

## Lahontan Regional Water Quality Control Board

June 23, 2015

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

### **BOARD ORDER NO. R6T-2015-0041, CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND 100-YEAR FLOODPLAIN PROHIBITION EXEMPTION FOR WEST SHORE EXPORT TRUCKEE RIVER CROSSING REPAIR PROJECT, PLACER COUNTY, WDID 6A311411001**

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 and application filing fee from Tahoe City Public Utility District (Applicant) for the West Shore Export Truckee River Crossing Repair Project (Project) in Placer County. The Applicant also provided information to support granting an exemption from a waste discharge prohibition in the Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan). The application received on November 6, 2014 was deemed complete on May 20, 2015. This Order for WQC hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A311411001. 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, 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.

### **PROJECT DESCRIPTION**

#### **Table of Project Information:**

WDID Number	6A311411001
Applicant	Matt Homolka Tahoe City Public Utility District P.O. Box 5249 Tahoe City, Ca, 96145
Agent	Lydia Altick Auerbach Engineering Corporation P.O. Box 5399 Tahoe City, Ca 96145

KIMBERLY COX, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

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**Table of Project Information continued:**

Project Name	West Shore Export Truckee River Crossing Repair Project									
Project Purpose and Description	The Project is designed to protect the Truckee River from potential sewer line failure by replacing the existing steel sewer pipe that crosses over the Truckee River just downstream of Lake Tahoe's outlet and dam. The Project also includes performing structural repairs to the existing concrete support structures by encasing the pilings in 24-inch diameter galvanized steel pipes driven five feet below existing grade. The annular space between the sleeve and pile will be filled with grout suitable for underwater application to seal the space. Approximately 5-10 cubic yards will be excavated for each of three support structures that require this treatment. The excavated material will be relocated to a containment basin located in a staging area and will be used to backfill the excavated areas once repair work is completed. Temporary placement of K-rails and turbidity curtains will be used to divert river water (if present) away from the support structures prior to excavation and structural repair work.									
Project Type	Utilities- Support Facilities									
Project County	Placer									
Project Address or other Locating Information	The Project is located on the Truckee River, approximately 2000 linear feet downstream of the State Route 89 bridge (Fanny bridge) in Tahoe City.									
Location Latitude/Longitude	Latitude: 39.162997 , Longitude: -120.149202 (center)									
Hydrologic Unit(s)	Truckee River Hydrologic Unit, 635.20									
Overall Project Area	0.6 acres/ 28,750 square feet									
Receiving Water(s) Name	Truckee River, surrounding riparian wetlands									
Water Body Type(s)	River, Wetlands									
Designated Beneficial Uses	MUN, AGR, IND, GWR, FRSH, POW, REC-1, REC-2, COMM, COLD, WILD, BIOL, RARE, MIGR, SPWN, WQE, FLD									
Potential Water Quality Impacts	Potential for discharge of concrete and other materials into the river and wetland due to Project implementation. Potential for sewer pipeline breakage and untreated sewage discharged to Truckee River. This risk increases without Project implementation.									
Area of Water(s) within the Overall Project Area	0.08 acres, 3,540 square feet, 130 linear feet									
Impacts of Fill and Excavation to Waters of the State, including Waters of the U.S. (WOUS)	<b>Water-body Type</b>	<b>Temporary</b>			<b>Permanent</b>					
					Physical Loss of Area			Degradation of Ecological Condition		
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards
	<i>Lake</i>									
	<i>Riparian</i>	0.0003								
<i>Stream</i>	0.004	10		0.00009						
<i>Wetland</i>	0.002			0.00005						
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under Nationwide Permit No. 3, pursuant to CWA section 404 and section 10 of the Rivers and Harbors Act.									

**Table of Project Information continued:**

Non-compensatory Mitigation (for Dredge and Fill Discharge to Waters of the State)	Best Management Practices (BMPs) will be employed on the site at all times and throughout construction. The Project will be implemented during the lowest flow period of the year beginning in August 2015. Due to the drought, no flow is expected in the area of the work. However, if flows are present, the diversion plan includes the temporary deployment of K-rails and turbidity curtains to divert the flow around the three structural repair locations. A rubber tired mini excavator will be utilized in the river to load the crane bucket. The crane will be located above the 100-year floodplain. The mini-excavator will access the work site via construction mats or similar strategy to reduce impacts to existing vegetation and soils. The temporarily impacted sites will be restored to pre-Project conditions as specified in a Post-Construction Restoration Plan, which specifies area to be returned to pre-Project conditions within one year of Project implementation.
Compensatory Mitigation	None required due to small area impacted.
Application Fee	\$600
Estimated Annual Active Discharge Fee <sup>1</sup>	\$600 (An annual active discharge fee of \$200 will be assessed each fiscal year beginning July 1st until the Applicant receives a Notice of Completion of Discharges Letter from the Water Board.)
Estimated Post-Discharge Monitoring Fee <sup>1</sup>	\$300 (An annual fee of \$100 will be assessed each fiscal year beginning July 1st during the Post-Discharge Monitoring Period until the Water Board issues a Notice of Project Complete Letter to the Applicant.)
Fees Received	\$1,201

<sup>1</sup>The actual Annual Active Discharge Fee and Post-Discharge Monitoring Fee will be calculated using the fee schedule in effect at the time the annual fee is assessed per California Code of Regulations, title 23, section 2200(a)(3).

