

Lahontan Regional Water Quality Control Board

August 10, 2015

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BOARD ORDER NO. R6T-2015-0047 CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND FLOODPLAIN PROHIBITION EXEMPTION FOR THE LIBERTY UTILITIES 650 TRANSMISSION LINE UPGRADE PROJECT, PLACER COUNTY, WDID 6A311505006

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) application and application filing fee from Liberty Utilities (Applicant) for the 650 Transmission Line Upgrade Project (Project) in Placer County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A311505006. 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	6A311505006
Applicant	Michael Smart Liberty Utilities 701 National Avenue Tahoe Vista, CA 96148
Agent	Alissa Turner Tri Sage Consulting 5418 Longley Lane, Suite A Reno, NV 89511
Project Name	Liberty Utilities 650 Line Upgrade Project

Table of Project Information continued:

Project Purpose and Description	<p>The purpose of the Project is to rebuild the existing 650 power line, which is operated at 60kV and serves northern Lake Tahoe. The rebuild will allow the line to operate at 120kV capacity and will help address needed electrical reliability improvements. The goals of the Project are to: 1) provide normal capacity for the current and projected loads; 2) provide reliable capacity to assure adequate service to all customers during a single-contingency outage; 3) reduce dependence on the Kings Beach Diesel Generation System; and 4) reduce the risk of the fire hazard and outage durations associated with wooden poles and encroaching vegetation.</p> <p>Construction will consist of installing self-weathering steel poles to replace the existing wood poles. The poles and construction activities located in wetlands and other Waters of the U.S. (WOUS) are subject to this Order. New steel poles include direct buried tangent, direct buried and guyed angle, and self-supporting dead-end and/or angle poles with poured-in-place concrete foundations.</p>
Project Type	Utility Line Replacement
Project County	Placer
Project Address or other Locating Information	<p>The Project is a linear power line that spans four miles, between Martis Valley and Brockway Summit, within the Liberty Utilities North Lake Tahoe electric system in northern California. The Project begins at the existing Martis tap structure, Pole # 291034, located at the northwest edge of Martis Valley, just east of the Lahontan residential development. From this point the line continues generally south/southeast through Martis Valley to State Route (SR) 267. At SR267 the line continues southward, primarily along the eastern edge of SR 267, to Brockway Summit. A line tap, which is to be rebuilt into a 'fold' crosses SR267 between Northstar Drive and Highlands View Road, continuing west through lower Northstar and terminating at the Northstar Substation.</p>
Location Latitude/Longitude	Latitude: 39.300698, Longitude: -120.12949
Hydrologic Area	Truckee River Hydrologic Unit (635.00), Truckee River Hydrologic Area 635.20
Overall Project Area	10 acres
Receiving Water(s) Name	Martis Creek
Water Body Type(s)	River/Stream
Designated Beneficial Uses	MUN, AGR, GWR, REC-1, REC-2, COMM, COLD, WILD, RARE, MIGR, SPWN,
Potential Water Quality Impacts	Sediment, turbidity, and construction related pollutants.
Area of Water(s) within the Overall Project Area	5 acres

Table of Project Information Continued:

Impacts of Fill to Waters of the State, including WOUS	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	Lake						
	Riparian						
	Stream	0.02	132		0.018	444	
	Wetland	0.026	92	122	0.78		
Impacts of Dredging (Excavation) to Waters of the State, including WOUS	Waterbody Type	Permanent			Temporary		
		Acres or Sq. Ft.	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	Lake						
	Riparian						
	Stream						
	Wetland						
	Total	0.046	224	122	0.798	444	
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under Nationwide Permit 12, pursuant to CWA section 404.						
Non-Compensatory Mitigation	<p>Pole locations have been selected to minimize the number of sites within waters while still meeting pole spacing requirements. The construction easement width for work through the Martis Valley has been reduced from 65 feet to 20 feet and scheduled to coincide with the drier late summer/fall conditions. Vehicles and equipment are required to drive straight in and out of easement with turning allowed only in designated areas protected with timber or composite matting. The following procedures will be followed where waters need to be crossed:</p> <p>Streambed and Drainage Crossings</p> <ul style="list-style-type: none"> • Cross, if possible, when streambed is dry. This will be accomplished to a large extent by delaying start of construction until late July/early August. • Plans to minimize number of vehicle crossings during construction. This was completed and is indicated in the Project mapping. • Install Dry Rock Ford crossings where indicated when a streambed/drainage crossing is required and disturbance of the streambed, resulting in downstream siltation and/or sedimentation, could occur. Most of the Dry Rock Ford (DRF) installations identified occur where DRF crossings already exist but have degraded to some extent. • Install Spittlers with Arch Pipe Culverts where indicated when a potentially wet streambed/drainage crossing is required and water passage is to be maintained. All Spittler installations are temporary and are to be removed when construction is complete, with streambeds and surrounding areas stabilized as necessary. • Maintain all stormwater Best Management Practices (BMPs) and monitor on a weekly basis, and within 24 hours following a storm event. • Remove all temporary construction stormwater BMPs at the conclusion of the work, and stabilize all areas disturbed by construction. 						

