

Lahontan Regional Water Quality Control Board

TO: Water Board Members

FROM: 
for PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: May 27, 2016

SUBJECT: Exemption to Stream Environment Zone Waste Discharge Prohibition within the Lake Tahoe Hydrologic Unit for the Tahoe Lake Elementary Parking Lot Expansion Project, Placer County, WDID No. 6A311512002

In ten days, I intend to sign the enclosed letter 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 a culvert in a portion of an ephemeral drainage on the school property to expand the Tahoe Lake Elementary School parking lot for public safety.

The Project meets requirements for a public safety 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 (Elizabeth.vanDiepen@waterboards.ca.gov) if you have any questions or comments regarding this matter.

Enclosure: Draft Water Quality Certification Order

cc (via email): Jorge Rojas, Tahoe Truckee Unified School District
Kevin Derby, Dudek
Katherine Waugh, Dudek
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Bill Orme, State Water Resources Control Board, Division of Water Quality
Aaron Park, U.S. Army Corps of Engineers, Reno Office
Patrick Moeszinger, California Department of Fish and Wildlife
Elizabeth van Diepen, RWQCB, Lahontan

Lahontan Regional Water Quality Control Board

WDID 6A311512002

Jorge Rojas
Tahoe Truckee Unified School District
11603 Donner Pass Road
Truckee, CA 96161
irojas@ttusd.org

**Board Order No. R6T-2016-XXXX, Clean Water Act Section 401
Water Quality Certification for Tahoe Lake Elementary Parking Lot
Expansion Project, 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 filing fee from the Tahoe Truckee Unified School District (Applicant) for the Tahoe Lake Elementary Parking Lot Expansion Project (Project) in Placer County. The application received on December 1, 2015 was deemed complete on April 18, 2016. This WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A311512002. 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	6A311512002
Applicant	Jorge Rojas Tahoe Truckee Unified School District 11603 Donner Pass Road Truckee, CA 96161

Table of Project Information (continued):

Agent	Kevin Derby Dudek 853 Lincoln Way, Suite 105 Auburn, CA 95603									
Project Name	Tahoe Lake Elementary Parking Lot Expansion									
Project Purpose and Description	The proposed Project expands and reconfigures the parking lot servicing the school. The need for the Project is to provide an adequate circulation route for buses and vehicles and safe access for students in the drop-off/pick-up area. The student population and number of classroom buildings have increased so the current parking lot is unsafe for the number of students attending the school and associated vehicular traffic. The proposed Project adds fill (culvert and rock inlet/outlet protection) to approximately 0.01 acre of an ephemeral drainage that carries runoff from the school's impervious surfaces (buildings, blacktop, and parking lots).									
Project Type	Fill/excavation									
Project County	Placer									
Project Address or other Locating Information	Tahoe Lake Elementary School 375 Grove Street Tahoe City, CA 96145									
Location Latitude/Longitude	Latitude: 39.1739, Longitude: -120.1427 Latitude: 39.1728, Longitude: -120.1418 Latitude: 39.1742, Longitude: -120.1431									
Hydrologic Unit(s)	Lake Tahoe Hydrologic Unit (HU) 634.00, North Tahoe Hydrologic Area 634.20									
Overall Project Area	7.4 acres									
Receiving Water(s) Name	Unnamed tributary to Lake Tahoe									
Water Body Type(s)	Ephemeral Stream									
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, REC-1, REC-2, COMM, COLD, WILD, BIOL, SPWN									
Potential Water Quality Impacts	Sediment and other construction-related pollutants									
Area of Water(s) Within the Overall Project Area	0.01 acres									
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>									
	<i>Riparian</i>									
<i>Stream</i>				0.01						
<i>Wetland</i>										
Federal Permit(s)	The Applicant has been granted authorization to proceed by the U.S. Army Corps of Engineers (USACE) under Nationwide Permit 18, pursuant to CWA section 404, and conditioned upon the Water Board issuing a WQC.									

Table of Project Information (continued):

Non-Compensatory Mitigation	Work will be conducted in the dry season after any flows in the channel cease. Temporary best management practices (BMPs), including erosion and sediment controls, will be installed during construction.						
Compensatory Mitigation	In lieu fees will be paid to the National Fish and Wildlife Federation (NFWF) for 0.01 acre of permanent impacts at the ratio of 2.5:1.						
	Total Ecological Restoration and Enhancement Quantity for Temporary Impacts (CIWQS mitigation/restoration table side B)						
	Aquatic Resource Type	Unit	Establishment	Re-establishment	Rehabilitation	Enhancement	Preservation
Stream Channel	Acres			0.025			
	Linear Feet						
Applicable Fees	Low impact discharges						
Fees Received	\$200						

CEQA COMPLIANCE

Placer County certified a Mitigated Negative Declaration (State Clearinghouse No. 2016022023) on February 5, 2016 and filed a Notice of Determination on April 7, 2016 for the Project, pursuant to the California Environmental Quality Act (CEQA, Public Resources Code 21000 et seq.).

