

Lahontan Regional Water Quality Control Board

August 1, 2013

Ivo Bergsohn
South Tahoe Public Utility District
1275 Meadow Crest Drive
South Lake Tahoe, CA 96150

ORDER R6T-2013-0063 FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR THE DIAMOND VALLEY RANCH IRRIGATION IMPROVEMENTS PROJECT, ALPINE COUNTY, WDID 6A021209002

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 South Tahoe Public Utility District (Applicant) for the Diamond Valley Ranch Irrigation Improvements Project (Project) in Alpine County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A021209002. 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	6A021209002
Applicant	Ivo Bergsohn South Tahoe Public Utility District 1275 Meadow Crest Drive South Lake Tahoe, CA 96150
Project Name	Diamond Valley Ranch Irrigation Improvements Project

Table of Project Information continued:

Project Purpose and Description	Phase I of a larger project to install the infrastructure (pipelines and pump/filtration station) needed to apply fresh and/or recycled-23 water to approximately 70 acres of the Diamond Valley Ranch in eastern Alpine County. The Applicant has been a supplier of recycled-23 water for over 20 years to ranches in eastern Alpine County and stores the recycled water in Harvey Place Reservoir located adjacent to and up-gradient of Diamond Valley Ranch. This Phase I Project would entail pipeline construction across segments of existing irrigation ditches, which have been identified as waters of the United States (WOUS). The majority of the impacts would result from diversion of the flow through the Millich Ditch By-Pass Pipeline resulting in loss of natural flows from up-stream of the by-pass inlet to the by-passed reach of Millich Ditch, approximately 0.34 acres and 2,700 linear feet. The by-passed reach of Millich Ditch will remain intact and connected at its downslope end to pass any natural flows. The remaining impacts are from the construction of two new irrigation structures (0.08 acres) and the crossing of pipeline alignments (0.02 acres) through irrigation ditches. The majority of the Millich Ditch Outlet structure is placed outside Millich Ditch, with only the rip-rap required for erosion control at the outlet placed within the irrigation ditch. The Project layout minimizes the number of pipeline crossings through irrigation ditches. (See Enclosure 1)
Project County	Alpine
Project Type	Irrigation water supply and recycled water
Project Address or other Locating Information	From Woodfords Station in Alpine County, proceed south on Highway 88 for approximately 0.2 miles. Turn left on Highway 89 south for approximately 0.5 miles. Turn left onto Diamond Valley Road and proceed east for approximately 1.6 miles to Diamond Valley Ranch. (T11N R19E Sec 35 and 36; T10N R20E Sec 5)
Location Latitude/Longitude	Latitude: 38.76851 Longitude: -119.796973
Hydrologic Unit(s)	East Fork Carson River Hydrologic Unit, 632.00; Indian Creek Hydrologic Area, 632.20
Project Area	338 acres
Receiving Water(s) Name	Agricultural ditches in Diamond Valley surrounded by perennial and seasonal wetlands, all of which are tributary to Indian Creek, a Carson River tributary.
Water Body Type(s)	Agricultural drainages
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, REC-1, REC-2, COMM, COLD, WILD, RARE, SPWN, WQE, FLD
Potential Water Quality Impacts	Impacts from the construction of pipeline infrastructure to wetlands in the surrounding vicinity of the Project. Discharge of construction-related materials downstream.
Area of WOUS within the Project area	28 acres; 23,393 linear feet (1.6 acres of perennial wetlands, 26.6 acres of seasonal wetlands and 23,393 linear feet of non-wetland drainages)

Table of Project Information continued:

Impacts of Fill within waters of the state, including WOUS	Waterbody Type	Permanent			Temporary		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Ag Ditch</i>	0.44	3240		0.002	45	478
Federal Permit(s)	The Applicant has applied for USACOE authorization to proceed under Nationwide Permit No. 12, pursuant to CWA section 404.						
Non-Compensatory Mitigation	Best Management Practices (BMPs) will be employed on the site at all times, and throughout construction. An equipment access route will be outside the northern edge of the meadow to avoid meadow compaction. Equipment travel within the meadow will be limited to within the ditches. Ground protection mats will be placed along equipment routes if necessary.						
Compensatory Mitigation	Payment of an in-lieu fee in the amount of \$102,600 (0.684 x \$150,000) to the National Fish and Wildlife Foundation.						
Applicable Fees	\$2,730 (\$944 base fee + \$1,786 for 0.44 acre of permanent and temporary impact to Federal Jurisdictional waters at \$4,059 per acre)						
Fees Received	\$2,730						

