for comments to be submitted.

As demonstrated above, the Project meets the conditions and criteria for an exemption to the waste discharge prohibitions. The Project is hereby granted an exemption to the above-cited waste discharge prohibition.

CEQA COMPLIANCE

In accordance with the Memorandum of Understanding dated May 18, 2011, a joint Environmental Impact Report/Environmental Impact Statement/Environmental Impact Statement (EIR/EIS/EIS) was prepared for the Project on behalf of the Tahoe Regional Planning Agency (TRPA) pursuant to article VII of the Tahoe Regional Planning Compact and chapter 5 of the TRPA Code of Ordinances, the California Public Utilities Commission (CPUC) pursuant to the California Environmental Quality Act

(CEQA, Public Resources Code sections 21000, et seq.), and the Lake Tahoe Basin Management Unit (LTBMU) pursuant to the National Environmental Policy Act and Council on Environmental Quality (40CFR sections 1500 et seq.). The CPUC, as lead agency for CEQA, certified the Project EIR and filed a Notice of Determination on April 9, 2015 (State Clearinghouse Number 2012032066).

The Water Board, acting as a CEQA Responsible Agency in compliance with CCR, title 14, section 15096 (g)(2), evaluated the significant and potentially significant impacts to water quality identified in the Final EIR for the Project. The Water Board finds the mitigation measures in the Final EIR to be adequate to reduce significant or potentially significant water quality impacts to less than significant levels.

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 obtained authorization to proceed under the USACE Nationwide Permit No. 12 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 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 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 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 Applicant will pay an amount of \$2,106 to the Truckee River Watershed Council for the purpose of implementing a portion of the Middle Martis Creek Restoration Project. Proof of agreement and confirmation of payment is required by **August 1, 2016**.
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. Debris, cement, concrete (or wash water therefrom), oil or petroleum products, paints, or other hazardous materials must not 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 WQC, 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 and organisms 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 surface waters. The discharge of wastewater to surface waters from rock washing is not authorized by this WQC.
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 kept on all vehicles with accessory fueling capabilities (including gas cans) operating at the Project site at all times.
9. A copy of this WQC 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 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 Order certifying that any discharge from the 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 Resources Control 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.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact me at (530) 542-5412 (patty.kouyoumdjian@waterboards.ca.gov), Bud Amorfini, Engineering Geologist, at (530) 542-5463 (bud.amorfini@waterboards.ca.gov), or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430 (alan.miller@waterboards.ca.gov). **Electronic document submittal is required. Please send your comments or documents to the Water Board's email address at Lahontan@waterboards.ca.gov, and include your WDID No. and Facility Name in the Subject Line.**

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc (via email):

Alissa Turner, Tri Sage Consulting
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Bill Orme, State Water Resources Control Board, Division of Water Quality
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