

Lahontan Regional Water Quality Control Board

October 26, 2015

Lisa Wallace
Truckee River Watershed Council
P.O. Box 8568
Truckee, CA 96162

BOARD ORDER NO. R6T-2015-0066, CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND SURFACE WATER AND FLOODPLAIN PROHIBITION EXEMPTION FOR THE MIDDLE MARTIS CREEK WETLAND RESTORATION PROJECT, PLACER COUNTY, WDID NO. 6A311408003

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 from the Truckee River Watershed Council (Applicant) for the Middle Martis Creek Wetland Restoration Project (Project) in Placer County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A311408003. 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, 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	6A311408003
Applicant	Lisa Wallace Truckee River Watershed Council PO Box 8568 Truckee, CA 96162
Agent	Beth Christman Truckee River Watershed Council Bchristman@truckeeriverwc.org

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

Project Name	Middle Martis Creek Wetland Restoration Project			
Project Purpose and Description	The purpose of this Project is to restore a historic flow path of Middle Martis Creek on the north side of Highway 267 that was modified and reduced during construction of Hwy 267 in the late 1950s. The Project will increase riparian and wetland habitat on the north side of Highway 267. The Project will improve flood attenuation, reduce erosion, and improve fish habitat in the area.			
Project Type	Restoration			
Project County	Placer			
Project Address or other Locating Information	Adjacent to Highway 267, between Martis Estates Road and Martis Wildlife Area near Martis Lake.			
Location Latitude/Longitude	Latitude: 39.30309, Longitude: -120.11319			
Hydrologic Area	Hydrologic Area 635.20			
Overall Project Area	11 acres			
Receiving Water(s) Name	Middle 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	Sediment, turbidity, and construction related pollutants.			
Area of Water(s) within the Overall Project Area	49 acres			
Total Ecological Restoration and Enhancement Quantity	Aquatic Resource Type	Unit	Enhancement	Restoration
	Stream Channel	Linear Feet	200	8,000
	Wetland	Acres	20	
Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Nationwide Permit 27, pursuant to Clean Water Act section 404.			
Non-Compensatory Mitigation	Work will be done when meadows are dry and/or be protected from equipment impacts. A site-specific SWPPP will be prepared. Standard construction BMPs will include delineating access routes, installing ESA fencing to protect existing vegetation, using sediment, stabilization, and stockpile BMPs, using wind erosion protection measures, and installing track-out controls.			
Compensatory Mitigation	None required for restoration Project. Approximately 20 acres of historical wetlands to be enhanced and approximately 8,200 linear feet of stream channel to be restored/enhanced.			
Applicable Fees	\$200 (flat fee for restoration projects).			
Fees Received	\$1,201 (refund of \$1,001 to be processed)			

100-YEAR FLOOD PLAIN WASTE DISCHARGE PROHIBITION

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. 635), including prohibitions 1 and 2, which state:

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

Prohibition 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."

PROHIBITION EXEMPTION

The Basin Plan provides for certain exemptions to the waste discharge prohibitions and states:

For waste earthen materials discharged as a result of restoration projects, exemptions to the above prohibitions, and all other prohibitions contained in this Basin Plan, may be granted by the Regional Board's Executive Officer whenever a specific project meets all of the following criteria:

1. The project will eliminate, reduce or mitigate existing sources of soil erosion, water pollution, and/or impairment of beneficial uses of water, *and*

The Project purpose is to restore historical wetland habitat, and reduce flooding and erosion problems.

2. There is no feasible alternative to the project that would comply with the Basin Plan prohibitions, *and*

The Project objective is to restore wetland habitat in the specific location; therefore, there is no feasible alternative that would avoid disturbance to the Basin Plan prohibition areas and still achieve the Project's objectives.

3. All applicable and practicable control and mitigation measures have been incorporated into the project to minimize land disturbance, soil erosion, discharges of turbid water, and other potential adverse impacts to water quality and beneficial uses to the minimum necessary to complete the project.

