



**Lahontan Regional Water Quality Control Board**

April 22, 2014

Kansas McGahan  
Placer County Department of Public Works  
P.O. Box 336  
Kings Beach, CA 96143

**BOARD ORDER NO. R6T-2014-0031, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND BASIN PLAN PROHIBITION EXEMPTION FOR THE LAKE FOREST WATER QUALITY IMPROVEMENT PROJECT, PLACER COUNTY, WDID 6A311308004**

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 Placer County Department of Public Works (Applicant) for the Lake Forest Water Quality Improvement Project (Project) in Placer County. The Water Board also received information to support granting an exemption to a waste discharge prohibition in the Water Board’s Water Quality Control Plan for the Lahontan Region (Basin Plan). This Order for WQC and waste discharge prohibition exemption hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A311308004. 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**PROJECT DESCRIPTION**

**Table of Project Information:**

WDID Number	6A311308004
Applicant	Kansas McGahan Placer County Department of Public Works P.O. Box 336 Kings Beach, CA 96143
Project Name	Lake Forest Water Quality Improvement Project

**Table of Project Information continued:**

Project Purpose and Description	The purpose of the Project is to improve water quality runoff discharged to Lake Tahoe by providing erosion control and replacing roadside ditches with created stream channels and wetlands. The Project is in an area with multi-family and single family residential land uses and commercial/industrial businesses and involves three elements: (a) erosion control/stormwater improvement, (b) stream restoration, and (c) recreation. The water quality and erosion control improvements consist of improving conveyance; reducing overflow onto roadways; installing water quality treatment facilities, drop inlets and sediment traps with sumps; channel improvements; roadway repaving, curb and gutter; and shoulder rehabilitation. The stream restoration component consists of removal of roadside ditches and creation of restored stream channel and wetland creation. The recreation component consists of installing boardwalks to enhance water quality by keeping people and pets from disturbing the reconstructed stream reaches and to improve existing trail access.						
Project County	Placer						
Project Type	Stream restoration, erosion control / storm water improvement, and recreation.						
Project Address or other Locating Information	Lake Forest, approximately 3 miles east of Tahoe City						
Location Latitude/Longitude	Latitude: 39.1867 Longitude: -120.118434						
Hydrologic Unit(s)	Lake Tahoe Hydrologic Unit, 634.00						
Project Area	173 acres						
Receiving Water(s) Name	Lake Tahoe						
Water Body Type(s)	Drainage channels, wetlands, and Lake Tahoe						
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, REC-1, REC-2, COMM, COLD, WILD, MIGR, SPWN, WQE, FLD						
Potential Water Quality Impacts	Sediment from the construction of the Project, including temporary impacts from excavation, dewatering and discharge of construction-related materials downstream.						
Area of water(s) of the U.S. (WOUS) within the Project area	1.42 acres and 3,417 linear feet						
Impacts of Fill within waters of the state (WOS), including WOUS.	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>		1148			1378	
	<i>Wetland</i>	0.02			0.12		
Federal Permit(s)	The Applicant has applied for and received U.S. Army Corps of Engineers (USACOE) authorization to proceed under Nationwide Permit No. 27, pursuant to CWA section 404, contingent upon the issuance of this WQC.						

**Table of Project Information continued:**

Non-Compensatory Mitigation	Best Management Practices (BMPs), including temporary erosion control fencing and runoff protection, will be employed on the site at all times and throughout construction. Dewatering and diversion plans are required as a condition of the WQC. Construction site monitoring and reporting plan for required mitigations.					
Compensatory Mitigation for Fill within WOS, including WOUS.	<b>Waterbody Type</b>	<b>Created for Permanent Impacts</b>		<b>Restored for Temporary Impacts</b>		<b>Preserved</b>
		Acre or Linear Feet	Mitigation Ratio	Acre or Linear Feet	Mitigation Ratio	Acre or Linear Feet
	<i>Lake</i>					
	<i>Riparian</i>					
	<i>Stream</i>	1,514 ft.	1.32 : 1	1378 ft.	1:1	894 ft.
	<i>Wetland</i>	0.21 ac.	2.65 : 1	0.12	1:1	1.28 ac
Compensatory Mitigation	The 0.12 acre of wetlands temporarily disturbed at the Project site will be restored at the same location. 0.06 acre of wetland restoration will be attained from the creation of 0.21 acres near the stream outflow at Lake Forest Beach. The permanent and temporary stream impacts will be mitigated with creation or restoration (see above table and Figure 1).					
Applicable Fees	\$1,201 (\$1,201 base fee + \$0 for restoration project impacts to Federal Jurisdictional waters).					
Fees Received	\$1,201					

