

Lahontan Regional Water Quality Control Board

February 27, 2013

John Baker
Tahoe Boat Company Owner's Association
P.O. Box 10200
Truckee, CA 96162

ORDER NO. R6T-2013-0017, CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND NOTICE OF APPLICABILITY FOR COVERAGE UNDER THE MARINA GENERAL PERMIT FOR TAHOE CITY MARINA MAINTENANCE DREDGING PROJECT, PLACER COUNTY, GENERAL PERMIT NO. R6T-2011-0024, WDID NO. 6A311009001

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, a Notice of Intent (NOI) to comply with the *National Pollutant Discharge Elimination System General Permit for Industrial Activities and Maintenance Dredging at Marinas in the Lake Tahoe Basin*, Board Order No. R6T-2011-0024 (Marina General Permit), and application filing fee for the Tahoe City Marina Maintenance Dredging Project (Project). We have reviewed these and other supplemental materials you have provided. Based on the information contained in your submittal, it is our determination this Project meets the required conditions to be approved under the Marina General Permit. All of the requirements for maintenance dredging contained in the Marina General Permit are applicable to your Project. This Notice of Applicability (NOA) for coverage under the Marina General Permit and Order for WQC hereby assigns this Project the following reference numbers: Marina General Permit No. **R6T-2011-0024-016** and Waste Discharger Identification (WDID) No. **6A311302001**. Please use these reference numbers in all future correspondence regarding this Project. A copy of the Marina General Permit may be found at the Water Board website at:

http://www.waterboards.ca.gov/lahontan/water_issues/programs/permitting/index.shtml.

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.

Table of Project Information:

WDID Number	6A311302001
Applicant	Tahoe City Marina – Tahoe Boat Company Owner's Association (Applicant) P.O. Box 10200 Truckee, CA 96162
Agent	Abigail Edwards, Kaufman Planning P.O. Box 253 Carnelian Bay, CA 96140
Project name	Tahoe City Marina Maintenance Dredging Project
Project purpose and description	To dredge approximately 253 cubic yards (cy) of material from the Tahoe City Marina to a depth of 6,219 feet above Lake Tahoe Datum using clam shell excavation. The 253 cy consists of 220 cy of sediment and sand and 33 cy of rock that have fallen out of the crib wall. The dredging site and following activities will be entirely contained within turbidity curtains. The crane excavator will be located on a barge in the marina. Dredged material will be placed into dumpsters on the barge. The dredged material will be dewatered by a drain at the bottom of each dumpster. Once the material is dewatered, the dumpsters will be sealed and transferred with an excavator to another barge outside the turbidity curtain. The second barge will then be moved to the truck loading area where the dumpsters will transferred into sealed trucks and transported to Tahoe Truckee Sierra Disposal.
Project Type	Maintenance Dredging
Project County	Tahoe City, Placer County
Project Address or other Locating Information	700 North Lake Blvd.
Location latitude/longitude	Latitude: 39.1722; Longitude: 120.1365
Hydrologic Unit(s)	North Tahoe Hydrologic Area 634.20 in the Lake Tahoe Hydrologic Unit, 634.00
Project area	2.5 acres
Receiving Water(s) Name	Lake Tahoe
Water Body Type(s)	Lake
Designated Beneficial Uses	MUN, AGR, GWR, NAV,, REC-1, REC-2, COMM, COLD, WILD, BIOL, MIGR, SPWN
Area of Water(s) of the U.S. (WOUs) within the Project Area	2.5 acres
Potential Water Quality Impacts	Discharge of waste earthen materials from dredging activities.

Table of Project Information (continued):

Project Impacts (Dredge) to Waters of the state, including WOUs.	Waterbody Type	Permanent			Temporary		
		Acres / Sq. Ft.	Linear Feet	Cubic Yards	Acres / Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>	0.12 acres		253 cy			
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>						
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under Nationwide Permit No. 35, pursuant to Clean Water Act section 404 and Section 10 of the Rivers and Harbors Act.						
Non-compensatory mitigation (for dredge and fill discharge to waters of the state)	To minimize turbidity, all dredging will be done behind turbidity curtains, which will remain until the turbidity is reduced to acceptable levels, as specified in the Marina General Permit. The dredged material will be transported in the sealed dump trucks to an approved disposal site.						
Applicable fees	\$982 (\$944 application filing fee + \$38 for 253 cubic yards of dredging material at \$0.15 per cubic yard)						
Fee received	\$982						
Fee due	\$0						

CEQA Compliance

Water Board staff have determined that this Project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.). In accordance with CEQA Guidelines Section 15304(g), the basis for CEQA exemption for the dredging operations is "Minor Alterations to Land." The Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with this Order.

Monitoring And Reporting Program No. R6T-2011-0024

This is a maintenance dredging project. In accordance with Marina General Permit No. R6T-2011-0024, the Applicant must adhere to the monitoring and reporting requirements specified in Attachment E, Section IV.C, Maintenance Dredging Monitoring. It is your responsibility to ensure that all required water and soil analyses are conducted in accordance with the reporting requirements and limits specified in the Monitoring and Reporting Program for Marina General Permit No. R6T-2011-0024.