Table of Project Information Continued:

<p>Non-Compensatory Mitigation</p>	<p><i>Wetland/Riparian Area Crossing</i></p> <ul style="list-style-type: none"> • Limit work within wetlands to occur late season (late July/early August) when wetlands are at their driest. • Restrict all work within the main Martis Valley wetland to a 20-foot wide work area. • Install a visual barrier to identify the 20-foot wide work zone. This will be completed with lath and ribbon. • Install timber or composite matting, from Structure 291040 to 291067. • Perform all pole excavations with rubber track-mounted Lo-Drill or Excavator equipment. Excavation work to be completed from matting in the Martis Valley area. • Install corrugated metal pipe culverts at pole holes once drilling is complete, to maintain side walls. The corrugated metal pipes will extend minimally above the ground surface and will remain in place, which is consistent with existing structures. • Re-use spoils whenever possible. When not acceptable as backfill material around pole bases, spoils within Martis Valley will be hauled off and select backfill material will be brought in (likely drain rock). • For excess spoils, if soil type is acceptable to the onsite monitoring biologist, they will be spread onsite, in an upland location. If spoils are found to be unacceptable or contaminated they will be removed from site and disposed of in an approved manner. • All structures will be set with rubber tired/tracked equipment. • After all of the new poles are placed, the old structures will be removed by way of cutting them at ground level or as close to ground level as can be achieved. This is believed to be a less intrusive and disturbing practice than attempting to remove pole butts in their entirety. <p>All backfill, restoration and BMP material brought onto the site will be certified weed-free.</p> <ul style="list-style-type: none"> • Hand crews will remove temporary construction BMPs and all construction debris from the area upon completion of the Project.
<p>Compensatory Mitigation</p>	<p>Liberty Utilities will pay an amount of \$16,116 to the Truckee River Watershed Council for the purpose of implementing a portion of the Middle Martis Creek Restoration Project. Proof of agreement is required prior to start of work and confirmation of payment in accordance with the agreement is required.</p>
<p>Applicable Fees</p>	<p>\$9,018 application fee (668 linear feet of disturbance to WOUS times \$13.50/ft.). An annual active discharge fee of \$600/yr. will apply if the Project duration is more than one year.</p>
<p>Fees Received</p>	<p>\$9,018</p>

100-YEAR FLOOD PLAIN WASTE DISCHARGE PROHIBITION

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains certain waste discharge prohibitions that apply to the Truckee River Hydrologic Unit (HU No. 635), which states:

1. "The discharge, attributable to human activities, of any waste or deleterious material to surface waters of the Truckee River HU or Little Truckee River HU is prohibited"; and
2. "The discharge or threatened discharge, attributable to human activities, of waste to lands within the 100-year floodplain of the Truckee River, Little Truckee River, and their tributaries is prohibited."

PROHIBITION EXEMPTION

In accordance with provisions in the Basin Plan, the Water Board may grant exemptions to Truckee River Hydrologic Unit prohibitions 1 and 2 as stated below.

Prohibition 1 – "The Regional Board may grant an exemption to this prohibition when the Regional Board finds that all of the following criteria are met:

- a. The discharge of waste will not, individually or collectively, directly or indirectly, adversely affect beneficial uses, and
- b. There is no reasonable alternative to the waste discharge, and
- c. All applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses".

The discharge of waste is related to localized areas for crossing drainages with equipment. The crossings are designed to minimize effects to surface waters using standardized methods to protect banks and vegetation. Discharges from these areas will be less than significant and will not adversely affect beneficial uses. The power line poles are being replaced in their original alignment such that there is no reasonable alternative to the waste discharge. The Project has been designed to minimize the number of pole locations within surface water locations and additional measures will be used to minimize construction-related impacts. The Project meets the criteria for an exemption to prohibition 1.

Prohibition 2 - "The Regional Board may grant exemptions to this prohibition for the repair, replacement, or relocation of existing structures, provided that the repair, replacement or relocation does not reduce or adversely affect the existing floodplain function. Prior to granting any such exemption, the Regional Board shall require demonstration by the proposed discharger that all applicable and practicable control and mitigation measures have been incorporated into the project such that potential adverse impacts to water quality and beneficial uses are the minimum necessary to complete the Project".

