

Lahontan Regional Water Quality Control Board

August 30, 2013

Cyndie Walck
California Department of Parks and Recreation
P.O. Box 16
Tahoe City, CA 96145

ORDER NO. R6T-2013-0068, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND BASIN PLAN PROHIBITION EXEMPTION FOR THE ANGORA CREEK BRIDGE REPLACEMENT AND NORTH FORK RESTORATION PROJECT, LAKE TAHOE HYDROLOGIC UNIT, EL DORADO COUNTY, WDID 6A091306002

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 for the Angora Creek Bridge Replacement and North Fork Restoration Project (Project) in El Dorado County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A091306002. 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 will be provided upon request or may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A091306002
Applicant	Cyndie Walck, CA Department of Parks and Recreation (CA State Parks) PO Box 16 Tahoe City, CA 96145
Agent	Nathan Shasha, same address
Project Name	Angora Creek Bridge Replacement and North Fork Restoration Project

Table of Project Information continued:

Project Purpose and Description	The North Fork Angora Creek has been impacted by sewer lines that divert and concentrate flow through the meadow surrounding the creek. This has caused head-cuts and incision of the creek channel and tributaries. The Project will stabilize head-cuts and restore meadow floodplain connectivity along the North Fork of Angora Creek by constructing rock step pools and grade controls to prevent further incision. The Project will install willow brush boxes and sod plugs to disperse concentrated flow paths caused by the sewer line. The Project will also replace an unsafe user-created trail bridge over the main fork of Angora Creek with a new engineered bridge and raised boardwalk that is built to CA State Parks safety standards. The bridge replacement part of this Project includes restoration of user-created trails in the vicinity of the bridge.						
Project Type	Wetland restoration and trail bridge replacement						
Project County	El Dorado						
Project Address or other Locating Information	Washoe Meadows State Park, near South Lake Tahoe, CA						
Location Latitude/Longitude	Latitude:38.884 , Longitude: 120.0						
Hydrologic Unit(s)	Hydrologic Unit, 634.10						
Overall Project Area	0.5 acres						
Receiving Water(s) Name	Angora Creek, tributary to the Upper Truckee River						
Water Body Type(s)	Stream, wetland						
Designated Beneficial Uses	MUN, AGR, GWR, FRSH, NAV, REC-1, REC-2, COMM, COLD, WILD, BIOL, RARE, MIGR, SPWN, WQE, FLD						
Potential Water Quality Impacts	Sediment, turbidity						
Area of Water(s) within the Overall Project Area	0.10 acres, 1500 linear feet						
Impacts of Fill to Waters of the State, including Waters of the U.S. (WOUS)	Waterbody Type	Permanent			Temporary		
		Acres or Sq. Ft.	Linear Feet	Cubic Yards	Acres or Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	0.01		78			
	<i>Wetland</i>	0.02		20			
	Total	0.03		98			
Impacts of Dredging (Excavation) to Waters of the State, including WOUS.	Waterbody Type	Permanent			Temporary		
		Acres or Sq. Ft.	Linear Feet	Cubic Yards	Acres or Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>				600 sq ft		4
	<i>Wetland</i>	300 sq ft		3	1014 sq ft		12
	Total	300 sq		3	1614 sq ft		16

Table of Project Information Continued:

Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a Nationwide Permit 27, pursuant to CWA section 404.
Non-Compensatory Mitigation	The Project will implement Best Management Practices (BMPs) to minimize impacts to water quality.
Compensatory Mitigation	The Project will restore a minimum of 450 square feet of wetland in the vicinity of the bridge through revegetation and removal of user created trails. This will compensate for the 300 square feet of wetland lost (including 8 yards of fill and 3 yards of excavation) to install the footings and approaches for the bridge installation. The other permanent and temporary fill and excavation impacts described above are related to the North Fork restoration and do not require compensatory mitigation.
Applicable Fees	\$944
Fees Received	\$944

CEQA COMPLIANCE

The Applicant adopted a Mitigated Negative Declaration (MND) (State Clearinghouse No. 2013052018) on June 20, 2013, and filed a Notice of Determination on June 21, 2013, for the Project, pursuant to the California Environmental Quality Act, (CEQA Public Resources Code 21000, et seq.).