**CEQA COMPLIANCE**

The Applicant adopted a Mitigated Negative Declaration (MND) for the West Shore Export Truckee River Crossing Repair Project (State Clearing House Number 2015032093) on May 15, 2015, and filed a Notice of Determination on May 15, 2015, pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq.) and the State CEQA Guidelines.

The Water Board, acting as a CEQA Responsible Agency in compliance with California Code of Regulations, Title 14, section 15096, evaluated the significant and potentially significant impacts to water quality identified in the MND for the Project. 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**

The Water Board specifies the following discharge prohibition in the Water Quality Control Plan for the Lahontan Region (Basin Plan):

*“2. The discharge or the threatened discharge, attributable to human activities, of waste to lands within the 100-year floodplain of the Truckee River, Little Truckee River, and their tributaries is prohibited.”*

The proposed Project threatens discharges that would violate the prohibition as it involves access and staging areas within the 100-year floodplain of the Truckee River. The Water Board may grant an exemption to the above cited prohibition under certain conditions.

### EXEMPTION GRANTED

An exemption to the above Basin Plan 100-year floodplain prohibition may be granted for repair, replacement or relocation Projects pursuant to the Basin Plan exemption criteria stated below:

*“...for the repair, replacement, or relocation of existing structures provided that the repair, replacement, or relocation does not reduce or adversely affect the existing floodplain function<sup>1</sup>.”*

*<sup>1</sup>Floodplain function includes the conveyance of floodwaters along with other hydrologic, geomorphic, biological and ecological processes such as groundwater recharge, floodwater filtration, sediment transport, spawning gravel replenishment, seed dispersal, and riparian vegetation maintenance.”*

The Water Board may grant an exemption for such Projects provided that:

*“All application and practicable control and mitigation measures have been incorporated into the Project such that potential adverse impacts to water quality and beneficial uses are the minimum necessary to complete the Project.”*

The Applicant has proposed temporary and permanent best management practices to ensure potential adverse impact to water quality and beneficial uses are the minimum necessary to complete the Project. These include: use of perforated construction mats and rubber tired equipment in the river, floodplain, wetland and river bank in corridors for construction access, use of turbidity curtains for excavation/piling work with the river, steam cleaning all equipment prior to Project implementation, all equipment fitted with drip pans and maintained to avoid any petroleum discharges, and placement of fiber rolls and silt fencing where appropriate to minimize discharge of sediment.

### 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 waters of the United States, 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 West Shore Export Truckee River Crossing Repair Project. The Applicant has applied for USACE authorization to proceed under Nationwide Permit No. 3 pursuant to CWA section 404.

California Code of Regulations (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 California 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 California 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 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 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 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. Construction equipment must be clean and free from oil, grease and loose metal material and must be removed from service if necessary to protect water quality.
2. An emergency spill kit must be at the Project site at all times.
3. 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 adjacent to the work area where such material may be transported into waters of the state.
4. The Applicant must immediately 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, construction materials such as cement or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), 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.
5. The Applicant must permit Water 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 record 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.
6. Wetlands must be avoided and must be protected by colored construction fencing or equivalent barriers.
7. 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 area. 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.

8. Restoration of temporary disturbances and temporary discharges of fill to waters of the State must be achieved **within 12 months** of completing work in the area of the temporary impact. Initial restoration must include implementing measures to fully restore conditions to support all beneficial uses for the waterbody temporarily impacted in the shortest feasible time. Restoration must include, but is not limited to, grading to pre-Project contours and revegetation with native species. The Applicant must implement Best Management Practices (BMPs) to control erosion and runoff from areas associated with temporary fills.
9. A final mitigation report, acceptable to the Executive Officer, must be provided at the end of three years on **November 15, 2019** indicating whether performance standards have been met and the status of compliance with restoration requirements. Additional requirements may be instated at that time if success standards have not been met to the satisfaction of the Executive Officer.
10. Monitoring and technical reports as described herein are required pursuant to Section 13267 of the California Water Code and are necessary to verify compliance with above-cited conditions.

### **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 Clean Water Act 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**

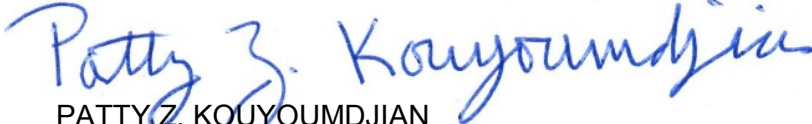
I hereby issue this Order certifying that any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge

Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

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

If you have any questions or comments regarding this permit, please contact Tobi Tyler, Water Resources Control Engineer, at [tobi.tyler@waterboards.ca.gov](mailto:tobi.tyler@waterboards.ca.gov) (530-542-5435) or Alan Miller, Chief, North Basin Regulatory Unit, at [alan.miller@waterboards.ca.gov](mailto:alan.miller@waterboards.ca.gov) (530-542-5430).

**Electronic document submittal is required. Please send your comments or documents to the Water Board's email address at [Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov) and include your WDID No. or Facility Name in the Subject Line.**



PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

cc: Lydia Altick, Auerbach Engineering Corporation  
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9  
Bill Orme, State Water Resources Control Board, Division of Water Quality  
Leah Fisher, U.S. Army Corps of Engineers, Sacramento District  
Patrick Moeszinger, California Department of Fish and Game