M E M O R A N D U M

TO: Water Board Members

Patty Z. Kouyoumdjian

FROM: PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: July 14, 2015

SUBJECT: EXEMPTION TO DISCHARGE PROHIBITIONS WITHIN STREAM ENVIRONMENT ZONE, LAKE TAHOE HYDROLOGIC UNIT, FOR THE LITTRELL CRIB PIER REPAIR PROJECT, PLACER COUNTY

In ten days, I intend to sign the enclosed Order granting an exemption to the above-cited discharge prohibitions specified in the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). The exemption will allow the project proponent to repair an existing crib pier in Lake Tahoe in Carnelian Bay.

The project meets requirements for an exemption to the discharge prohibitions. A public notice soliciting comments on the proposed Project will be posted on the Water Board's website for 10 days.

Please contact me at patty.kouyoumdjian@waterboards.ca.gov (530) 542-5412, or Dale Payne at dale.payne@waterboards.ca.gov (530) 542-5464, if you have any questions or comments regarding this matter.

Enclosure: Draft Water Quality Certification Order

DYP/ma/T: Littrell Crib Repair Board Notice
File Under: Littrell Crib Repair Project / WDID No. 6A311503005

Dan Littrell
13639 Rostrata Road
Poway, CA 92064

BOARD ORDER NO. R6T-2015-XXXX, ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR THE LITTRELL CRIB REPAIR PROJECT AT 5428 NORTH LAKE BLVD., PLACER COUNTY, WDID 6A311503005

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 Littrell Crib Repair Project (Project) in Placer County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A311503005. Please use this reference number in all future communications 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	6A311503005
Applicant	Dan Littrell 13639 Rostrata Road Poway, CA 92064
Agent	Sagan Design Group/Gary Furumoto P.O. Box 6214 Tahoe City, CA 96145
Project Name	Littrell Crib Repair Project

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Table of Project Information continued:

Project Purpose and Description	The proposed Project involves repairing 130 linear feet of damaged and deteriorating rock crib pier wall with new replacement timber. All work will be accomplished during the fish non-spawning season, or in coordination with the California Department of Fish and Wildlife and the Tahoe Regional Planning Agency.
Project Type	Pier Crib Wall Repair
Project County	Placer
Project Address or other Locating Information	5428 North Lake Blvd. Carnelian Bay, CA
Location Latitude /Longitude	Latitude: 39° 22'69.08" Longitude: -120° 07'14.91"
Hydrologic Unit(s)	Tahoe Hydrologic Area, 634.00
Project Area	1,000 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, BIOL, MIGR, SPWN
Potential Water Quality Impacts	Discharge of materials into the lake from removal and replacement of the crib walls.
Area of Water(s) of the U.S. (WOUS) within the project area	1,000 Square Feet
Project Impacts (Fill) to Waters of the State, including Waters of the U.S. (WOUS)	

Water body Type	**Permanent**			**Temporary**		
	Acres	Linear Feet	Cubic Yards	Acres.	Linear Feet	Cubic Yards
Lake	.018	130				
Riparian						
Stream						
Wetland						

Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Nationwide Permit pursuant to Clean Water Act section 404.
Non-Compensatory Mitigation	Best Management Practices (BMPs) will be employed on the site at all times, and throughout construction. Contractor will deploy turbidity curtains or other water quality protections as required by this Order.
Compensatory Mitigation	None required
Applicable Fees	$200
Fees Received	$1201; refund of $1001 will be processed

CEQA COMPLIANCE

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (Public Resources Code section 21000 et seq.). In

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accordance with section 15301(e)(1), the basis for CEQA exemption is "Existing Facilities." A Notice of Exemption will be filed with the State Clearinghouse concurrently with issuing this Order.

BASIN PLAN DISCHARGE PROHIBITIONS

The Water Quality Control Plan for the Lahontan Region (Basin Plan) specifies the following waste discharge prohibitions applicable to surface waters, lands below the highwater rim of Lake Tahoe, and Stream Environment Zones (SEZs) in the Lake Tahoe basin:

1. *The discharge attributable to human activities of any waste or deleterious material to surface waters of the Lake Tahoe Hydrologic Unit is prohibited.*

2. *The discharge attributable to human activities of any waste or deleterious material to land below the highwater rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe is prohibited.*

3. *The discharge attributable to human activities of any waste or deleterious material to SEZs in the Lake Tahoe Hydrologic Unit is prohibited.*

BASIN PLAN DISCHARGE PROHIBITION EXEMPTION CRITERIA AND FINDINGS

1. The Water Board may grant an exemption to Prohibition 1 above, when the Water Board finds all of the following criteria are satisfied:

   a. The discharge of waste will not individually or collectively, directly or indirectly, adversely affect beneficial uses, and

   b. There is no reasonable alternative to the waste discharge, and

   c. All applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.