**CEQA COMPLIANCE**

The Applicant adopted a Mitigated Negative Declaration (MND) for the Lake Forest Erosion Control Project – Area B (State Clearing House Number 20080122067) in December 2008, and filed a Notice of Determination (NOD) on February 25, 2009, pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq.) and the state CEQA Guidelines.

The Water Board, acting as a CEQA Responsible Agency in compliance with CCR, title 14, section 15096, evaluated the significant and potentially significant impacts to water quality identified in the MND for the Project. 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 Order includes mitigation monitoring requirements for impacts to WOS, including WOUS.

**WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION**

To protect beneficial uses and achieve water quality objectives for the waters in the Lake Tahoe Hydrologic Unit, the Basin Plan specifies the following discharge prohibition:

*The discharge or threatened discharge, attributable to new development in Stream Environment Zones, of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral or earthen materials, to Stream Environment Zones in the Lake Tahoe Basin is prohibited. (Chapter 5, Waste Discharge Prohibitions, page 5.2-4)*

The Project involves new soil disturbance and the discharge of earthen materials within stream environment zones (SEZs) in the Lake Tahoe Hydrologic Unit. This Project includes stream restoration, erosion control, and recreation elements within SEZs associated with unnamed tributaries in the Lake Forest area south of State Route 28 (roadside drainages adjacent to Lake Forest Road, Bristlecone Street, Panorama Drive and Meadowbrook Drive).

### **Prohibition Exemption Criteria For Restoration and Erosion Control**

The Basin Plan allows exemptions to the above-cited discharge prohibition for activities in SEZs of the Lake Tahoe Hydrologic Unit for erosion control, habitat restoration, wetland rehabilitation, SEZ restoration and similar projects, such as this one, provided that findings are made to support the exemption criteria below (Basin Plan page 5.8-7).

#### ***(a) The project, program, or facility is necessary for environmental protection.***

The Project is designed to improve the quality of the stormwater and snowmelt runoff that currently drains from the neighborhood of Lake Forest directly into Lake Tahoe. The Project consists of erosion control/water quality improvements and the enhancement and restoration of drainage and stream features that have been degraded by human activity. The erosion control elements include improved culvert conveyance (lessening overflow onto roadways), water quality treatment facilities, drop inlets and sediment cans with sumps, channel improvements, roadway repaving, curb and gutter, and shoulder rehabilitation.

The stream restoration element includes two unnamed stream reaches: one near the shore of Lake Tahoe at the intersection of Bristlecone Street and Aqua Drive, and one within the northeast portion of Skylandia Park south of Lake Forest Road at Aspen Street. Restoration of the first reach involves the realignment and creation of approximately 200 feet of channel through an adjacent meadow and includes a channel inset into a lowered floodplain that will provide an aquatic enhancement to the degraded meadow. Creation of a new channel in the second reach involves a new tributary and main channels located away from the roadway that will include a low-flow channel, a vegetated floodplain, and a sediment basin at the upstream end to collect coarse sediment and road sand.

The total amount of permanent and temporary disturbance to SEZ required for this element of the Project is 143,718 square feet (3.3 acres). However, 97,364 square feet (2.2 acres) is paved or otherwise previously disturbed. Of this previously disturbed SEZ, 1,533 square feet (0.03 acre) will be restored by eliminating parking and restoring the area. The remaining 46,354 square feet (1.1 acre) of undisturbed SEZ will be temporarily impacted to construct the restoration components of the Project, which will enhance 106,806 square feet (2.4 acres) of SEZ. These improvements are necessary for environmental protection because the existing development and human uses in the area have caused water quality degradation that this project will improve.

***(b) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the SEZ.***

Restoration is in the area of impacted SEZ. No reasonable alternative to the proposed Project would reduce the extent of encroachment in the SEZ and still meet the purpose of the Project.