The Water Board, acting as a CEQA Responsible Agency in compliance with CCR, title 14, section 15096, has considered the Applicant's MND for the Project and mitigation measures incorporated into the MND to reduce potentially significant water quality impacts to less than significant with mitigation. As a result of the analysis, the Water Board finds, with the conditions required herein, the mitigation measures in the MND are adequate to reduce potentially significant water quality impacts to less than significant. This Order includes mitigation monitoring requirements for impacts to waters of the State, including WOUS.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

To protect beneficial uses and achieve water quality objectives for the waters in the Lake Tahoe hydrologic unit, the Water Quality Control Plan for the Lahontan Region (Basin Plan) specifies the following discharge prohibition:

The discharge or threatened discharge, attributable to new development in Stream Environment Zones, of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral or earthen materials, to Stream Environment Zone in the Lake Tahoe Basin is prohibited. (Chapter 5, Waste Discharge Prohibitions, page 5.2-4)

The Project will involve soil disturbance and discharge of earthen materials within a stream environment zone (SEZ) in the Lake Tahoe hydrologic unit. The Basin Plan allows exemptions to the above-cited discharge prohibition for activities in SEZ of the Lake Tahoe hydrologic unit for erosion control projects and for public outdoor recreation facilities; however separate findings must be made for each type of project (Basin Plan page 5.8-7). This Project includes both restoration along the North Fork Angora Creek and a public recreation trail-bridge replacement along the main stem Angora Creek.

Prohibition Exemption Criteria

The Basin Plan contains a provision that the prohibition stated above shall not apply to any activity the Water Board approves as reasonably necessary for erosion control projects, habitat restoration projects, wetland rehabilitation projects, SEZ restoration projects, and similar projects, if all of the following findings can be made:

(a) The Project, program, or facility is necessary for environmental protection.

The flows in the North Fork Angora Creek are being diverted by an existing sewer line that transects the meadow. The sewer pipeline presence in the meadow has affected the creek flow which has caused adverse incision of the creek channel. The Project is expected to result in enhanced conditions of meadow, riparian, and aquatic ecosystems and a long-term water quality improvement. The Project will prevent further incision of the North Fork channel, stabilize eroding down-cut portions of the stream and prevent erosional features from migrating upstream. The Project improvements will redirect the flow path of the North Fork Angora Creek to disperse across the meadow, thereby decreasing additional stream incision and preventing the diversion of creek flows by the sewer pipeline location.

(b) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the SEZ.

The Project by its very nature must be located in the SEZ, and the purpose is to restore SEZ areas along the North Fork Angora Creek within the Project boundary. Although the restoration will result in 90 cubic yards of fill being placed in the SEZ, there will be no associated loss of SEZ. The fill will be used to raise the bed elevation of the channel and place grade control structures across the channel. The Project has been designed to reduce the extent of encroachment in the SEZ while still meeting the purpose of the Project. To minimize encroachment and disturbance to the SEZ from equipment access, the Applicant will temporarily place construction mats to create driving surfaces on the SEZ. Vehicle use will be restricted to the mats, which precludes the need for grading activities and vegetation removal for vehicle access. Some portions of the restoration will be completed by hand labor only, thus reducing the impact from equipment operations within the SEZ.

(c) Impacts are fully mitigated.

The Applicant will implement construction BMPs, as described within the Project's application for WQC and the MND. These temporary and permanent BMPs are required to prevent construction activities from discharging sediment and other pollutants into Angora Creek and its surrounding SEZ areas. BMPs include scheduling work to occur later in the summer when areas are driest, limiting the size of staging areas and locating staging outside of the SEZ, managing waste and stockpiles, using hand crews to limit equipment usage on the SEZ, and driving equipment on movable construction mats to avoid road construction and compaction in the SEZ. Sod and willow cuttings will be harvested from nearby meadow locations to revegetate the disturbed areas along the North Fork Angora Creek channel.

The Project proposes to replace an undersized and unsafe user-created bridge with an appropriately sized and designed bridge that allows access by equestrian users. The Basin Plan contains a provision that the Water Board shall grant exemptions to the above cited prohibition for outdoor public recreation facilities if all of the following findings can be made:

(a) The project by its very nature must be sited in a SEZ.

