
Lahontan Regional Water Quality Control Board

March 18, 2014

Matt Homolka
Tahoe City Public Utility District
P.O. Box 5249
Tahoe City, CA 96145

BOARD ORDER NO. R6T-2014-0021, CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND NOTICE OF APPLICABILITY FOR COVERAGE UNDER THE MARINA GENERAL PERMIT FOR LAKE FOREST BOAT RAMP PROJECT, PLACER COUNTY, WDID 6A311310004

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received from the Tahoe City Public Utility District (District) a complete Clean Water Act (CWA) 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 Lake Forest Boat Ramp Project (Project) in Placer County. 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-2011-0024-018 and Waste Discharger Identification (WDID) number 6A311312005, and WQC WDID No. 6A311310004. Please use these reference numbers in all future communication 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/board_decisions/adopted_orders/2011/docs/r6t2011_0024.pdf

The Water Board also received information to support granting an exemption to a waste discharge prohibition in the Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan).

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	6A311310004
Applicant	Tahoe City Public Utility District P.O. Box 5249 Tahoe City, Ca 96145
Agent	Ogilvy Consulting P.O. Box 1636 Kings Beach, CA 96143
Project Name	Lake Forest Boat Ramp Project
Project Purpose and Description	The proposed Project is to repair and replace a public boat ramp to meet current public safety standards in accordance with the California Department of Boating and Waterways. To meet these standards, the boat ramp will be widened by 10 feet. Slope will also be adjusted. Pre-cast concrete sections will be installed with supporting sheet pile and rock revetment at perimeter. Maintenance dredging to previous lake bottom elevations (approximately 625 cubic yards) will occur concurrently with boat ramp installation. Best Management Practices (BMPs) including a turbidity curtain will be in place during maintenance dredging and construction activities. Work will be accomplished in coordination with the California Department of Fish and Wildlife and Tahoe Regional Planning Agency.
Project Type	Boat Ramp Widening and Maintenance Dredging
Project County	Placer
Project Address or other Locating Information	2500 Lake Forest Road, Tahoe City, CA
Location Latitude/Longitude	Latitude: 39° 18' 12.28" Longitude: 120° 11' 97.08"
Hydrologic Unit(s)	Lake Tahoe Hydrologic Unit, 634.00
Overall Project Area	19,000 square feet
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, BIO, MIGR, SPWN
Potential Water Quality Impacts	Discharge of materials onto the lake bed or into the lake from removal and replacement of concrete boat ramp, and turbidity from dredging the lakebed.
Area of Water(s) within the Overall Project Area	17,000 square feet

Table of Project Information Continued:

Project Impacts (Fill) to waters of the state, including waters of the U.S. (WOUS)	Waterbody Type	Permanent			Temporary		
		Sq. Ft.	Linear Feet	Cubic Yards	Sq. Ft.	Linear Feet	Cubic Yard
	<i>Lake</i>			46.12			
	<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 Permits No. 3 and 35, pursuant to CWA section 404.						
Non-Compensatory Mitigation	BMPs will be employed on the site at all times, and throughout construction. Contractor will deploy turbidity curtains and other water quality protections as required by this Order.						
Compensatory Mitigation	The Project will create no new SEZ disturbance. No compensatory mitigation will be required.						
Applicable Fees	\$1,097 base fee for 401 Certification + \$153 Marina General Permit/maintenance dredging flat fee + \$12 discharge fee (46 cubic yards /.0026 acre of fill) + \$105 ambient surcharge fee = \$1367.						
Fees Received	\$944 + \$153 = 1,097; a balance of \$270 is required prior to authorizing this 401 Certification/Notice of Applicability.						

CEQA COMPLIANCE

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (CEQA)(Public Resources Code Section 21000 et seq.). In accordance with section 15303, the basis for CEQA exemption is “New Construction or Conversion of Small Structures.” A Notice of Exemption will be filed with the State Clearinghouse concurrently with issuing this Order.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

To protect beneficial uses and achieve water quality objectives for the waters of Lake Tahoe and its tributaries, the Basin Plan specifies the following discharge prohibition:

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

Activity Below the Highwater Rim

The proposed Project is to repair and replace an existing boat ramp to meet current public safety standards set forth by the California Department of Boating and Waterways.

Prohibition Exception

Resolution No. R6T-2008-0031, 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-2008-0031. 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 is necessary for public health, safety, or environmental protection; or*
4. *The project is a repair or replacement of existing facilities.*

The Basin Plan allows exemptions to the above-cited discharge prohibition for activities below the highwater rim of Lake Tahoe for public service facilities provided that:

(a) The project is a necessary for public health, safety, or environmental protection:

The proposed Project will widen a public boat ramp that the District has operated for over the last two decades. In accordance with the California Department of Boating and Waterways requirements, the boat ramp will be brought up to current public safety standards whereby boat launch lanes are required to be a minimum of fifteen feet wide where two or more lanes exist.

