



California Regional Water Quality Control Board
Lahontan Region



Matthew Rodriguez
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Edmund G. Brown Jr.
Governor

MEMORANDUM

TO: Water Board Members

FROM: *Hurd*
HAROLD J. SINGER
EXECUTIVE OFFICER
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: **AUG 31 2011**

SUBJECT: EXEMPTION TO DISCHARGE PROHIBITION CONTAINED IN THE
WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION –
CHATEAUX DU LAC SHORELINE PROTECTION PROJECT, EL
DORADO COUNTY

In ten days, I intend to sign the enclosed draft Order granting an exemption to the discharge prohibition specified in the *Water Quality Control Plan for the Lahontan Region* for the Chateaux Du Lac Shoreline Protection Project (Project). The exemption will allow Chateaux Du Lac Homeowner's Association (Applicant) to install a dynamic rock revetment next to a failing sheet pile wall.

The Project is located at 709 Lakeview Street, South Lake Tahoe, El Dorado County. The Project meets requirements for an exemption to the discharge prohibition as an erosion control project.

A public notice soliciting comments on the proposed Project will be posted on the Water Board's website for 10 days.

If you have any questions or comments regarding this matter, please contact Alan Miller at (530) 542-5430.

Enclosure: Draft Water Quality Certification Order and Prohibition Exemption

TT/clhT: Chateaux du Lac 401 and FPE Memo 8_23_11 TT.doc
[File: 6A091101003 / Chateaux Du Lac Shoreline Protection Project / El Dorado County]



California Regional Water Quality Control Board

Lahontan Region



Matthew Rodriguez
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Edmund G. Brown Jr.
Governor

Gary Ruddel
Chateaux Du Lac Homeowner's Association
1102 N. Chinowth
Visalia, CA 93291

ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND PROHIBITION EXEMPTION FOR THE CHATEAUX DU LAC SHORELINE PROTECTION PROJECT, EL DORADO COUNTY, WDID 6A091101003

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 for the Chateaux Du Lac Shoreline Protection Project (Project) in Placer County. The Water Board also received 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). This Order for WQC and waste discharge prohibition exemption hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A091101003. 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 or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A091101003
Applicant	Gary Ruddel Chateaux Du Lac Homeowner's Association 1102 N. Chinowth Visalia, CA 93291
Agent	Sloan Gordon, Gordon Consulting Inc. P.O. Box 10341 Zephyr Cove, NV 89448

California Environmental Protection Agency

Table of Project Information continued:

Project Name	Chateaux Du Lac Shoreline Protection Project
Project Purpose and Description	The Applicant would construct a sloping rock dynamic revetment on the lake side of a sheet pile wall that is currently failing and in need of repair. Behind the sheet pile wall is a walkway and condominiums, so failure of the sheet pile wall would cause damage to the condominium foundations. The proposed rock dynamic revetment will consist of placing approximately 3,660 square feet (400 cubic yards) of rock fill along 305 linear feet of shoreline below ordinary high water. Also 35 cubic yards of sand will be excavated from in front of the sheet pile wall to allow placement of large boulders at the base of the sheet pile wall to prevent the wall from undermining by wave action. Medium boulders will be stacked up against the existing sheet pile. Smaller rocks will be placed over the structural boulders to provide for disruption and dissipation of wave energy.
Location (closest City & County)	709 Lakeview Street, South Lake Tahoe, El Dorado County
Location Latitude/Longitude	Latitude: 38.9437; Longitude: 119.9895
Hydrologic Unit(s)	Lake Tahoe Hydrologic Unit, 634100
Project Area	0.23 acre
Receiving Water(s) Name	Lake Tahoe
Water Body Type(s)	Lake
Area of Water(s) of the U.S. (WOUS) within the project area	3,700 square feet (0.08 acre)
Area of Permanent Impacts to WOUS	3,660 square feet
Linear feet of Permanent Impact in WOUS	305 linear feet
Volume of excavated material in WOUS	21 cubic yards
Volume of Permanent Fill	35 cubic yards
Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Nationwide Permit 13, pursuant to Clean Water Act section 404.
Non-Compensatory Mitigation	A temporary turbidity curtain(s) and/or silt fences and vegetation protection fencing will be in place during construction to prevent the discharge of fine particulate materials to Lake Tahoe. No existing boulders below high water will be disturbed and the placement of boulders on the slope will be done by hand or individually by machine. Other site-specific Best Management Practices (BMPs) will be used throughout the construction period and for winterization to control erosion if necessary.
Compensatory Mitigation	None required.
Applicable Fees	\$2,592.00 (\$640.00 application fee + \$1,952.00 for 305 linear feet of permanent impacts to Federal Jurisdictional Waters at \$6.40 per foot).
Fees Received	\$2,592.00

CEQA COMPLIANCE

Water Board staff have determined that this Project is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq.). In accordance with Section 15301, the basis for CEQA exemption is "Existing Facilities." 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 or threatened 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 includes placement of a sloping dynamic rock revetment along the shoreline below the highwater rim of Lake Tahoe to ensure stabilization of a sheet pile wall which is failing.