The existing trail network and bridge is currently located in an SEZ. This trail has been used by park visitors, including equestrian users, for many years and provides access to the park from an adjacent neighborhood. The trail crosses the SEZ and connects upland areas that are on either side of Angora Creek, but the existing bridge is too small for all users so the equestrian users by-pass the bridge to cross the creek, causing unnecessary erosion of the creek banks with user-created trails. No other suitable locations exist in the area to provide recreation access across the creek. The new boardwalk and bridge will be a designated route and crossing in the upcoming Washoe Meadows Park General Plan.

(b) There is no feasible alternative which would reduce the extent of SEZ encroachment.

The Project has been designed to minimize the extent of encroachment in the SEZ by using a raised boardwalk and longer-span bridge to replace the current trail and user created bridge in the SEZ. The bridge and boardwalk will be installed using hand crews to prevent the need for vehicle access in the SEZ. The raised boardwalk leading to the bridge will minimize impacts to the ground surface and allow unrestricted movement of water through the area during high flows. The new bridge will span the creek channel and be wide enough to accommodate equestrian users who cannot use the existing undersized bridge and therefore ford the creek, causing damage to the SEZ and widening of the creek channel. The boardwalk and bridge will have handrails for safety and those handrails are intended to keep the users, especially equestrian, on the designated path. This will prevent the creation of user created side trails when the area is wet.

No other suitable locations exist in the area to provide recreation access across the creek. The current location connects two upland areas with the least amount of SEZ disturbance. A large meadow and SEZ extends both upstream and downstream of the current location. Moving the bridge location would require additional trail construction and disturbance in an SEZ. Attempting to install a larger bridge that would span all SEZ disturbance would result in more disturbance to the area overall, requiring a larger area of excavation, imported fill and armoring, larger equipment for installation, access road construction, and larger approaches, resulting in more fill and impervious area.

(c) Impacts are fully mitigated.

The Applicant will implement construction BMPs, as described within the 401 WQC application and MND. These BMPs are required to prevent construction activities from discharging sediment and other pollutants into the SEZs and creeks. BMPs include de-compaction and revegetation of disturbed areas, scheduling work to occur later in the summer when areas are driest, limiting the size of staging areas, managing waste and stockpiles, and using hand crews to install the new bridge and boardwalk. All of the fill and sod excavated for the bridge and boardwalk foundation will be used on-site for restoration and decommissioning of the many way trails in the area around the bridge.

(d) SEZs are restored in an amount 1.5 times the area of SEZ disturbed or developed for the project.

A total of 300 square feet of SEZ will be impacted by the boardwalk and bridge installation. For the Project, this finding requires a minimum of 450 square feet of SEZ restoration. The Project will restore and decommission 600 square feet of existing user created trails in the SEZ area surrounding the bridge. Sod and soils excavated for the bridge and boardwalk footings will be used to restore incised trails in the adjacent area. This area will be monitored for successful vegetation establishment.

Resolution No. R6T-2008-031, delegates authority to the Water Board Executive Officer to grant exemptions to the above-referenced discharge prohibition for projects that satisfy criteria specified in Resolution No. R6T-2008-031. The criteria that the Project must satisfy are:

- 1. The Executive Officer has the authority to authorize the Project under an existing general permit, general waiver or individual water quality certification order, excluding projects that require a Board action; and*
- 2. The Project meets the exemption or exception criteria set forth in the Basin Plan; and*
- 3. The Project's primary purpose is to reduce, control, or mitigate existing sources or erosion or water pollution; or*

4. *The public recreation project is within the following specific size limitations:*
 - a. *Less than 2000 square feet of new ground disturbance, and*
 - b. *Less than 100 cubic yards of fill or excavation.*

The two primary purposes of the Project are to control erosion in the North Fork Angora Creek and to replace a user-created trail bridge, thus it is both an erosion control and public recreation project. The public recreation component has a total of 8 cubic yards of fill, 3 cubic yards of excavation, and 300 square feet of SEZ ground disturbance. This Project meets the criteria necessary to delegate the authority to the Executive Officer to grant an exemption to the prohibition stated above.

Exemption Granted

As demonstrated above, the Project meets the conditions and criteria for an exemption to the above-cited SEZ discharge prohibition. The Applicant has incorporated appropriate BMPs into the Project to ensure that erosion and surface runoff problems caused by the Project are minimized to levels of insignificance. The Project is hereby granted an exemption to the above-cited waste discharge prohibition. Except in emergency situations, the Executive Officer shall notify the Board and interested members of the public of the 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 persons 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 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 Nationwide Permit No. 27 pursuant to CWA section 404.