(b) There is no reasonable alternative, including spans, which would reduce the extent of encroachment in a floodplain:

The extent of encroachment has been minimized to the extent possible by use of the existing boat ramp alignment. The amount of new permanent disturbance below the highwater rim is limited to that needed to widen the boat ramp. There is no reasonable alternative which would reduce the extent of encroachment into the area below the highwater rim, or the 100-year floodplain of Lake Tahoe.

(c) Impacts on the floodplain are minimized:

An estimated 1,057 square feet of new disturbance and 46 cubic yards of new fill will occur as a result of the widening of the boat ramp. There is historic prior disturbance from dredging at the Project site, and no new lake bed disturbance beyond the required boat ramp widening is proposed. The Project includes measures that will minimize any temporary waste discharges such that impacts are fully mitigated.

EXEMPTION GRANTED

As demonstrated above, the Project meets the conditions and criteria for an exemption to the above-cited 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 his intent to issue an exemption at least ten (10) days before the exemption is issued. A notice of exemption will also be posted on the Water Board website and distributed through an interested persons mailing list allowing at least ten (10) days to submit comments.

Monitoring And Reporting Program No. R6T-2011-0024

The Project includes a maintenance dredging component. Maintenance dredging is authorized to the elevations specified in the submitted applications for WQC and Marina General Permit coverage. In accordance with Marina General Permit, 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.

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 Permits No. 3 and 35 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 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 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 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 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. This WQC Order authorizes maintenance dredging within the Project area to a **lake bottom depth elevation of 6,219 feet** Lake Tahoe Datum.
2. **Dredging must only occur during non-spawning season between October 1 and May 1** unless written authorization is provided from the California Department of Fish and Wildlife and the Tahoe Regional Planning Agency for each dredging event planned between April 30 and September 30. Authorization letters must be provided to the Water Board before dredging commences.
3. To minimize or avoid impacts to water quality, caissons, sleeves, or turbidity curtains must be used during Project implementation when any lake bed material is disturbed to prevent re-suspension and discharge of lakebed sediments. The control measures must be inspected and maintained as necessary to prevent discharge of suspended sediment outside the containment area.
4. Prior to initiating construction of the Project, the Applicant must document whether there are any subsurface utilities in the area of construction. 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 construction area, the Applicant must also prepare a utility avoidance plan that will be followed during construction.
5. 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.

6. **Within 60 days of completing dredging**, you must provide to this office a technical report describing (a) the actual final depths in the area of the dredging activities and (b) 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 after dredging operations are completed, are as reported in the applications for WQC and Marina General Permit coverage.
7. The Applicant must prevent the introduction or spread of noxious/invasive weeds or aquatic invasive species within the Project and staging areas. Measures may include, but are not limited to, the treatment of on-site infestations and the cleaning of all equipment and gear that has been at an infested site.
8. No discharge of dredged materials is allowed after being removed outside of the dredging containment area.
9. **Forty-eight hour notification** prior to dredging commencement must be provided.
10. 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.
11. 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 is kept to a minimum at all times, even in adverse conditions, such as high winds, wave action or currents.
12. In addition to complying with the monitoring and reporting requirements specified in Marina General Permit R6T-2011-0024-018, which state that turbidity measurements must be taken every 2 hours from a location along approximately a 20-foot radius of the dredging equipment during the dredging operation, if a sediment plume is visible outside of the turbidity curtains, the Applicant must immediately measure the turbidity within the plume area. 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 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.
13. The use of chitosan or any flocculent to reduce turbidity in the lake is prohibited.
14. 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.

15. No debris, cement, concrete (or wash water therefrom), oil or petroleum products must enter into or be placed where it may be washed from the Project site by rainfall or runoff into waters of the state. When operations are completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported by stormwater runoff into waters of the state.
16. 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 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.
17. The Applicant must prevent discharge of any foreign materials to the lake water from implementation of this Project.
18. An emergency spill kit must be at the Project site at all times.
19. New development must not result in impervious surface or other land disturbance in excess of the allowable amounts as determined by the Tahoe Regional Planning Agency.
20. All newly introduced rock and foreign materials must be washed and free of adhered materials prior to placement below the ordinary high water line of Lake Tahoe, including, but not limited to precast concrete and rock revetment.

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 Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

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

We look forward to working with you in your efforts to protect water quality. If you have any questions, please contact Dale Payne at (530) 542-544 or Alan Miller, P.E., Chief, North Basin Regulatory Unit, at (530) 542-5430.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

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