CEQA COMPLIANCE

The Applicant prepared a Final Environmental Impact Report (EIR) for the South Tahoe Public Utility District (STPUD) Recycled Water Facilities Master Plan pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq.) and the state CEQA Guidelines. The Applicant, as Lead Agency, certified a Final EIR for the STPUD Recycled Water Facilities Master Plan on December 3, 2009. The Applicant filed a Notice of Determination (NOD) for the STPUD Recycled Water Facilities Master Plan with the State Clearinghouse (State Clearing House Number 2007042116) on December 7, 2009, pursuant to the CEQA (Public Resources Code sections 21062). The Applicant prepared a Supplemental EIR (SEIR) in 2011 and an Addendum to the EIR (AEIR) in 2012 to update the STPUD Recycled Water Facilities Master Plan with new information, and filed NODs for the SEIR and AEIR on August 24, 2011 and August 29, 2012, respectively.

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, the SEIR, and AEIR for the STPUD Recycled Water Facilities Master Plan. Water Board staff find the mitigation measures to be adequate to reduce significant or potentially significant water quality impacts to less than significant levels for Phase I.

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 USACOE authorization to proceed under a 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 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 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/or 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 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 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 CWA.
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 (California Fish and Wildlife 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. Sod and topsoil that needs to be removed for Project implementation must be managed as specified in the Applicant's May 31, 2013 response letter and must be kept moist until final placement.
2. No debris, cement, concrete (or wash water therefrom), oil or petroleum products must be allowed to 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 any areas where such material may erode into waters of the state.
3. The Applicant must ensure that the Contractor employs necessary measures to prevent the introduction or spread of noxious/invasive weeds within the Project and staging areas. 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. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
5. An emergency spill kit must be at the Project site at all times.
6. The Applicant must maintain a copy of this Order at the Project site so as to be available at all times to site operating personnel and agencies.
7. The Applicant must minimize and prevent water quality degradation to state waters during and following construction, and must ensure that all pollutant source controls and soil erosion prevention or stabilization procedures are in place and effective prior to rainfall events and/or prior to winter shutdown, that will remain effective through storm events or winter shutdown period.
8. 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 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 one week of occurrence. The written notification must identify the adverse condition, describe the actions taken or necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.

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 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 certification.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring report the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

Section 401 Water Quality Certification Requirements Granted

I hereby issue an Order certifying that any discharge from the referenced Project will comply with the applicable provisions of 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 WQC" which requires compliance with all conditions of this WQC.

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

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



LAURI KEMPER, P.E.
ACTING EXECUTIVE OFFICER

Enclosure: 1) Project Description Map

cc: Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Leah Fisher, 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)

OVER/RIPE PHASE 1 IMPACTS TO WATERS OF THE UNITED STATES

Completed Impact Site	Feature	Affected WOUS	Impact Type	Fill Length (ft)	Fill Width (ft)	Fill Depth (ft)	Fill (cu yd)	LOW Length (ft)	LOW Width (ft)	Fill Area (Sq. Ft.)	Loss of Wetlands (Acres)
1	Millich Ditch By-Pass Channel	10	Permanent Fill	100	1	1	3.7	438	1	100	0.0101
2	Minor Irrigation Ditch Filling	11	Permanent Fill	294	1	1	10.9	444	1	294	0.0102
PHASE 1 - Completed Actions		sum-		394			14.6			394	0.0202