CCR title 23, section 3831(e) grants the Executive Officer the authority to grant or deny WQC for projects in accordance with CWA Section 401. This 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 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 description 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 WQC 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 CWA Section 303, 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 CWA Section 303.

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 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. 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.
2. The Applicant must notify Water Board staff within 48 hours prior to commencement of the Project.
3. The Applicant must immediately (within two hours) notify Water Board staff by telephone whenever an adverse condition occurs as a result of this Project. 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.
4. Construction equipment shall be clean and free from oil, grease and loose metal material, and monitored for leaks. Equipment shall be removed from service if necessary to protect water quality.
5. An emergency spill kit shall be at the Project site at all times.
6. All temporary BMPs shall be inspected and maintained daily during Project construction. The Applicant shall keep daily inspection logs onsite during Project construction and provide a copy of inspection logs to Water Board staff upon request.
7. As stated in the application the North Fork Angora Creek is expected to be dry during the SEZ restoration work. If flow returns to the creek channel prior to Project completion, the Applicant must isolate the work area from live flow and submit a dewatering and diversion plan to the Water Board.

8. Rock proposed for placement must be washed and/or free of all adhered soil particles prior to placement. Wash water from rock washing must be disposed of either to the sanitary sewer, as allowed by the sewer agency, or directed to non-wetland, upland areas a minimum of 100 feet from the SEZ where the water is infiltrated into the soil.
9. Except as described in the Project application, no debris, cement, concrete (or wash water therefrom), sand, rock, soil, earthen materials 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 adjacent to the work area where such material may be transported into waters of the state.
10. The Applicant must permit Board staff or its authorized representative upon presentation of credentials:
 - a. Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any record required to be kept under the terms and conditions of this Order.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
 - d. Sampling of any discharge or surface water covered by this Order.
11. The Applicant must prevent the introduction or spread of noxious and invasive weeds within the Project and staging area. Control measures may include removing existing invasive vegetation, cleaning all equipment and gear prior to use on the Project site, using weed-free erosion control materials (including straw), and using weed-free seeds and plant material for revegetation of disturbed areas.
12. Staging areas and wetland areas that will be avoided near Project and/or staging areas must be protected by colored construction fencing or equivalent barriers.
13. Mitigation of SEZ and jurisdictional wetland disturbance from the bridge installation must occur through restoration, including implementation and monitoring as specified in Attachment 5 of the Project application.
14. Project effectiveness monitoring along the North Fork Angora Creek shall occur as described in the Project description and monitoring plan.
15. A mitigation and effectiveness monitoring report must be provided annually for five years. The report must describe the site conditions for both for the SEZ mitigation restoration required by the bridge installation and the North Fork Angora Creek restoration, and include the results of monitoring performed during the previous year and progress towards achieving the performance standards and Project objectives in the application. The report must also describe any problem(s) encountered during the year, and explain actions taken or proposed to address the problem(s), and a schedule for completion. The report shall include post-Project photos showing the restored areas.

The annual report shall address site conditions from November 1 through October 31 of the following year, and must be received by the Water Board by December 1 following the end of each monitoring period. The first annual report is due December 1, 2014. Subsequent annual reports are due on December 1, 2015, December 1, 2016, December 1, 2017, and December 1, 2018.

Enforcement

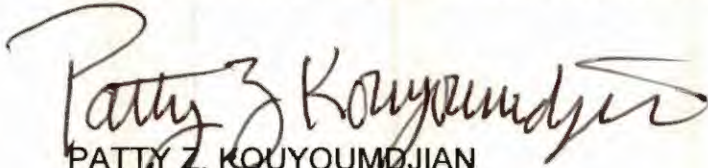
1. In the event of any violation or threatened violation of the conditions of this WQC, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of CWA section 401(d), the applicability of any state law authorizing 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 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 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 staff person Laurie Scribe at (530) 542-5465, or Doug Cushman, Chief, Non-Point Source Unit, at (530) 542-5417.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Bill Orme, State Water Resources Control Board, Division of Water Quality
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Lynette Blanchard, U.S. Army Corps of Engineers, Sacramento District, Reno
Patrick Moeszinger, California Department of Fish and Game