

Lahontan Regional Water Quality Control Board

March 17, 2015

Mansoor Alyeshmerni
East River Terrace Partners
900 Ski Run Boulevard
South Lake Tahoe, CA 96150

BOARD ORDER NO. R6T-2015-0012, CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND NOTICE OF APPLICABILITY FOR COVERAGE UNDER THE MARINA GENERAL PERMIT FOR SKI RUN MARINA ENTRANCE CHANNEL MAINTENANCE DREDGING PROJECT, EL DORADO COUNTY, GENERAL PERMIT NO. R6T-2011-0024-23, WDID NO. 6A091502002

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 Ski Run Marina Entrance Channel Maintenance Dredging Project (Project). We have reviewed these and other supplemental materials you have provided. The Water Board deemed the application complete on February 26, 2015 with the most recent information 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-2011-0024-23** and Waste Discharger Identification (WDID) No. **6A091502002**. 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	6A091502002						
Applicant	Mansoor Alyeshmerni East River Terrace Partners 900 Ski Run Boulevard South Lake Tahoe, CA 96150						
Agent	Jay Kniep P.O. Box 18601 South Lake Tahoe, CA 96151						
Project name	Ski Run Marina Entrance Channel Maintenance Dredging Project						
Project purpose and description	Dredge approximately 250 cubic yards (cy) of material from the entrance channel of the Ski Run Marina to a maintenance depth of 6,219 feet above Lake Tahoe Datum. The dredging site will be contained within a turbidity curtain. A second turbidity curtain will be available onsite and deployed if a single turbidity curtain is ineffective at containing suspended sediment and turbidity associated with the dredging operation. Dredging will be done using a clam-shell excavator located on a barge inside the turbidity curtain. The dredged material will be temporarily placed on the beach sand behind a double silt fence to prevent a discharge back to the lake. A rubber tired loader will then load the dredged material into trucks for final disposal to an approved disposal site (Amacker Ranch in Gardnerville, NV).						
Project Type	Marina Maintenance Dredging						
Project County	El Dorado						
Project Address or other Locating Information	900 Ski Run Boulevard, South Lake Tahoe, El Dorado County						
Location Latitude/Longitude	Latitude: 38.9508; Longitude: 119.9592						
Hydrologic Unit(s)	South Tahoe Hydrologic Area 634.10, Lake Tahoe Hydrologic Unit						
Project area	0.51 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						
Potential Water Quality Impacts	Discharge of waste earthen materials from dredging activities.						
Area of Water(s) of the U.S. within the Project Area	0.51 acres						
Project Impacts (Dredge) to Waters of the State, including Waters of the U.S.	Waterbody Type	Permanent			Temporary		
		Acres / Sq. Ft.	Linear Feet	Cubic Yards	Acres / Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>	0.1 ac		250			
	<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)	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 temporarily deposited on the sand beach adjacent to the marina prior to placement into trucks for final disposal to an approved disposal site outside the Tahoe Basin. To prevent a discharge to the lake from the temporary storage area, a double silt fence will be used. A Tahoe Yellow Cross survey was performed on September 19, 2012 and no plants or suitable habitat were found due to high amount of recreational foot traffic and deep sand.
Compensatory Mitigation	None required.
Application Fee	\$600
Estimated Annual Active discharge Fee ¹	\$600 (annual active discharge fee assessed each fiscal year or portion of a fiscal year during which discharges occur until the Water Board issues a Notice of Completion of Discharges Letter to the Applicant; fee based on \$600 for less than 2,860 cy of dredged material removed, or number of cubic yards X \$0.21 per cubic yard for 2,860 cy and over)
Fees received	\$1200

¹ The actual Annual Active Discharge Fee will be calculated using the fee schedule in effect at the time the annual fee is assessed per California Code of Regulations, Title 23, section 2200(a)(3).

California Environmental Quality Act (CEQA) Compliance

Water Board staff have determined that this Project is exempt from 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 for the Project with the State Clearinghouse concurrently with this WQC.

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

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 U.S., 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. The Applicant has submitted a complete application and applicable fees 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 water quality certification for projects in accordance with section 401 of the CWA. Maintenance dredging and filling activities qualify for such water quality certification.