Proposed Impact Site	Feature	Affected WOUS	Impact Type	Fill Length (ft)	Fill Width (ft)	Fill Depth (ft)	Fill (cu yd)	LOW Length (ft)	LOW Width (ft)	Fill Area (Sq. Ft.)	Loss of Wetlands (Acres)
1	DVR LOOP Pipeline	13	Excavation	10	2.5	9	8.3			25	0.0006
2	DVR LOOP Pipeline	16	Excavation	1	2.5	6	0.6			3	0.0001
3	DVR LOOP Pipeline	15	Excavation	1	2.5	6	0.6			3	0.0001
4	DVR LOOP Pipeline	14	Excavation	1	2.5	6	0.6			3	0.0001
5	DVR LOOP Pipeline	14	Excavation	1	2.5	6	0.6			3	0.0001
6	Irrigation Mainline - Fields A&B	10	Excavation	2	8.33	6	6.2			20	0.0005
7	Irrigation Mainline - Fields A&B	13	Excavation	1	2	4.33	0.3			2	0.0000
8	Irrigation Mainline - Fields A&B	15	Excavation	1	2	4.33	0.3			2	0.0000
9	Irrigation Mainline - Fields A&B	16	Excavation	1	2	4.33	0.3			2	0.0000
10	Irrigation Mainline - Fields A&B	14	Excavation	1	2	4.33	0.3			2	0.0000
11	Millich Ditch Pipeline	10	Excavation	3	9.5	10.6	10.6			30	0.0007
12	Millich Ditch Pipeline	13	Excavation	1	3	5.5	0.6			3	0.0001
13	Millich Ditch Pipeline	16	Excavation	1	3	5.5	0.6			3	0.0001
14	Millich Ditch Pipeline	15	Excavation	1	3	5.5	0.6			3	0.0001
15	Millich Ditch Pipeline	14	Excavation	1	3	5.5	0.6			3	0.0001
16	Millich Ditch Pipeline	14	Excavation	1	0.5	3	0.1			1	0.0000
17	Weather Station ^a	14	Excavation	1	0.5	3	0.1			1	0.0000
18	Weather Station ^b	14	Excavation	1	0.5	3	0.1			1	0.0000
TOTAL PIPELINE CONSTRUCTION		45					31.2			106.5	0.0024
19	Millich Ditch Outlet	40	Excavation	16	8	189.6	640			640	0.0147
20	Millich Ditch/Harvey Channel Diversion	70	Excavation	43	5.5	613.1	3,010			3,010	0.0691
TOTAL DIVERSION CONSTRUCTION		110					802.8			3,650	0.0838
21	Upper Millich Ditch Loss of Reach		Drainage				2,700	5.4			0.3372
PHASE 1 - Proposed Actions		155					834	2,700		3,757	0.4234
TOTAL LOSS OF WATERS											0.2022
PHASE 1 - Completed Actions											0.4234
Phase 1 Project - total loss of waters											sum- 0.4437



POTENTIAL WETLANDS AND WATERS OF THE U.S.

WETLAND AREAS DESIGNATED BY U.S. ACOE

POTENTIAL WATERS OF THE U.S.

- ① DIAMOND DITCH
- ② HARVEY CHANNEL
- ③ INDIAN CREEK
- ④ MILlich DITCH
- ⑤ SHOWSHOE THOMPSON #1
- ⑥ SHOWSHOE THOMPSON #2
- ⑦ SHOWSHOE THOMPSON #2 (NORTH)
- ⑧ UNNAMED DITCH

LEGEND

- EXISTING C-LINE AND DVR PIPELINE LOOP
- IRRIGATION DISTRIBUTION PIPELINE
- FRESH WATER CONVEYANCE PIPELINE
- MILlich DITCH BY-PASS PIPELINE
- ⊗ PROPOSED ACTION
- ⊠ COMPLETED ACTION

SCALE: 1"=400'	WARNING: 0 1/2 1 IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE.	DESIGNED: D&A/TRIC DRAWN: D&A/TRIC CHECKED: BURT/DOEMENICHELLI	1101 Investment Blvd, Suite 119 El Dorado Hills, CA 95762 Ph: (916) 933-1997 Fax: (916) 933-4778	DOMENICHELLI & ASSOCIATES SOUTH TAIHOE WATER RESOURCES CONSULTANTS	SOUTH TAIHOE PUBLIC UTILITY DISTRICT 1278 MEADOWCREST DRIVE SOUTH LAKE TAHOE, CA 96150 PHONE: (530) 344-6714 FAX: (530) 344-6518	DIAMOND VALLEY RANCH IRRIGATION IMPROVEMENTS	UPDATED 05-08-13
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FIGURE 6. REVISED PHASE 1 IMPACTS TO PWOUS