***(c) Impacts are fully mitigated.***

Temporary impacts to SEZs will be mitigated by using erosion and sediment control BMPs, including use of soil binders, filter fences, fiber rolls, and gravel-bags; preservation of existing vegetation seeding and mulching; and revegetation of areas where clearing of vegetation or grading is required. Permanent impacts to SEZs in the Project area, including boardwalk and bridge footings, will be mitigated through SEZ restoration and wetland creation. The temporary disturbance to the undisturbed 46,354 square feet (1.1 acres) of SEZ from this component of the Project will be mitigated by the channel and wetland creation proposed in two areas of the Project, which will enhance 106,806 square feet (2.4 acres). The Applicant will implement construction BMPs, as described within the Project's application for WQC, the MND, and in the Storm Water Pollution Prevention Plan (SWPPP). BMPs are required to minimize temporary disturbance in the SEZ and prevent construction activities from discharging sediment and other pollutants to the lake, tributaries and surrounding SEZ areas. A dewatering and/or water diversion plan is required as a condition of this WQC. Impacts are fully mitigated.

**Prohibition Exemption Criteria For Recreation**

The recreational improvements of this Project do not exceed the size limits for public recreation projects sited in SEZs that may be authorized by the Executive Officer under Resolution No. R6T-2008-0031, which delegates the authority to the Executive Officer to grant exemptions to the discharge prohibitions if recreation projects meet these specific conditions: (1) less than 2000 square feet of new ground disturbance in SEZ, and (2) less than 100 cubic yards of fill or excavation in SEZ will occur. The Project involves new permanent disturbance to SEZ for the purpose of providing public recreation (and for keeping people on existing trails, thereby reducing erosion). The following findings are made to support the exemption criteria in the Basin Plan for outdoor public recreation facilities:

**(a) The Project, by its very nature, must be sited in a SEZ.**

The Project will permanently impact 440 square feet of previously undisturbed SEZ due to the recreation component of the Project. The disturbance entails construction of a boardwalk, which will connect to an existing trail system and will keep pedestrians out of the restored channel. Due to the location of the existing trail and extent of SEZ, the Project, by its very nature, must be sited in SEZs.

**(b) There is no feasible alternative which would reduce the extent of SEZ encroachment.**

The trail has been designed and sited to minimize SEZ encroachment by reducing the trail footprint to the greatest extent possible in SEZ areas, while providing recreational benefits and water quality improvements. The boardwalk portion of the trail system will be constructed on concrete support structures and will otherwise avoid disturbance within the SEZ. There is no feasible alternative to connect the trails.

(c) Impacts are fully mitigated.

Temporary impacts to SEZs will be mitigated by using erosion and sediment control BMPs, including seeding and mulching; revegetation of areas where clearing of vegetation or grading is required; and use of filter fences, fiber rolls, and gravel-bags. Permanent impacts to SEZs in the Project area, including boardwalk, will be mitigated through SEZ restoration and wetland creation.

(d) SEZs are restored in an amount 1.5 times the area of SEZ disturbed or developed for the project.

The Project will incorporate SEZ restoration in excess of 1.5 times the amount of permanent disturbance proposed in these areas. The Project will result in 440 square feet (0.01 acre) of new SEZ disturbance for the boardwalk, and will involve placement of 60 cubic yards of fill. The Project as a whole will restore approximately 1,533 square feet (0.035 acres) of previously impacted SEZ at the Project site and enhance 106,806 square feet (2.4 acres) of undisturbed SEZ.

Resolution No. R6T-2008-031, delegates authority to the Water Board Executive Officer to grant exemptions to the above-referenced discharge prohibition for projects that satisfy criteria specified in Resolution No. R6T-2008-031. The criteria that the Project must satisfy are:

1. *The Executive Officer has the authority to authorize the Project under an existing general permit, general waiver or individual water quality certification order, excluding projects that require a Board action; and*
2. *The Project meets the exemption or exception criteria set forth in the Basin Plan; and*
3. *The Project's primary purpose is to reduce, control or mitigate existing sources of erosion or water pollution; or*
4. *The public recreation project is with the following specific size limitations:*
  - *Less than 2000 square feet of new ground disturbance, and*
  - *Less than 100 cubic yards of fill or excavation.*

The primary purpose of the Project is to reduce, control and mitigate existing sources of erosion. The recreation element of the Project meets the above size limitations for the Executive Officer to authorize the Project under this WQC. The Project meets the criteria necessary for the Executive Officer to grant an exemption.

