

## Lahontan Regional Water Quality Control Board

May 6, 2014

Sarah Obexer  
Obexer and Son, Inc.  
P.O. Box 186  
Homewood, CA 96141

**BOARD ORDER NO. R6T-2014-0036 TO AMEND CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND NOTICE OF APPLICABILITY FOR COVERAGE UNDER THE MARINA GENERAL PERMIT FOR OBEXERS MARINA MAINTENANCE DREDGING PROJECT, PLACER COUNTY, GENERAL PERMIT NO. R6T-2011-0024, WDID NO. 6A311403001**

On April 23, 2014, the California Regional Water Quality Control Board, Lahontan Region (Water Board) issued the enclosed Order for Clean Water Act (CWA) section 401 Water Quality Certification (WQC) and Notice of Applicability (NOA) for coverage under the Marina General Permit. The Order authorized dredging activity in Lake Tahoe at Obexer's Marina. The Project description in the original Order incorrectly stated that the dredging will be done from a barge situated just south of the area to be dredged. This amendment clarifies that the long-armed excavator will be brought by barge to the marina, off-loaded on the marina's boat launch, and moved to southern part of the marina to perform the excavation from shore instead of from the barge.

The reference number previously assigned, Waste Discharger Identification (WDID) No. 6A311403001, is retained for this amendment to the Order for WQC. 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

The following sections of the Order for WQC are modified according to the strike-out (for deletions) and underline (for additions) as follows:

Project purpose and description	The Applicant proposes to dredge approximately 200 cubic yards (cy) of material to a depth of 6,215 feet above Lake Tahoe Datum from just outside (south) of the opening to the Marina. The area dredged will be approximately 17,000 square feet and the dredging site will be contained within a turbidity curtain. <u>The tracked excavator, with a long-boom reach of 58 feet, will be brought by barge to the Obexer's boat launch ramp and off-loaded. It will be taken along the marina paved drive to the existing south infiltration pond. After the turbidity screen is in place, the excavator will be moved over steel plates above the pond to the existing steel sheet pile wall bordering the pond and down onto steel plates on the beach.</u> <del>The dredging will be done using a long-armed, tracked excavator from a barge situated just south of the area to be dredged.</del> The material removed from lakebed will be placed into sealed dump trucks parked on steel plates over the southern infiltration pond where they will be trucked to the Placer County sanitary landfill on Highway 89.
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The above changes are the only changes authorized by this amendment. All other requirements in the June 20, 2012 Order remain in effect. If you have questions, please contact Tobi Tyler, Water Resources Control Engineer, at (530) 542-5435, or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430. Please use the WDID in the subject line for future correspondence concerning this Project.



PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

Enclosure: Order for CWA section 401 WQC, dated April 23, 2014

cc: Jan Brisco  
Kenneth Kasman / TRPA  
Ninette Lee / California State Lands Commission  
Garry Kelley / CA Dept. of Fish and Game, Rancho Cordova  
Kristine Hanson / U. S. Army Corps of Engineers  
Jason Brush / Wetlands Regulatory Office (WTR-8), USEPA, Region 9  
(via email at [R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov))  
Bill Orme / SWRCB, Division of Water Quality  
(via email at [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov))



## Lahontan Regional Water Quality Control Board

April 23, 2014

Sarah Obexer  
Obexer and Son, Inc.  
P.O. Box 186  
Homewood, CA 96141

**BOARD ORDER NO. R6T-2014-0032, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND NOTICE OF APPLICABILITY FOR COVERAGE UNDER THE MARINA GENERAL PERMIT FOR OBEXERS MARINA MAINTENANCE DREDGING PROJECT, PLACER COUNTY, GENERAL PERMIT NO. R6T-2011-0024, WDID NO. 6A311403001**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application, a Notice of Intent (NOI) to comply with the *National Pollutant Discharge Elimination System General Permit for Industrial Activities and Maintenance Dredging at Marinas in the Lake Tahoe Basin*, Board Order No. R6T-2011-0024 (Marina General Permit), and complete filing fee for the Obexer's Marina Maintenance Dredging Project (Project). We have reviewed these and other supplemental materials you have provided. Based on the information contained in your submittal, it is our determination this Project meets the required conditions to be approved under the Marina General Permit. All of the requirements for maintenance dredging contained in the Marina General Permit are applicable to your Project. This Notice of Applicability (NOA) for coverage under the Marina General Permit and Order for WQC hereby assigns this Project the following reference numbers: Marina General Permit No. **R6T-2011-0024-019** and Waste Discharger Identification (WDID) No. **6A311403001**. Please use these reference numbers in all future correspondence regarding this Project. A copy of the Marina General Permit may be found at the Water Board website at:

