

Lahontan Regional Water Quality Control Board

September 21, 2015

Beth Howard
Trimont Land Company
P.O. Box 129
Truckee, CA 96160

BOARD ORDER NO. R6T-2015-0055, CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR THE NORTHSTAR BASIN RETROFIT PROJECT AT THE VILLAGE AT NORTHSTAR, PLACER COUNTY, WDID 6A311503008

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application and application filing fee for the Northstar Basin Retrofit Project (Project) in Placer County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A311503008. Please use this reference number in all future communications 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, 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	6A311503008
Applicant	Beth Howard Trimont Land Company P.O. Box 129 Truckee, CA 96160
Agent	JoAnne Michael Resource Concepts, Inc. 340 N. Minnesota Street Carson City, NV 89703
Project Name	Northstar Basin Retrofit Project

KIMBERLY COX, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

Table of Project Information continued:

Project Purpose and Description	The Project purpose is to eliminate the infiltration of storm water runoff from the impervious areas of the Village at Northstar, as required by a court order. The proposed Project will replace above-ground portions of the existing temporary storm drain system with permanent flow-through treatment units. Stormwater treatment retrofit will include three (3) below-grade filter treatment systems, with an outfall for discharging overflows to the West Fork of West Martis Creek by way of an existing unused storm water channel that will be reconstructed and restored.						
Project Type	Stormwater Runoff Retrofit, Outfall Structure						
Project County	Placer						
Project Address or other Locating Information	Village at Northstar parking areas Placer County, CA						
Location Latitude /Longitude	Latitude: 39° 16'35" Longitude: 120° 07'11"						
Hydrologic Unit(s)	Truckee River Hydrologic Area, 635.20						
Project Area	8,351 square feet						
Receiving Water(s) Name	West Fork of West Martis Creek						
Water Body Type(s)	Stream						
Designated Beneficial Uses	MUN, AGR, GWR, REC-1, REC-2, COMM, COLD, WILD, RARE, MIGR, SPWN						
Potential Water Quality Impacts	Discharge of plastic and earthen materials into West Fork of West Martis Creek and its associated 100-year floodplain during installation of a storm water overflow discharge pipe and associated restoration activities.						
Area of Water(s) of the U.S. (WOUS) within the Project Area	8,351 square feet						
Project Impacts (Fill) to Waters of the State, including WOUS	Water body Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	0.002	30	7			
	<i>Wetland</i>						
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under Nationwide Permit No. 43 pursuant to Clean Water Act section 404.						
Non-Compensatory Mitigation	Throughout implementation of the Project, the Applicant will follow Best Management Practices (BMPs) described in the Application and designed to minimize the degradation of water quality.						

Table of Project Information continued:

Compensatory Mitigation	Mitigation for disturbance within the 100-year floodplain of the West Fork of West Martis Creek will be provided by restoring floodplain functions in the disturbed area.			
	Total Ecological Restoration and Enhancement Quantity for Temporary Impacts (CIWQS mitigation/restoration table side B)			
	Aquatic Resource Type	Unit	Establishment	Preservation
	Stream Channel	Acres		0.002
		Linear Feet		30
Wetland	Acres			
Applicable Fees	\$200 (low impact project)			
Fees Received	\$200			

CEQA COMPLIANCE

The Applicant adopted a Mitigated Negative Declaration (MND) for the Project (State Clearing House Number 2015072024) and filed a Notice of Determination on September 2, 2015, 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 California Code of Regulations, title 14, section 15096, evaluated the significant and potentially significant impacts to water quality as 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 waters of the state, including WOUS.

WASTE DISCHARGE PROHIBITIONS

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains certain waste discharge prohibitions that apply to the Truckee River Hydrologic Unit (HU No. 636), including prohibitions 1 and 2, respectively, which state:

1. The discharge, attributable to human activities, of any waste or deleterious materials to surface waters of the Truckee River HU or Little Truckee River HU is prohibited.

And

2. The discharge or threatened discharge, attributable to human activities, of waste to lands within the 100-year floodplain of the Truckee River, Little Truckee River, and their tributaries is prohibited.

The Project involves discharges that would violate the above-cited prohibitions as it involves alterations within the 100-year floodplain of the West Fork of West Martis Creek, a tributary of the Truckee River. The Project consists of removing existing above-ground portions of the storm drain system (including an infiltration basin and associated bio swales) and replacing them with permanent treatment units to respond to requirements in a court order. This stormwater treatment retrofit will include the installation of one (1) new below-grade filter treatment unit and re-establishment of a storm water channel which will convey bypass flows from the new treatment unit to the West Fork of West Martis Creek by way of an existing channel that will be reconstructed and restored. Modifications to West Fork Martis Creek are also needed to stabilize the creek in the vicinity of the storm water system outfall.

BASIN PLAN DISCHARGE PROHIBITION EXEMPTION CRITERIA AND FINDINGS

The Water Board may grant an exemption to prohibition 1 above, when the Water Board finds all of the following criteria are satisfied:

1. *The discharge of waste will not individually or collectively, directly or indirectly, adversely affect beneficial uses.*

The Project waste discharge will not adversely affect applicable beneficial uses in West For of West Martis Creek. Discharges associated with improving the storm drainage channel and connection to West Fork of West Martis Creek are designed to provide stable conveyance to maintain existing in-stream habitat uses. The discharge following construction will be highly-treated stormwater from the Northstar Village. Based on engineering analysis provided by the Applicant, flood flows from the Project will result in nearly undetectable increases in flood elevations in West Fork of West Martis Creek compared to existing conditions.

