

Lahontan Regional Water Quality Control Board

June 27, 2013

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

R6T-2013-0053, ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND FLOODPLAIN PROHIBITION EXEMPTION FOR THE SNOW CREEK STREAM ENVIRONMENT ZONE RESTORATION PROJECT, WDID 6A311207002, PLACER COUNTY

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 Snow Creek Stream Environment Zone (SEZ) Project (Project) in Placer County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A311207002. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A311207002
Applicant	Kansas McGahan (Applicant) Placer County Department of Public Works Tahoe Design Division P.O. Box 336 Kings Beach, CA 96143
Agent	Stefan Schuster CDM Smith, Inc. 12313 Soaring Way Truckee, CA 96161
Project Name	Snow Creek SEZ Restoration Project

Table of Project Information continued:

Project Purpose and Description	The Applicant will restore the site of a former concrete batch plant to improve water quality protection. The Project will remove fill, install stormwater treatment facilities, restore wetland and SEZ and construct a sidewalk and multi-use trail.						
Project Type	SEZ Restoration Project, multi-use trail installation						
Project County	Placer County						
Project Address or other Locating Information	450/500 National Avenue, Tahoe Vista, CA 96168						
Location Latitude/Longitude	Latitude: 39.2247; Longitude: 120.0483						
Hydrologic Unit(s)	Hydrologic Unit, 634.00						
Overall Project Area	6 acres						
Receiving Water(s) Name	Lake Tahoe, Snow Creek						
Water Body Type(s)	Seasonal wetland, intermittent stream, and SEZ						
Designated Beneficial Uses	MUN, AGR, GWR, REC-1, REC-2, COMM, COLD, WILD, SPWN						
Potential Water Quality Impacts	Dewatering, diversion, placement and removal of fill, erosion, stormwater runoff						
Area of Water(s) within the Overall Project Area	0.08 acre of seasonal wetland 0.26 acres of stream						
Project Impacts (Fill) to Waters of the State, including Waters of the U.S. (WOUS)	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>				32		
	<i>Wetland</i>	0.002	54	130	0.01	115	70
Project Impacts (Excavation) to Waters of the State, including WOUS.	Waterbody Type	Permanent			Temporary		
		Acres / Sq. Ft.	Linear Feet	Cubic Yards	Acres / Sq. Ft.	Linear Feet	Cubic Yard
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>	0.02		130			
	Total	0.02		130			
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a Nationwide Permit 33 and 42, pursuant to Clean Water Act section 404.						
Non-Compensatory Mitigation	Site-specific Best Management Practices (BMPs) will be used through Project completion to control erosion.						
Compensatory Mitigation	The permanent impacts to SEZ and wetlands from placement of footings for proposed trail boardwalk will be offset by a minimum of 1.5:1. The actual ratio of restored to impacted SEZ and wetlands will exceed 1.5:1; 0.004 acres of wetlands and 1.2 acres of SEZ will be restored, and 0.25 acres of wetlands will be created.						
Applicable Fees	\$944 Low Impact Discharges/Restoration Project						
Fees Received	\$944						

CEQA COMPLIANCE

Placer County adopted a Mitigated Negative Declaration (State Clearinghouse No. 2011092035) on November 15, 2011, and filed a Notice of Determination on November 15, 2011, 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 with mitigation. 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.

DISCHARGE PROHIBITION FOR THE LAKE TAHOE HYDROLOGIC UNIT

The Water Quality Control Plan for the Lahontan Region (Basin Plan) contains waste discharge prohibitions that apply to the Lake Tahoe Hydrologic Unit, including prohibition 13, which states:

13. 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 or earthen materials, to Stream Environment Zones in the Lake Tahoe Basin is prohibited.

EXEMPTION GRANTED

Resolution No. R6T-2013-0052 for the Snow Creek Stream Environment Zone Restoration Project and Recreation Trail, Placer County Department of Public Works – Exemption to Waste Discharge Prohibition Contained in the Basin Plan, was considered and adopted at the June 19, 2013 Water Board Meeting in Lee Vining. The Project was granted an exemption to the above-cited waste discharge prohibition for impacts associated with restoration activities and new development of a multi-use trail for recreation.

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 Snow Creek SEZ Restoration Project. The Applicant has applied for USACOE authorization to proceed under Nationwide Permit No. 42 pursuant to CWA section 404.

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

Standard Conditions

Pursuant to CCR title 23, section 3860, the following standard conditions are requirements of this 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 WQC 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 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. Mitigation of SEZ and jurisdictional wetland disturbance must occur through restoration, including implementation and monitoring as specified in the final submitted Project description and Final Mitigation Plan (dated April 17, 2013, prepared by CDM Smith for Placer County Department of Public Works).
2. All temporary best management practices must be inspected (a) daily during Project construction and (b) weekly during the October 15 to May 1 period(s), when not snow-covered, to ensure they are functioning properly. The Applicant must maintain and keep daily inspection logs onsite during active Project construction and provide a copy of inspection logs and records of any corrective actions to Water Board staff.
3. A detailed dewatering plan must be submitted prior to the start of any such activity. The dewatering plan must include details regarding pumping or removal methods, capture and containment, duration, and disposal specifications. If a diversion is required, similar specifications must be provided. Upland disposal sites must be considered unless demonstrated to be infeasible.
4. a. The Applicant must ensure that all wetland/SEZ restoration elements of the Project are fully incorporated through Project construction activities. Monitoring of post-Project vegetation conditions must follow guidelines as specified in the Final Mitigation Plan. All Project elements must effectively achieve their objectives, including successful revegetation, and stream channel (bed and bank) stabilization.

b. Revegetation implementation and subsequent monitoring in SEZ and wetland areas must follow guidelines and timelines as specified in the above-mentioned Mitigation Plan. A compatible and appropriate seed mixture for the existing vegetation and soil conditions at the Project site is required to be used. 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 and until the revegetation effort meets final success criteria.

- c. An annual report providing detailed information including revegetation and soil stabilization activity, a comparison of site conditions to interim and final success criteria, photo monitoring, and any corrective actions implemented in order to meet interim or final success criteria, should such actions become necessary. The annual report shall address site conditions from October 1 through September 30 of the following year, and must be received by the Water Board by December 1 following the end of each monitoring period. **The first annual report is due December 1, 2014. Subsequent annual reports are due on December 1, 2015, and December 1, 2016.**
5. The Applicant must stabilize from erosion all areas of temporary impacts to waters of the state and all other areas of temporary upland disturbance that could result in a discharge or a threatened discharge to waters of the state for the Project to be considered complete.
6. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Control measures may include removing existing invasive vegetation, cleaning all equipment and gear prior to use on the Project site, using weed-free erosion control materials (including straw), and using weed-free seeds and plant material for revegetation of disturbed areas.
7. 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.
8. 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.
9. Wetland areas that will be avoided near Project and/or staging areas must be protected by colored construction fencing or equivalent barriers.
10. Water Board staff must be notified 48 hours prior to commencement of ground disturbance.
11. 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.

12. No debris, cement, concrete or concrete wash water, oil or petroleum products may be placed or stockpiled where it could be conveyed from the Project site by rainfall or runoff into waters of the state. When operations are complete, any excess material must be removed from the Project work area and from any areas adjacent to the work area where such material could be transported into waters of the state.
13. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
14. An emergency spill kit must be at the Project site at all times.
15. 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.

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 an 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 WQC" 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, or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430.


PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Stefan Schuster, CSM-Smith
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Kristine S. Hansen, U.S. Army Corps of Engineers, Reno Office
Bill Orme, State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)
Garry Kelley, California Department of Fish and Game