[http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/permitting/index.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/permitting/index.shtml).

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations (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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality)

or will be provided upon request.

**Table of Project Information:**

WDID Number	6A311403001						
Applicant	Sarah Obexer Obexer and Son, Inc. P.O. Box 186 Homewood, CA 96141						
Agent	Jan Brisco P.O. Box 1888 Tahoe City, CA 96145						
Project name	Obexer's Marina Maintenance Dredging Project						
Project purpose and description	The Applicant proposes to dredge approximately 200 cubic yards (cy) of material to an elevation of 6,215 feet, Lake Tahoe Datum, from just outside (south) of the opening to the Marina. The area dredged will be approximately 17,000 square feet and the dredging site will be contained within a turbidity curtain. The dredging will be done using a long-armed, tracked excavator from a barge situated just south of the area to be dredged. The material removed from lakebed will be placed into sealed dump trucks parked on steel plates over the southern infiltration pond where they will be trucked to the Placer County sanitary landfill on Highway 89.						
Project Type	Maintenance Dredging						
Project County	Homewood, Placer County						
Project Address or other Locating Information	5340 West Lake Blvd.						
Location latitude/ longitude	Latitude: 39.081572; Longitude: -120.15685						
Hydrologic Unit(s)	North Tahoe Hydrologic Area 634.20 in the Lake Tahoe Hydrologic Unit, 634.00						
Project area	0.4 acres						
Receiving Water(s) Name	Lake Tahoe						
Water Body Type(s)	Lake						
Designated Beneficial Uses	MUN, AGR, GWR, NAV, REC-1, REC-2, COMM, COLD, WILD, BIOL, MIGR, SPWN						
Area of water(s) of the U.S. (WOUS) within the Project Area	0.4 acres						
Potential Water Quality Impacts	Discharge of waste earthen materials from dredging activities.						
Impacts of Dredging to waters of the state, including WOUS.	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>	0.092 acres		200 cy			
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>						

**Table of Project Information (continued):**

Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under Nationwide Permit No. 35, pursuant to CWA section 404 and section 10 of the Rivers and Harbors Act.
Non-compensatory mitigation (for dredge and fill discharge to waters of the State)	To minimize turbidity, all dredging will be done behind turbidity curtains, which will remain until the turbidity is reduced to acceptable levels, as specified in the Marina General Permit. The dredged material will be transported in the sealed dump trucks to an approved disposal site.
Applicable fees	\$1239 (\$1,097 application filing fee + \$35 for 200 cubic yards of dredging material at \$0.174 per cubic yard + surcharge.)
Fee received	\$1239
Fee due	\$0

**CEQA COMPLIANCE**

Water Board staff have determined that this Project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.). In accordance with CEQA Guidelines Section 15304(g), the basis for CEQA exemption for the dredging operations is "Minor Alterations to Land." The Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with this Order.

**MONITORING AND REPORTING PROGRAM NO. R6T-2011-0024**

This is a maintenance dredging project. In accordance with Marina General Permit No. R6T-2011-0024, the Applicant must adhere to the monitoring and reporting requirements specified in Attachment E, Section IV.C, Maintenance Dredging Monitoring. It is your responsibility to ensure that all required water and soil analyses are conducted in accordance with the reporting requirements and limits specified in the Monitoring and Reporting Program for Marina General Permit No. R6T-2011-0024.