Prohibition Exception

Resolution No. R6T-2008-031 delegates authority to the Regional Board Executive Officer to grant exceptions 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 of erosion or water pollution.*

The primary purpose of the Chateaux du Lac Shoreline Protection Project is to reduce and mitigate existing sources of pollution by preventing the failure of a sheet pile wall, behind which a condominium complex sits, and to maintain existing water quality by preventing sedimentation and erosion if the wall were to fail.

The Basin Plan allows exceptions to the above-cited discharge prohibition for activities below the highwater rim of Lake Tahoe for erosion control and similar projects provided that:

(a) The project, program, or facility is necessary for environmental protection:

The proposed Project is necessary for environmental protection to stabilize an existing sheet pile wall which is failing, and prevent the discharge of sediment and pollutants to Lake Tahoe. The sheet pile retaining wall protects the bearing soil for the condominium foundation and deck piers from wave action erosion. The sheet pile wall, which was constructed in 1969, is in need of repair due to wave action over the last several decades. Instead of replacing in kind, the applicant is proposing a dynamic sloping rock revetment that will absorb the wave energy and dissipate it by the movement of smaller rocks on the slope of the rock revetment. The proposed revetment located below the high water line of Lake Tahoe consists of 3,660 square feet of rock slope protection along 305 linear feet of shoreline. The proposed Project is necessary for environmental protection as it is designed to reduce erosion and sediment from discharging directly to the lake.

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

Alternatives to the sloping rock dynamic revetment were considered, such as installing another sheet pile wall. The Applicant is proposing a dynamic revetment that will absorb and reduce reflected wave energy, and reduce erosion on and off the Project site. The chosen alternative would dissipate the wave energy to the point that erosion threats would be mitigated to insignificant levels. The amount of disturbance below the highwater rim is limited to that needed to address these concerns. There is no reasonable alternative to reduce encroachment to the area below the highwater rim.

(c) Impacts are fully mitigated:

A double turbidity curtain will be placed in the water along the linear project to prevent turbid discharges from the Project into waters of Lake Tahoe. The staging area will be on the asphalt parking lot behind the condominiums. The granite rock will be transported to the Project area by way of a steel ramp between the two lakefront condominiums. The area of the existing deck behind the sheet pile wall will be removed and the dirt area under the deck will be used a working platform by the mini excavator. Working from the upland area will significantly reduce disturbance in the shore zone. Only clean non-leaking equipment will be allowed in the work area. The Project includes measures that will mitigate potential impacts.

EXEMPTION GRANTED

As demonstrated above, the Project meets the conditions and criteria for an exemption to the 100-year floodplain 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.

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 Chateaux Du Lac Homeowner's Association (Applicant) submitted a complete application and the \$640.00 application filing fee required for WQC under Section 401 for the Chateaux Du Lac Shoreline Protection Project. The Applicant has applied for U.S. Army Corps of Engineers (ACOE) authorization to proceed under Nationwide Permit No. 13 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 Chateaux Du Lac Shoreline Protection 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 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 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 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 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 known populations of Tahoe Yellow Cress on the site must be protected at all times during construction.
2. All rock placed into the Project site must be clean, washed and free of adhered soil material.
3. 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 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 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.
5. Prior to initiating construction of the Project, the Applicant must affirmatively document whether there are any subsurface utilities in the area of construction and submit such documentation to the Lahontan Water Board. This can be accomplished by: (1) contacting all utilities (both public and private) that provide service in the area, documenting these contacts and submitting such documentation to the Lahontan Water Board; (2) contacting Underground Service Alert, documenting this contact and submitting such documentation to the Lahontan Water Board; or, (3) some other equivalent affirmative action to determine whether or not there are any subsurface utilities in the area of construction and submitting the results of such action to the Lahontan Water Board. The area of construction is defined as any area within the project boundaries where there will be excavation and/or rock placement. If subsurface utilities are located in the construction area, the Applicant must provide a utility avoidance plan that will be followed during construction.
6. The Applicant must ensure that 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.

7. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
8. An emergency spill kit must be at the Project site at all times.
9. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.

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 Resources Control Board (State Water Board) or the Lahontan 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 Lahontan 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 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.

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

HAROLD J. SINGER
EXECUTIVE OFFICER

cc: Sloan Gordon / Gordon Consulting
Lief Larson / Tahoe Regional Planning Agency
Amy Kennedy / California Department of Fish and Game, Rancho Cordova
Mary Hays / California State Lands Commission
Dave Smith / Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Lynette Blanchard / U.S. Army Corps of Engineers, Reno Office
Bill Orme / State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)

TT/clhT/ Chateaux Du Lac 401 and FPE 8-22-11 TT.doc
[File: WDID 6A091101003 / Chateaux Du Lac Shoreline Protection Project / El Dorado County]