The Project involves replacing and relocating the existing 60kV power line with a 120kV power line. The Project has been designed to avoid placing poles within waters to the extent feasible and has a plan to control and minimize impacts from construction. Additionally, for the 0.046 acres of permanent disturbance to WOUS within the floodplain, the Applicant will contribute compensatory mitigation fees in the amount of \$16,116 to the Truckee River Watershed Council for the implementation of the Middle Martis Creek Restoration Project. The dollar amount was calculated based on \$150,000/acre X 1.5:1 ratio X 1.2 administrative costs X 1.3 contingency cost. The restoration project will reestablish floodplain area in the same watershed as the Project that was historically present prior to the construction of Highway 267. The Project meets the criteria for granting an exemption to prohibition 2.

EXEMPTION AUTHORITY

In accordance with Resolution No. R6T-2015-0038, the Water Board has delegated authority to the Executive Officer to grant exemptions to prohibitions 1 and 2, above.

EXEMPTION GRANTED

Water Board staff has notified the Applicant and interested parties of its intent to adopt this prohibition exemption 10 days in advance of issuing this exemption through online and emailed notices soliciting comments on the proposed Project. The Water Board has determined that the Project satisfies the exemption criteria listed above. An exemption to prohibitions 1 and 2, above, is hereby granted.

CEQA COMPLIANCE

In accordance with Memorandum of Understanding dated May 18, 2011, a joint Environmental Impact Report/Environmental Impact Statement/Environmental Impact Statement (EIR/EIS/EIS) was prepared for the Project on behalf of the Tahoe Regional Planning Agency (TRPA) pursuant to article VII of the Tahoe Regional Planning Compact and chapter 5 of the TRPA Code of Ordinances, the California Public Utilities Commission (CPUC) pursuant to the California Environmental Quality Act (CEQA, Public Resources Code section 21000, et seq.), and the Lake Tahoe Basin Management Unit (LTBMU) pursuant to the National Environmental Policy Act and Council on Environmental Quality (40CFR sections 1500 et seq.). The CPUC, as lead agency for CEQA, certified the Project EIR and filed a Notice of Determination on April 9, 2015 (State Clearinghouse Number 2012032066).

The Water Board, acting as a CEQA Responsible Agency in compliance with CCR, title 14, section 15096 (g)(2), evaluated the significant and potentially significant impacts to water quality identified in the Final EIR for the Project. The Water Board finds the mitigation measures in the Final EIR to be adequate to reduce significant or potentially significant water quality impacts to less than significant levels.

SECTION 401 WATER QUALITY CERTIFICATION

Authority

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under section 401 for the Project. The Applicant has applied for USACE authorization to proceed under Nationwide Permit No. 12 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 WQC:

1. This WQC 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 WQC 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 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 this WQC was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this WQC, 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 WQC 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 CWA, 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 WQC, 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 CWA.
8. This WQC does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code sections 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this WQC, 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 WQC.

Additional Conditions

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

1. No land disturbance is authorized between October 15 and May 1, the following year unless granted a variance by the Executive Officer. All disturbed areas must be winterized during the period between October 15 and May 1, the following year.
2. Debris, cement, concrete (or wash water therefrom), oil or petroleum products, paints, or other hazardous materials must not 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.
3. The Applicant must immediately (within two hours) 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 WQC, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. A written notification of the adverse

condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.

4. The Applicant must prevent the introduction or spread of noxious/invasive weeds and organisms within the Project and staging area. Measures must include the cleaning of all equipment and gear that has been in an infested site with water heated to 120 degrees Fahrenheit or more, the use of weed-free erosion control materials (including straw), and the use of weed-free seeds and plant material for revegetation of disturbed areas.
5. Rock materials must be washed and free of adhered soil materials prior to placement into 100-year floodplains. The discharge of wastewater to surface waters from rock washing is not authorized by this WQC.
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 kept on all vehicles with accessory fueling capabilities (including gas cans) operating at the Project site at all times.
8. A copy of this WQC 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 WQC, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of CWA 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 WQC.
2. In response to a suspected violation of any condition of this WQC, the State Water Board or the Water Board may require the holder of any permit or license subject to this WQC 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 WQC, the Water Board may add to or modify the conditions of this WQC as appropriate to ensure compliance.

Section 401 Water Quality Certification Requirements Granted

I hereby issue this Order certifying that any discharge from the Project will comply with the applicable provisions of CWA sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

Except insofar as may be modified by any preceding conditions, all WQC certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Bud Amorfini at (530) 542-5463 or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430. **Electronic document submittal is required. Please send your comments or documents to the Water Board's email address at Lahontan@waterboards.ca.gov, and include your WDID No. and Facility Name in the Subject Line.**



For

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

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