**SECTION 401 WATER QUALITY CERTIFICATION**

**Authority**

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, shall provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant has submitted a complete application and applicable filing fees for WQC under section 401 for the Project. This Order for WQC is based upon the information provided in the application and subsequent correspondence. The USACOE will regulate the Project under Nationwide Permit No. 35 pursuant to section 404 of the CWA and section 10 of the Rivers and Harbors Act.

CCR Title 23, Section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with section 401 of the CWA. Maintenance dredging and filling activities qualify 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 California Water Code section 13330, and CCR title 23, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR title 23, section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under CCR Section title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither project construction activities nor operation of the project may cause a violation of the Water Quality Control Plan for the Lahontan Region (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the California Water Code.
5. The project must be constructed and operated in accordance with the project described in the application for water quality certification that was submitted to the Water Board. Deviation from the project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This Water Quality Certification 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 Lahontan Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act, or as appropriate to coordinate the operations of this project with other projects where coordination of

operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.

8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the applicant must obtain authorization for the take prior to construction or operation of the project. The Applicant is responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this certification.

### **Additional Conditions**

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

1. This WQC Order authorizes maintenance dredging within the Obexer's Marina to a **lake bottom elevation of 6,215 feet Lake Tahoe Datum.**
2. **Dredging must only occur during non-spawning season between October 1<sup>st</sup> and May 1<sup>st</sup>** 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<sup>th</sup> and September 30<sup>th</sup>. Authorization letters must be provided to the Water Board before dredging commences.
3. Turbidity curtains must be used during Project implementation to effectively contain and isolate wastes from dredging and prevent turbidity from lakebed sediments outside of the curtained area.
4. In addition to complying with the monitoring and reporting requirements specified in Marina General Permit R6T-2011-0024, which state that turbidity measurements must be taken every 2 hours from a location no more than 5 feet from the turbidity curtain 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.

5. Prior to initiating construction of the Project, the Applicant must document whether there are any subsurface utilities in the area of excavation. This can be accomplished by: (1) contacting all utilities (both public and private) that provide service in the area, documenting these contacts; (2) contacting Underground Service Alert, documenting this contact; or, (3) some other equivalent affirmative action to determine whether or not there are any subsurface utilities in the area of construction. The area of construction is defined as any area within the Project boundaries where there will be excavation, construction of borings or driving of piles. If subsurface utilities are located in the area of excavation, the Applicant must also provide a utility avoidance plan that will be followed during construction.
6. 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.
7. **Forty-eight hour notification** prior to dredging commencement must be provided.
8. **Within 60 days of completing each year's dredging project**, 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.
9. The Applicant must prevent the introduction or spread of noxious/invasive weeds 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.
10. Dumpsters must be sealed to prevent discharge of dredged material after placement outside of the curtained area and into the trucks. No discharge is allowed after dredged material is placed outside the curtained area.
11. 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.
12. 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.
13. The use of chitosan or any flocculent to reduce turbidity in the lake is prohibited.
14. An emergency spill kit must be at the Project site at all times.



15. The Applicant is responsible for informing any contractors of the specific conditions contained in this WQC Order and maintaining compliance with the conditions of this Order.

### **Enforcement**

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of 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 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 shall 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.

### **CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION GRANTED**

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

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

**General Information**

1. Failure to abide by the conditions of this NOA and WQC Order could result in an enforcement action as authorized by provisions of the Porter-Cologne Water Quality Control Act.
2. You are responsible for informing any contractors of the waste discharge requirements, the specific conditions contained in this WQC Order, and for verifying compliance with these requirements.

If you have any questions or comments regarding this permit, please contact Tobi Tyler at (530) 542-5435 or Alan Miller, Chief, North Basin Regulatory Unit, at (530) 542-5430.



For

PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

cc: Jan Brisco  
Kenneth Kasman, TRPA  
Ninette Lee, California State Lands Commission  
Garry Kelley, CA Dept. of Fish and Game, Rancho Cordova  
Kristine Hanson, U. S. Army Corps of Engineers  
Jason Brush, Wetlands Regulatory Office (WTR-8), USEPA, Region 9  
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