The Project will be completed using appropriate temporary stormwater and erosion controls under an approved pollution control plan. All applicable and practicable control measures have been incorporated into the plan to avoid potential adverse impacts to water quality and beneficial uses.

DELEGATION OF AUTHORITY FOR GRANTING AN EXEMPTION

The Water Board has delegated authority to grant exemptions for Basin Plan waste discharge prohibitions to the Executive Officer pursuant to Resolution No. R6T-2015-0038 for specific discharges where the proposed Project meets the conditions in the Basin Plan.

PROHIBITION EXEMPTION GRANTED

As demonstrated above, the Project meets the conditions and criteria for an exemption to the above-cited waste discharge prohibitions. A draft notice of exemption was posted on the Water Board website and distributed through an interested person's mailing list allowing at least ten days to submit comments. The Project is hereby granted an exemption to the above-cited waste discharge prohibitions.

CEQA COMPLIANCE

Placer County, as lead CEQA agency for the Project, circulated for public comment a Mitigated Negative Declaration (MND) for the *Middle Martis Creek Wetland Restoration Project* (State Clearinghouse Number 2015082057) on August 27, 2015 pursuant to the California Environmental Quality Act (CEQA, Public Resources Code sections 21000, et seq.) and the State CEQA Guidelines. The comment period ended September 25, 2015 and no comments were received. Filing of a Notice of Determination (NOD) by Placer County is pending.

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 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 waters of the U.S (WOUS).

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 applied for USACE authorization to proceed under Nationwide Permit No. 27 pursuant to CWA section 404.

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 Middle Martis Creek Wetland Restoration 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 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 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

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

1. The Applicant must prepare and implement a site-specific dewatering plan if dewatering activities are necessary. The plan must be available for Water Board review upon request prior to initiating any work. At a minimum, the plan must address the following elements:
 - a. Design of clear water diversion structure
 - b. Dewatering waste disposal method(s)
 - c. Sediment and erosion control methods
 - d. Monitoring and reporting plan
2. Debris, cement, concrete (or wash water therefrom), oil or petroleum products, paints, or other hazardous materials must not be allowed to 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 any areas adjacent to the work area where such material may be transported into waters of the state.
3. The Applicant must notify Water Board staff by telephone within 24 hours whenever an adverse condition occurs as a result of a discharge. Such 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.

4. 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.
5. Rock materials must be washed and free of adhered soil materials prior to placement into 100-year floodplains or surface waters. The discharge of wastewater to surface waters from rock washing is not authorized by this Order.
6. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
7. An emergency spill kit must be at the Project site at all times.
8. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.
9. By **December 31, 2016**, submit to this office documentation that demonstrates the Project has been constructed pursuant to the plans reviewed by this office. This report must also:
 - a. Provide baseline vegetative monitoring data of all revegetated and wetland restoration areas.
 - b. Identify vegetative monitoring data that will be used to evaluate revegetation and habitat restoration areas.
 - c. Identify transects, photo points, or other methods that will be used to evaluate revegetation and river channel habitat restoration success efforts.
10. By **December 31, 2017**, submit to this office the results of the Year 1 revegetation and restoration monitoring.
11. By **December 31, 2018**, submit to this office the results of the Year 2 revegetation and restoration monitoring.
12. By **December 31, 2019**, submit to this office the results of the Year 3 revegetation and restoration monitoring.

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.

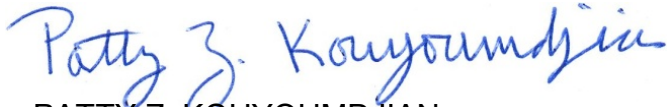
Section 401 Water Quality Certification Requirements Granted

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 Bud Amorfini at bud.amorfini@waterboards.ca.gov (530) 542-5463 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): Beth Christman, Truckee River Watershed Council
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Bill Orme, State Water Resources Control Board, Division of Water Quality
Will Ness, U.S. Army Corps of Engineers, Sacramento District
Garry Kelley, California Department of Fish and Wildlife