Section 401 Water Quality Certification

The Water Board has received information and applicable filing fees from Kaufman Planning, agent on behalf of the Applicant, to complete a Clean Water Act (CWA) Section 401 WQC application for this Project. This Order for WQC is based upon the information provided in the application and subsequent correspondence.

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 WOU, shall 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. On behalf of the Applicant, Kaufman Planning has submitted a complete application and the appropriate fee for WQC under Section 401 for the Project. The USACOE will regulate the Project under Nationwide Permit No. 35 pursuant to section 404 of the CWA and Section 10 of the Rivers and Harbors Act.

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 Section 401 of the CWA. Maintenance dredging and filling activities qualify 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 shall 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 shall be conditioned upon total payment of the full fee required under CCR Section 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 Water Quality Control Plan for the Lahontan Region (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 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 requirements of the applicable 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. This WQC Order authorizes a one-time maintenance dredging operation at the entrance channel to Tahoe City Marina for removing up to 253 cubic yards of dredged material to a **lake bottom depth elevation of 6,219 feet** Lake Tahoe Datum.
2. Turbidity curtains must be used during Project implementation to effectively contain and isolate wastes from dredging and prevent turbidity from lakebed sediments outside of the curtained area.

3. Prior to initiating construction of the Project, the Applicant must provide documentation of whether there are any subsurface utilities in the area of construction. This can be accomplished by: (1) contacting all utilities (both public and private) that provide service in the area, documenting these contacts; (2) contacting Underground Service Alert, documenting this contact; or, (3) some other equivalent affirmative action to determine whether or not there are any subsurface utilities in the area of construction. The area of construction is defined as any area within the Project boundaries where there will be excavation, construction of borings or driving of piles. If subsurface utilities are located in the construction area, the Applicant must also provide a utility avoidance plan that will be followed during construction.
4. A copy of this WQC Order, a copy of the complete WQC application submitted to the Water Board, and the utility avoidance plan (if required by additional condition above) must be available at the Project site during construction of the Project.
5. **By June 1, 2013 or within 60 days of Project completion (whichever comes first)**, you must provide to this office a technical report describing (a) the actual final depths in the area of the dredging activities and (b) the volumes of material dredged from the area. This report must evaluate a statistically representative portion of the dredged area, and include a certification from a California licensed land surveyor or registered civil engineer that the elevations, as measured after dredging operations are completed, are as reported.
6. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging areas. Measures may include, but are not limited to, the treatment of on-site infestations and the cleaning of all equipment and gear that has been at an infested site.
7. Dumpsters must be sealed to prevent discharge of dredged material after placement outside of the curtained area and into the trucks. No discharge is allowed after dredged material is placed outside the curtained area.
8. Water Board staff must be notified within twenty-four hours prior to commencement of the dredging operations.
9. Construction and mechanical equipment must be monitored for leaks, and removed from service if necessary to protect water quality. Mechanical equipment that will be submersed in Lake Tahoe during the dredging operation must be steam-cleaned and inspected for leaks prior to use.
10. Dredging operations must cease immediately if inclement weather or wave and/or wind action threatens to cause suspended sediment discharges to spread turbidity beyond the area surrounding the dredging equipment on the small barge. The Applicant must take immediate action to ensure that turbidity outside the curtained containment area is kept to a minimum at all times, even in adverse conditions, such as high winds, wave action or currents.

11. In addition to complying with the monitoring and reporting requirements specified in Marina General Permit R6T-2005-0015-A1, which state that turbidity measurements must be taken every 2 hours from a location along approximately a 20-foot radius of the dredging equipment during the dredging operation, if a sediment plume is visible outside of the turbidity curtains, the Applicant must immediately measure the turbidity within the plume area. The Applicant must also delineate the size of the area by visually documenting the extent of the plume with a series of at least six photographs. Turbidity measurements may be taken with a hand held field meter. The sample location and sample results must be recorded in a logbook and faxed to the Water Board at (530) 544-2271 within 12 hours of taking the turbidity measurement.
12. The use of chitosan or any flocculent to reduce turbidity in the lake is prohibited.
13. An emergency spill kit must be at the Project site at all times.
14. The Applicant is responsible for informing any contractors of the specific conditions contained in this WQC Order and maintaining compliance with the conditions of this Order.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall 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 Resources Control Board (State Water Board) or 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 shall 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.

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION GRANTED

I hereby issue an Order certifying that any discharge from the referenced Project will comply with the applicable provisions of 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) of the Clean Water Act, and with other applicable requirements of state law. This discharge is also regulated under the Marina General Permit and 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 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.

General Information

1. Failure to abide by the conditions of this NOA and WQC Order could result in an enforcement action as authorized by provisions of the Porter-Cologne Water Quality Control Act.
2. You are responsible for informing any contractors of the waste discharge requirements, the specific conditions contained in this WQC Order, and for verifying compliance with these requirements.

If you have any questions or comments regarding this permit, please contact Tobi Tyler at (530) 542-5435 or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430.


PATTY Z KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Abigail Edwards, Kaufman Planning
Kenneth Kasman / TRPA
Mary Hays / California State Lands Commission
Garry Kelley / CA Dept. of Fish and Game, Rancho Cordova
Lynette Blanchard / U. S. Army Corps of Engineers
Jason Brush / Wetlands Regulatory Office (WTR-8), USEPA, Region 9
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