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 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 water quality certification 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 to the Marina of up to 250 cy 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 the Project, the Applicant must provide documentation of whether there are any subsurface utilities in the area of excavation. 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 area of excavation, the Applicant must also provide a utility avoidance plan that will be followed during construction.
4. **No later than June 1, 2015**, you must provide to this office a technical report that fulfills the requirements in Section V.C.1 of Attachment E to the Marina General Permit, including the final bathymetric survey of the dredging area that describes the actual final depths in the area of the dredging activities and 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 **within one week** after dredging operations are completed, are as reported.

5. In addition to complying with the monitoring and reporting requirements specified in Marina General Permit, which state that turbidity measurements must be taken every 2 hours from a location within 5 feet of the containment area during the dredging operation, the Applicant must also immediately measure the turbidity within any sediment plume area observed outside of the turbidity curtains. 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 color 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.
6. 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 due to dredging is kept to a minimum at all times, even in adverse conditions, such as high winds, wave action or currents.
7. The barge and container used to transport the dredged material must be steam-cleaned prior to use.
8. 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.
9. Water Board staff must be notified within **forty-eight hours** prior to commencing dredging.
10. The discharge to surface waters, as surface flow, of wastes from placing dredged materials on the shore lands is prohibited.
11. The Applicant must prevent the introduction or spread of aquatic invasive species within the Project and staging areas. Measures may include, but are not limited to, the treatment of onsite infestations and the cleaning of all equipment and gear that has been at an infested site.
12. 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.
13. The use of chitosan or any flocculent to reduce turbidity in the lake is prohibited.
14. An emergency spill kit must be at the Project site at all times.
15. 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 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.
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 this 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 water quality certification 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.
3. The required annual fee for this WQC Order (as specified in the annual billing you will receive from the State Water Resources Control Board) must be submitted until this WQC Order is officially revoked. The Water Board will initiate revocation procedures after a Notice of Termination is provided to this office.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Tobi Tyler, Water Resources Control Engineer, at tobi.tyler@waterboards.ca.gov (530) 542-5435 or Alan Miller, P.E., Chief, North Basin Regulatory Unit, at alan.miller@waterboards.ca.gov (530) 542-5430.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Enclosure: CEQA Notice of Exemption Document

cc: John Shearer
Dan Jack
Kenneth Kasman, TRPA
Ninette Lee, California State Lands Commission
Bob Hosea, CA Dept. of Fish and Game - Rancho Cordova
Kristine Hanson, U. S. Army Corps of Engineers – Reno
Jay Kniep
(via email at jaykniep@cs.com)
Jason Brush / Wetlands Regulatory Office (WTR-8), USEPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Bill Orme / SWRCB, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)

Notice of Exemption

To: Office of Planning and Research
PO Box 3044
1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: Lahontan Regional Water Quality
Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, California 96150

Project Title: Ski Run Marina Entrance Maintenance Dredging Project

Project Location - Specific: 900 Ski Run Blvd., #1, South Lake Tahoe, CA 96150

Project Location - City: South Lake Tahoe **Project Location - County:** El Dorado

Description of Project: The Marina will conduct maintenance dredging of the marina entrance channel to an elevation of 6219 feet, and remove approximately 250 cubic yards of dredged material. The spoils will be transported to trucks for final disposal outside the Tahoe Basin.

Name of Public Agency Approving Project: Lahontan Regional Water Quality Control Board

Name of Person or Agency Carrying Out Project: Mansoor Alyeshmerni, East River Terrace Partners,
900 ski Run Blvd., #1, South Lake Tahoe, CA 96150

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: "Minor Alterations to Land"- Section 15304(g).
- Statutory Exemptions. State code number:

Reasons why project is exempt:


The RWQCB, Lahontan Region finds that this project, as permitted, will not have a significant effect on the environment and shall, therefore, be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15304, Minor Alterations to Land.

Responsible Agency Contact Person: Tobi Tyler

Area Code/Telephone: (530) 542-5435

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Date: 3-17-15 Title: Executive Officer, Lahontan Region

- Signed by Responsible Agency
- Signed by Applicant

Date received for filing at
OPR: _____

OPR: _____