

Lahontan Regional Water Quality Control Board

August 9, 2013

Sarah Hussong-Johnson
City of South Lake Tahoe
1052 Tata Lane
South Lake Tahoe, CA 96150

ORDER NO. R6T-2013-0070, TO AMEND CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND STREAM ENVIRONMENT ZONE EXEMPTION FOR THE BIJOU AREA EROSION CONTROL PROJECT, EL DORADO COUNTY, WDID 6A091201005

On April 18, 2012, the California Regional Water Quality Control Board, Lahontan Region (Water Board), issued the enclosed Clean Water Act Section 401 Order for Water Quality Certification (WQC). On August 2, 2013, the Water Board received additional information from Nichols Consulting Engineers, Chtd., on behalf of the City of South Lake Tahoe (Applicant) proposing an alternative installation procedure for the construction of the stormwater force main. This Order amends the April 18, 2012, WQC as follows based on the additional information submitted on behalf of the Applicant.

Force Main Installation

The April 18, 2012, WQC authorizes the Applicant to install approximately 4,500 feet of 12-inch diameter pipeline (and associated 3-inch diameter electrical conduit) through an area of wetland/Stream Environment Zone (SEZ) in the Bijou Meadow. The WQC authorizes the pipeline to be installed by open-cut trenching, which would result in approximately 90,000 square feet of temporary disturbance, remove approximately 30 trees, and require relocation of several willows.

The Applicant submitted an alternative proposal on August 2, 2013 (enclosed), that requests authorization to install approximately 3,900 feet of pipeline by horizontal directional drilling (HDD) method. HDD involves constructing entry and receiving pits approximately 300 feet apart and boring underground pilot holes between the pits. The pilot hole is then reamed out to the size needed for pipeline installation and the pipe pulled into place within the horizontal hole. Bentonite drilling fluid is used during the boring process to clear the cuttings and reduce friction during drilling. The proposal indicates that the temporary disturbance to the wetland/SEZ will be reduced to approximately 80 percent (to 20,000 square feet) by using the HDD method.

Non-Compensatory Mitigation

The April 18, 2012, WQC did not address use and control of drilling fluids. This amended WQC requires that additional best management practices be used to ensure that all drilling fluids are removed from the site and recycled or disposed of properly. Additionally, all areas disturbed by the construction method must be restored and stabilized in accordance with the original WQC.

Public Notice

The originally proposed WQC and prohibition exemption was publically noticed in March 2012. This amendment to the April 18, 2012, WQC authorizes an alternative construction method that reduces the impact and risk to water quality compared with the original proposal. Therefore, the Water Board has determined that re-noticing of the Project and this amended WQC is not required.

WQC Amendment

The above changes are the only changes authorized by this amendment. All other requirements in the April 18, 2012, WQC remain in effect. If you have questions, please contact Bud Amorfini, Engineering Geologist, at (530) 542-5463, or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430. Please use the WDID in the subject line for future correspondence concerning this Project.



CHUCK CURTIS
ACTING EXECUTIVE OFFICER

Enclosures: Order for CWA Section 401 and SEZ Exemption, April 18, 2012
Letter from NCE dated August 2, 2013

Cc: Jason Brush, Wetlands Regulatory Office (WTR-8), USEPA, Region 9
Via email at R9-WTR-Mailbox@epa.gov
Kristine Hansen, US Army Corps of Engineers, Reno Office
Via email at Kristine.S.Hansen@usace.army.mil
Bill Orme, State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)
Chris Stetler, Nichols Consulting Engineers, Chtd.
(via email at cstetler@ncenet.com)



Lahontan Regional Water Quality Control Board

April 18, 2012

Sarah Hussong-Johnson
City of South Lake Tahoe
1052 Tata Lane
South Lake Tahoe, CA 96150

ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND PROHIBITION EXEMPTION FOR THE BIJOU AREA EROSION CONTROL PROJECT, EL DORADO COUNTY, WDID 6A091201005

The California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application and application filing fee from the United States Forest Service Lake Tahoe Basin Management Unit (Applicant) for the Bijou Area Erosion Control Project (Project) in El Dorado County. The Water Board also received information to support granting an exemption from 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. 6A091201005. 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	6A091201005
Applicant	City of South Lake Tahoe 1052 Tata Lane South Lake Tahoe, CA 96150
Agent	Sarah Hussong-Johnson, P.E.