2. *There is no reasonable alternative to the waste discharge.*

The Project is located within the surface waters of the West Fork of West Martis Creek, and no reasonable project alternative exists that would preclude a discharge. After analyzing various alternatives, a new storm drain outfall is needed to comply with the court order, or the existing outfall would require expansion; either alternative would involve a waste discharge.

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

All applicable and practicable control and mitigation measures have been incorporated into the Project to minimize any discharges of wastes to surface waters during and following construction with the use of stormwater treatment systems, management practices for construction activities, and containment for turbid waters from work underground and in creek areas. The Project incorporates appropriate

temporary BMPs that include minimizing disturbance to existing vegetation, pine needle wattles, straw wattles, erosion control fencing, and drop inlet filter baskets. Implementation of permanent BMPs that will adequately protect water quality and beneficial uses include the installation of a new storm water treatment unit and restoration of the overflow channel.

The Water Board may grant exemptions to the above-cited prohibition 2 for certain project categories within the 100-year floodplain, including:

1. *Projects involving the repair, replacement, or relocation of existing structures, provided such activities does not reduce or adversely affect the existing floodplain function.*

The existing floodplain functions will not be adversely affected based on the flows analyzed. Proposed restoration components will enhance the existing floodplain function by providing additional vegetation and floodplain area, and will enhance creek bank and bed features for the continued stable conveyance of stream flows.

2. *The project incorporates all applicable and practicable control and mitigation measures such that adverse impacts to water quality and beneficial uses are the minimum necessary to complete the project.*

The Project will incorporate appropriate temporary BMPs as previously described. Impacts to the West Fork of West Martis Creek have been minimized to those necessary to provide for stable conveyance of flows.

The proposed Project meets the criteria for granting an exemption as noted above.

DELEGATION OF AUTHORITY FOR GRANTING AN EXEMPTION

Resolution No. R6T-2015-0038 delegates to the Executive Officer the authority to grant exemptions to Basin Plan waste discharge prohibitions. A draft notice of exemption was posted on the Water Board's website allowing at least ten (10) days to submit comments.

PROHIBITION EXEMPTION GRANTED

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

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. Trimont Land Company (Applicant) submitted a complete application and the fees required for WQC under section 401 for the Project. The Applicant has applied for USACE authorization to proceed pursuant to CWA section 404 and received authorization under Nationwide Permit No. 43.

California Code of Regulations (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 certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California 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 California 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 certification 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 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 Clean Water Act, 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 Clean Water Act.
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 (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 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/ Monitoring and Reporting Requirements

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

1. All temporary BMPs must be inspected by Project personnel daily during project construction. The Applicant must maintain daily inspection logs on site during Project construction and provide a copy of inspection logs to Water Board staff upon request.
2. Initial restoration actions in the 100-year floodplain area must be accomplished before October 15, 2015, unless a variance to the ground disturbance prohibitions is granted by the Executive Officer. Temporary BMPs must be maintained in the disturbed areas until the restoration is completed and the areas are stabilized to prevent erosion.

3. Mitigation Monitoring Requirements

- a. The Applicant must ensure that all biotechnical stabilization and restoration elements of the Project are fully incorporated through Project construction, including the use of native vegetation, as described in the revegetation plan in the Project Improvement Plans. Monitoring of post-project vegetation conditions must follow guidelines and timelines as specified in these additional conditions. Monitoring must continue until vegetation and relative soil stability are established, and all project elements are effectively achieving their objectives, including, but not limited to, successful revegetation, and stream channel (bed and bank) stabilization.
 - b. Revegetation success criteria are based on a comparison to similar, undisturbed nearby areas, and must meet or exceed what is observed in these areas. Success criteria must include the following elements: soil moisture and compaction, native species composition, and percent cover (vegetative and total). Monitoring must include post-construction photographs and evaluation of the above criteria elements to confirm that the revegetation is successful. Monitoring must continue for a minimum three years or until the revegetation effort meets final success criteria as determined by the Water Board.
 - c. An annual report is required, providing detailed information covering revegetation and re-stabilization activity, a comparison of site conditions to interim and final success criteria, photo monitoring, and any corrective actions implemented in response to failing to meet interim or final success criteria, should such actions become necessary. The annual report must address site conditions from October 1 through September 30 of the following year, and must be received by the Water Board by **November 1 following the end of each monitoring period. The first annual report is due November 1, 2016.**
4. Prior to the initiation of any in-stream work in the West Fork of West Martis Creek, the Applicant must implement the diversion and dewatering plan provided to the Water Board.
 5. A copy of this WQC Order, and a copy of the complete WQC application submitted to the Water Board must be available at the Project site during construction of the Project.
 6. No debris, wood wastes, cement, concrete (or wash water therefrom), oil or petroleum products may 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.

7. 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 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.
8. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
9. An emergency spill kit must be at the Project site at all times.

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 Clean Water Act 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 this Order certifying that any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act 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 Dale Payne, Environmental Scientist, at (530) 542-5464 (Dale.Payne@waterboards.ca.gov), or Alan Miller, P.E., 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):

JoAnne Michael, Resource Concepts, Inc.
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Aaron C. Park, U.S. Army Corps of Engineers, Reno Office
Bill Orme, State Water Resources Control Board, Division of Water Quality
Patrick Moezinger, California Department of Fish and Wildlife