**Exemption Granted**

As demonstrated above, the Project meets the conditions and criteria for an exemption to the above-cited SEZ discharge prohibition. The Applicant has incorporated appropriate BMPs into the Project to ensure that erosion and surface runoff problems caused by the Project are minimized to levels of insignificance. The Project is hereby granted an exemption to the above-cited waste discharge prohibition. Except in emergency situations, the Executive Officer shall notify the Board and interested members of the public of the intent to issue an exemption at least ten days before the exemption is issued. A notice of exemption will also be posted on the Water Board website and distributed through an interested persons mailing list allowing at least ten days to submit comments.

**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. Placer County (Applicant) submitted a complete application and the fees required for WQC under section 401 for the Project. The Applicant has received USACOE authorization to proceed under a Nationwide Permit No. 27 pursuant to CWA section 404 contingent upon receiving this WQC. 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 Lake Forest Water Quality Improvement Project qualifies for such WQC.

**Standard Conditions**

Pursuant to CCR title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification 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 certification 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 application for WQC that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, 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 certification and/or civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification 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 certification, 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 certification 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 (California Fish and Wildlife Code section 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 certification, 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 certification.



### **Additional Conditions**

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

1. The Applicant must implement the Lake Forest Monitoring and Reporting Plan provided to the Water Board on March 27, 2014.
2. The Applicant must provide a report by **December 15, 2014** to the Water Board documenting the as-built project, including the restoration and recreation components of the Project. The report must include a final-grade topographic map and must describe any problems encountered or variances from the approved design. The report must also include photographs showing the sites before and after construction.
3. The Applicant must provide monitoring reports on the restoration of the two wetland restoration sites beginning on **December 15, 2015** and continuing annually for a total period of five years (**December 15, 2016, December 15, 2017, December 15, 2018, and December 15, 2019**).
4. A dewatering and/or diversion plan must be provided to the Water Board **30 days prior to commencement** of the Project or by **June 1, 2014**, whichever is earliest.
5. A qualified professional with experience in hydrology and wetland restoration must monitor the implementation of the restoration components of the Project site. Any additional work or variation from the described work, which may result in additional or increased impacts to SEZ or WOS (including quantity or quality of water or habitat) or reduce the amount of wetland created, is not authorized unless approved in writing by the Executive Officer prior to implementation.
6. The Applicant must prevent the introduction or spread of noxious/invasive weeds associated with the Project. These measures may include the treatment of on-site 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.
7. No debris, cement, concrete (or wash water therefrom), oil or petroleum products must be allowed to enter into or be placed where it may be washed from the Project site by rainfall or runoff into WOS. When operations are completed, any excess material must be removed from the Project work area and any areas where such material may erode into WOS.
8. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
9. All rock, gravel bags, or other construction-related materials imported to the Project site and placed at the Project site must be clean, washed, and free of any adhered soil material.

10. The Applicant must temporarily stabilize the site from erosion (winterize) prior to October 15 in a manner that will remain effective until May 1 of the following year.
11. 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 Order, 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 one week of occurrence. The written notification must identify the adverse condition, describe the actions taken or necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.
12. 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 wetland fill or wetland 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 Order.
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
  - d. Sampling of any discharge or surface water covered by this Order.
13. An emergency spill kit must be at the Project site at all times.
14. The Applicant must maintain a copy of this Order at the Project site so as to be available during construction to site operating personnel and agencies.

### **Enforcement**

1. In the event of any violation or threatened violation of the conditions of this certification, 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 certification.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this certification 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 certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

**Section 401 Water Quality Certification Requirements Granted**

I hereby issue an Order 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 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 certification 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 order, 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 Tobi Tyler, Water Resources Control Engineer, at (530) 542-5435, or Alan Miller, P.E., Chief, North Basin Regulatory Unit, at (530) 542-5430.



PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

Enclosure: Figure 1, Vicinity Map  
Figure 2, Project Improvements

cc: Ashley Santti, Wood Rogers, Inc.  
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9  
(via email at [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov))  
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