Don JARDINE, CHAIR | HAROLD SINGER, EXECUTIVE DIRECTOR

Table of Project Information Continued:

Project Purpose and Description	<p>Construct storm water management improvements within the Bijou watershed, including:</p> <ol style="list-style-type: none"> 1. Replacing the Bijou Creek culvert from Fairway drive to the outfall at Lake Tahoe. 2. Constructing storm drains, treatment vaults, and a stormwater force main and associated pumps to collect and carry urban storm water to a treatment location in the upper portion of the watershed. 3. Constructing a series of five storm water infiltration basins and associated under-drain piping to treat collected storm water runoff. <p>Impacts to waters of the State will be temporary disturbance along the linear storm water conveyance construction corridor, disturbance at the inlet and outlet of the Bijou Creek culvert, and construction of a stormwater basin overflow swale along the edge of Bijou meadow.</p>
Location (closest City & County)	City of South Lake Tahoe, El Dorado County
Location Latitude/Longitude	Latitude: 38.9388; Longitude: 199.9636
Hydrologic Unit(s)	South Tahoe Hydrologic Area, 634.10 in the Lake Tahoe Hydrologic Unit, 634.00
Project Area	31.75 acres
Receiving Water(s) Name	Lake Tahoe
Water Body Type(s)	Lake
Area of the U.S. (WOUS) within the project area	4.16 acres
Area of Permanent Impacts to WOUS	0.344 acres
Linear Feet of Permanent Impact to WOUS	100 feet
Volume of Fill to WOUS	286 cubic yards
Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a Nationwide Permit No. 3, pursuant to Clean Water Act section 404.
Non-Compensatory Mitigation	Sediment and erosion control Best Management Practices (BMPs) will be used throughout the construction period. The Applicant has prepared a detailed Storm Water Management Plan and associated Dewatering Plan to reduce impacts to storm water quality and manage groundwater encountered during construction.
Compensatory Mitigation	Compensatory mitigation is not needed, as permanent impacts will not result in any wetland loss.
Applicable Fees	\$944 base fee + (0.34 acres x \$4059) = \$2,324.00
Fees Received	\$2,324.00

CEQA COMPLIANCE

On August 11, 2011 the City of South Lake Tahoe, acting as a CEQA Lead Agency in compliance with California Code of Regulations, Title 14, approved a Mitigated Negative Declaration for the Bijou Area Erosion Control Project.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

The Water Board has adopted a *Water Quality Control Plan for the Lahontan Region* (Basin Plan), in which Chapter 5 specifies the following discharge prohibitions:

"8. The discharge or threatened discharge, attributable to human activities, of solid or liquid waste materials including soil, silt, clay, sand, and other organic or earthen materials to lands below the high water rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe is prohibited." and

"13. The discharge or threatened discharge, attributable to new development in Stream Environment Zones (SEZs) 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."

The Project will replace an existing culvert outfall below the high water rim of Lake Tahoe, install storm water conveyance piping through SEZ areas, and construct a stormwater basin overflow distribution swale at the edge of the Bijou meadow (mapped SEZ).

100-YEAR FLOOD PLAIN WASTE DISCHARGE PROHIBITION EXEMPTION

Chapter 5 of the Basin Plan allows exemptions to the 100-year floodplain discharge prohibition (#8) for projects that meet the following exemption criteria:

"For erosion control projects, habitat restoration projects, SEZ restoration projects and similar projects provided that the project is necessary for environmental protection and there is no reasonable alternative which avoids or reduces the extent of encroachment in the floodplain."

The Project is an erosion control project needed to provide stormwater treatment for uncontrolled urban runoff discharges. Due to dense mixed-used urban development near the lake shore, Bijou Creek is routed through an aging corrugated metal culvert from Fairview Drive (south of Highway 50) to Lake Tahoe. Given the exiting location of the Bijou Creek culvert outfall and the need to replace that outfall structure, there is no reasonable alternative that would further avoid encroachment.