The Water Board, acting as a CEQA Responsible Agency in compliance with CCR, title 14, section 15096, has considered Placer County’s Mitigated Negative Declaration (MND) for the Project and mitigation measures incorporated into the MND to reduce potentially significant water quality impacts to less than significant. As a result of the analysis, the Water Board finds, with the conditions required herein, the mitigation measures in the MND are adequate to reduce potentially significant water quality impacts to less than significant. This WQC includes mitigation monitoring requirements for impacts to waters of the state, including WOUS.

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:

“3. The discharge attributable to human activities of any waste or deleterious material to Stream Environment Zones (SEZs) in the Lake Tahoe HU is prohibited.”

The Project involves the discharge attributable to human activities of waste to surface waters within an SEZ in the Lake Tahoe HU.

EXEMPTION CRITERIA AND FINDINGS

The Water Board may grant exemptions to Prohibition 3, above, under the following circumstances:

For public service facilities if all of the following findings can be made:

- (a) The Project is necessary for public health, safety or environmental protection.

The Project will update outdated facilities to provide a safer and more modern campus for the students and faculty. The pickup and drop-off parking lot is shared by parents and school buses. Increased student numbers in the undersized parking facility created an unsafe pickup/drop-off scenario for elementary school children and their families. The Project includes design elements to address the safety issues associated with the current student pickup/drop-off zone and bus circulation, and is therefore, necessary for public safety.

- (b) There is no reasonable alternative, including spans, that avoids or reduces the extent of encroachment.

The Project is located in an area confined by Grove Street to the northeast, the elementary school campus to the west/northwest, and a baseball field to the southeast. Expansion to the west/southwest is the only reasonable option that meets the Project's safety-related objectives. The Applicant has selected the Project alternative with the least amount of SEZ impacts that also meets the Project objective related to improving public safety. There is no reasonable alternative that would avoid or reduce the extent of SEZ encroachment.

- (c) The impacts are fully mitigated.

Drainage from the school will still flow through natural drainage areas before entering Lake Tahoe. Temporary construction BMPs and rock energy dissipation will be used for the culvert installation in the channel. Permanent post-construction erosion control measures will be implemented as part of the parking lot and school facility reconfiguration/renovation. The impacts are fully mitigated by these measures and mitigation described in (d), below.

- (d) SEZ lands are restored in an amount 1.5 times the area of SEZ developed or disturbed by the Project.

The Applicant will participate in the Sacramento District In-Lieu Fee Program administered by NFWF to mitigate for proposed impacts at a ratio of 2.5:1 (0.025 acre). This mitigation ratio exceeds and satisfies the minimum mitigation ratio of 1.5:1. The funds will specifically be applied to the Lake Tahoe Aquatic Resource Service Area.

(e) Wetlands are restored in an amount at least 1.5 times the area of wetland disturbed or developed. Certain wetlands may require restoration of greater than 1.5 times the area disturbed or developed.

The Project does not impact wetlands.

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.

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 certification under section 401 for the Project. The USACE has authorized the Project to proceed under Nationwide Permit No. 18, pursuant to CWA section 404, and conditioned upon the Water Board issuing this WQC.

CCR, title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny certification for projects in accordance with CWA section 401. The Project qualifies for such certification.

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 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 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 Applicant must provide documentation to the Water Board verifying the purchase of mitigation credits equal to 0.025 acres from the USACE Sacramento District In-Lieu Fee Program within the Lake Tahoe Watershed (Hydrologic Area 634.20). The Applicant must provide proof of payment to NFWF to the Water Board by **September 30, 2016**.
2. 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.
3. 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.
4. 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 Water Code 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.
5. An emergency spill kit must be at the Project site at all times.
6. 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 SEZ fill or SEZ mitigation is 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.
7. 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.

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, Chief, North Basin Regulatory Unit, at (530) 542-5430 (Alan.Miller@waterboards.ca.gov), if you have any questions or comments regarding this permit. **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 Project/Facility Name in the Subject Line.**


PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc (via email): Kevin Derby, Dudek
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