   The Project will not result in impacts to beneficial uses. The Project is located within the surface waters of Lake Tahoe and no reasonable project alternative exists that would preclude a discharge. All applicable and practicable control and mitigation measures have been incorporated into the project to minimize any discharges of wastes to surface waters during or following construction with the use of management practices and containment for turbid waters.

2. The Water Board may grant exemptions to Prohibitions 2 and 3, above, for repair or replacement of existing structures, provided the repair or replacement does not involve the loss of additional lake habitat, or SEZ or floodplain function. Prior to granting an exemption, the Water Board shall require that all applicable and

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practicable control and mitigation measures have been incorporated into the Project to minimize any discharges of wastes to surface waters during or following construction.

The Project involves replacing the deteriorating timbers in-kind and will not result in the loss of additional lake habitat, or SEZ or floodplain function.

Information in the WQC application for the Project also specifies that either a turbidity curtain or caissons will be used to contain any turbidity or suspended sediments created when existing pier crib materials are removed and new timbers are installed. The containment structures will remain in place until waters within the containment area return to turbidity levels of 3 NTU or natural background, whichever is greater. The WQC includes conditions requiring these measures be implemented and maintained until the above-referenced 3 NTU/background turbidity standard is met. Such measures and requirements are applicable and practicable control measures that will minimize any discharges of wastes to Lake Tahoe during and following project construction activities.

EXEMPTIONS GRANTED

Resolution No. R6T-2008-0031 delegates to the Executive Officer the authority to grant exemptions to Basin Plan waste discharge prohibitions under certain conditions. The Project meets the conditions for granting an exemption in the above-cited Resolution in that the Executive Officer has authority to authorize the Project under this WQC Order, the Project meets the exemption criteria in the Basin Plan, and the Project involves the repair or replacement of existing facilities. A notice of exemption will be posted on the Water Board website and distributed through an interested-persons mailing list, allowing at least 10 days for comments to be submitted.

As demonstrated above, the Project meets the conditions and criteria for an exemption to the waste discharge prohibitions. The Project is hereby granted an exemption to the above-cited waste discharge prohibitions.

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. Dan Littrell (Applicant) submitted a complete application and the fees required for WQC under section 401 for the Project. The Applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Letter of Permission pursuant to CWA section 404.

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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 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

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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 sections 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. To minimize or avoid impacts to water quality, caissons, sleeves, or turbidity curtains must be used during Project implementation to prevent re-suspension and discharge of lakebed sediments outside of the containment area. The control measures must be inspected and maintained as necessary to prevent discharge of suspended sediment outside the containment area.

2. The containment system must remain in place and fully functional until all Project activities, excluding containment system removal, have been completed and turbidity levels within the containment system have returned to 3 NTU or background levels, whichever is greater. Background levels shall be based upon field sampling results from a location agreed to by the Discharger and Water Board staff, and documented in writing.

3. A copy of this WQC Order, a copy of the complete WQC application submitted to the Water Board and must be available at the Project site during construction of the Project.

4. No debris, wood wastes, cement, concrete (or wash water therefrom), oil or petroleum products may 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,

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and from any areas adjacent to the work area where such material may be transported into waters of the state.

5. 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.

6. The Applicant must prevent discharge of any materials foreign to the lake water from implementation of this Project.

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.

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.

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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.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Dale Payne, Environmental Scientist, at 530-542-5464 (Dale.Payne@waterboards.ca.gov), or Alan Miller, P.E., Chief, North Basin Regulatory Unit, at 530-542-5430 (Alan.Miller@waterboards.ca.gov).

PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

cc: Gary Furumoto, Sagan Design Group
Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9
Aaron C. Park, U.S. Army Corps of Engineers, Reno Office
Bill Orme, State Water Resources Control Board, Division of Water Quality
David L. Landry, Tahoe Regional Planning Agency
Ninette Lee, California State Lands Commission
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