STREAM ENVIRONMENT ZONES WASTE DISCHARGE PROHIBITION EXEMPTION

Chapter 5 of the Basin Plan allows exemptions to the SEZ discharge prohibition (#13) for erosion control, habitat restoration, wetland rehabilitation, SEZ restoration, and similar projects, programs, and facilities if all the following findings can be made:

1. *The project, program, or facility is necessary for environmental protection.*

Urban storm water runoff has been identified as the primary source of pollutants causing Lake Tahoe's transparency decline. The Applicant is constructing the Project to provide treatment for uncontrolled urban runoff discharges. The Project is necessary for environmental protection.

3. *There is no reasonable alternative, which avoids or reduces the extent of encroachment in the SEZ.*

The Applicant conducted a detailed alternatives analysis and developed the project design to limit the amount of SEZ disturbance. There are no reasonable alternatives that would reduce the extent of encroachment in the SEZ.

4. *Impacts are fully mitigated.*

The Applicant has proposed a list of Best Management Practices (BMPs) that will be in place during Project implementation, including installing temporary sediment control and stabilization BMPs during construction. The Project design includes revegetation and restoration of all SEZ areas subject to temporary disturbance. The Project design and associated temporary and permanent BMPs will ensure that impacts are fully mitigated

EXEMPTION GRANTED

The Project is an erosion control and storm water treatment project that will be regulated under a Clean Water Act (CWA) section 401 water quality certification. The Applicant has incorporated appropriate BMPs into the Project. The Project is hereby granted an exemption to the above-cited waste discharge prohibitions.

Except in emergency situations, the Executive Officer shall notify the Board and interested members of the public of his intent to issue an exemption at least ten (10) days before the exemption is issued. A notice of exemption will also be posted on the Water Board website and distributed through an interested person's mailing list allowing at least ten (10) 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 waters of the United States, 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 \$944.00 fee required for WQC under Section 401 for the Project. The Applicant has applied for U.S. Army Corps of Engineers (ACOE) authorization to proceed under Nationwide Permit No. 3 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 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 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 Water Code.
5. The project must be constructed and operated in accordance with the project described in the application for WQC, the Storm Water Pollution Prevention Plan, and the Mitigated Negative Declaration submitted to the Water Board.

Deviation from the project as described in these documents 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 Lahontan 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 that 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. No debris, cement, concrete (or wash water therefrom), oil or petroleum products must 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.
2. The Applicant must immediately 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.

3. The Applicant must employ necessary measures to prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. 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.
4. Prior to commencing excavation, the Applicant must affirmatively document whether there are any subsurface utilities in the area of construction and **submit such documentation to the Water Board**. This can be accomplished by : (1) contacting all utilities (both public and private) that provide service in the area, documenting these contacts and submitting such documentation to the Water Board; (2) contacting Underground Service Alert, documenting this contact and submitting such documentation to the Water Board; or, (3) some other equivalent affirmation action to determine whether or not there are any subsurface utilities in the area of construction and submitting the results of such action to the Water Board. 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 provide a utility avoidance plan that will be followed during construction.**
5. The Applicant shall coordinate weekly site inspections with Water Board staff to review previous week's work, discuss upcoming activities, and evaluate BMP and SWPPP effectiveness.
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.

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 Resources Control Board (State Water Board) or the Lahontan 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 Lahontan 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 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 Robert Larsen, Environmental Scientist at (530) 542-5439 or Doug Smith at (530) 542-5453.



HAROLD J. SINGER
EXECUTIVE OFFICER

cc: Julie Newman / California Department of Fish and Game, Rancho Cordova
Dave Smith / Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Will Ness / U.S. Army Corps of Engineers, Sacramento Office
Bill Orme / State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)

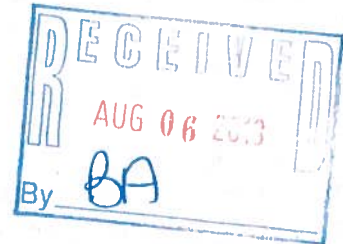


NICHOLS CONSULTING ENGINEERS, Chtd.
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August 2, 2013
File No.: A503.05.14

Bud Amorfini, EG
California Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150



**RE: Bijou Area Erosion Control Project, Phase 1
Implementation of Horizontal Directional Drilling**

Dear Mr. Amorfini:

This letter is a follow-up to our recent conversations regarding the above-referenced project and the proposed installation of approximately 3,900 feet of 12" diameter pipeline by means of Horizontal Directional Drilling (HDD) instead of open cut construction. Below is a detailed description of the proposed HDD activities for this Project.

Construction of the Bijou Erosion Control Project, Phase 1 (Project) is underway. The Project includes construction of a 12" diameter pipeline that will convey treated stormwater from the Bijou Commercial Area to a series of water quality basins located approximately 6,000 linear feet south and uphill from the Commercial Core. The Project also includes construction of a 3" diameter electrical conduit just above the 12" pipeline. Approximately 4,500 linear feet of the proposed 12" pipeline and the 3" conduit are located in the Bijou Meadow, which includes portions of the Bijou Golf Course. The construction contract for the Project called for open cut construction of the pipeline and conduit. Open cut construction includes excavating a trench having a bottom width of approximately 3 feet and a depth of 5 feet, placing bedding material in the trench, laying the pipe/conduit on the bedding material, and then backfilling/compacting the trench to the elevation of the surrounding ground surface. With open cut construction, we anticipated that the surface disturbance resulting from installation of the pipeline would extend approximately 10 feet on both sides of the pipeline for the length of the pipeline, resulting in a total disturbed area of approximately 90,000 square feet. In addition, open cut construction would require the removal of an additional 29 trees and the relocation of several willows.

In an effort to reduce the net construction-cost for the Project and the extent of land disturbance associated with the construction of the pipeline through Bijou Meadow, the Contractor (Preston Pipelines) submitted a proposal to install approximately 3,900 linear feet of the 12" pipeline and 3" conduit by means of HDD rather than by open cut construction. HDD involves the construction of an entry pit (approximately 2' wide and 20' long) and a receiving pit having similar dimensions. A pilot hole is then drilled from the entry pit to the receiving pit. Drilling of the pilot hole requires the use of the clay mineral bentonite mixed with water to create a drilling fluid that helps wash away cuttings from the bore and eases the movement of the cutting head through the borehole. The drill fluid is contained in the entry pit and borehole and will be



continuously monitored to ensure that containment is maintained. After drilling is complete, the drill fluid will be pumped out of the entry pit and transported to a local asphalt/aggregate supply facility where it will be dried and sold as a low permeability product. Following drilling, a reamer is pulled back through the hole towards the entry pit to enlarge the hole to the size of the pipe/conduit. The final phase of the process is pipe pullback wherein the pipe is attached to the reamer and pulled back to the entry pit. The entry pit area is then backfilled and the ground surface is restored as required.

For this Project, entry pits will be installed at intervals of 300 feet (+/-) along the alignment of the pipeline. The alignment of the pipeline as well as access for implementation of HDD remain exactly as they were for open cut construction. Each entry pit will require the disturbance of an area having approximate dimensions of 30 feet by 50 feet (1,500 square feet/entry pit) for HDD related equipment. With an entry pit every 300 feet over a length of 3,900 linear feet, we estimate that the total disturbance resulting from HDD will be approximately 19,500 square feet (13 x 1,500 square feet); whereas the total disturbance resulting from open cut construction is estimated at 90,000 square feet. All Project areas disturbed by HDD activities will be subject to the same rigorous requirements for revegetation as would be applied to open cut construction.

The Contractor is expected to commence drilling at the upper end of Bijou Meadow during the week of August 5, 2013. Implementation of HDD through the golf course areas will not commence until after August 12, 2013. HDD will be conducted in accordance with all project permits, including the Regional Board's General Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for Storm Water Discharges Associated with Construction Activity in the Lake Tahoe Hydrologic Unit, and the Regional Board's April 18, 2012 401-Water Quality Certification and Prohibition Exemption.

I look forward to receiving your acknowledgement that the Project may proceed under the existing permits already issued for the Project. If you should have any questions regarding this letter, please contact me at our Lake Tahoe office.

Sincerely,

Nichols Consulting Engineers, Chtd.

Chris Stetler, PE
Senior Engineer

cc: Trevor Coolidge/ City of South Lake Tahoe