

**Lahontan Regional Water Quality Control Board**

July 17, 2015

Thomas Nuris, Board President  
Lakeland Village Owners Association  
3535 Lake Tahoe Blvd.  
South Lake Tahoe, CA 96150

**BOARD ORDER NO. R6T-2015-0040, ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND BASIN PLAN PROHIBITION EXEMPTION FOR THE LAKELAND VILLAGE STORM DRAIN OUTFALL PROJECT, EL DORADO COUNTY, WDID 6A091502003**

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 Lakeland Village Storm Drain Outfall Project (Project) in El Dorado County. This Order for WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A091502003. 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**PROJECT DESCRIPTION**

**Table of Project Information:**

WDID Number	<b>6A091502003</b>
Applicant	Thomas Nuris, Board President Lakeland Village Owners Association 3535 Lake Tahoe Blvd. South Lake Tahoe, CA 96150
Agent	Nicole Zaborsky Gordon Consulting, Inc. P.O. Box 10341 Zephyr Cove, NV 89448

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

Project Name	Lakeland Village Storm Drain Outfall Project						
Project Purpose and Description	The Applicant will replace two existing corrugated steel storm drain outfall pipes with precast concrete outfall pipes that discharge to Lake Tahoe. The existing pipes are in disrepair and present environmental and safety hazards. A ten-foot section of the northern outfall pipe will remain in place in order to protect and maintain an established and functioning population of Tahoe Yellowcress that surrounds that section of pipe. Temporary impacts will be mitigated by the implementation of appropriate Best Management Practices.						
Project Type	Culvert Replacement						
Project County	El Dorado						
Project Address or other Locating Information	3535 Lake Tahoe Blvd., South Lake Tahoe, CA						
Location Latitude/ Longitude	Latitude: 38° 565587" Longitude: 119° 574744"						
Hydrologic Unit(s)	Lake Tahoe Hydrologic Unit, 634.00						
Project Area	21,780, 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 sediment from excavation to remove existing corrugated stormwater outfall pipes and replace them with concrete outfall pipes within the project area.						
Area of Water(s) within the Project Area	11,250 square feet						
Project Impacts (Fill) to Waters of the State, including Waters of the U.S. (WOUS)	<b>Waterbody Type</b>	<b>Permanent</b>			<b>Temporary</b>		
		Acres	Linear Feet	Cubic Yards	Acres.	Linear Feet	Cubic Yards
	<i>Lake</i>				0.38		
	<i>Riparian</i>						
	<i>Stream</i>						
	<i>Wetland</i>						
Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Non-Reporting Nationwide Permit 27, pursuant to Clean Water Act section 404.						

**Table of Project Information continued:**

Non-Compensatory Mitigation	Applicable Best Management Practices (BMPs) will be employed on the site at all times, and throughout implementation.
Compensatory Mitigation	None required
Applicable Fees	\$2,155 Fill and Excavation Discharges fee (\$5,670 x 0.38 acre = \$2,155)
Fees Received	\$2,155

**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 accordance with section 15302, the basis for the CEQA exemption is "Replacement or Reconstruction." A Notice of Exemption will be filed with the State Clearinghouse concurrently with issuing this Order.

**BASIN PLAN DISCHARGE PROHIBITIONS**

The Basin Plan specifies the following waste discharge prohibitions applicable to surface waters, 100-year floodplains, and Stream Environment Zone in the Lake Tahoe basin:

- 1. The discharge attributable to human activities of any waste or deleterious materials 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 involves removing two deteriorating corrugated steel storm drain outfall pipes at Lakeland Village and replacing them with pre-cast concrete pipes. The discharge of waste involves that associated with excavating sand and soil along the shoreline of Lake Tahoe, in order to remove and replace the storm drain segments. This short-term disturbance will not adversely affect beneficial uses of Lake Tahoe, as the Project incorporates measures intended to contain and minimize waste discharges and the impacts of such discharges. There is no reasonable alternative to replacing the outfall that conveys storm water to Lake Tahoe that could further minimize or avoid a waste discharge. Temporary erosion control practices will be employed on shore and/or in-lake to minimize potential impacts to beneficial uses.

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 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 will not result in the loss of additional lake habitat, or SEZ or floodplain function, as the new pipes will not increase the affected area beyond the area affected by the existing storm drain outfall pipes. Existing habitat for the Tahoe Yellow Cress will also be maintained and protected. The Project will incorporate appropriate temporary Best Management Practices (BMPs) including placement of turbidity curtains and erosion control fencing in appropriate locations during excavation, pipe removal, and pipe replacement. These measures will adequately protect water quality and beneficial uses, and are applicable and practicable control measures that will minimize any discharges of wastes to Lake Tahoe during Project construction activities.

The proposed Project meets the criteria for granting an exemption, as noted above.

### **DELEGATION OF AUTHORITY FOR GRANTING AN EXEMPTION**

The Water Board has delegated authority to the Executive Officer pursuant to Resolution No. R6T-2008-0031 to grant exemptions to the Basin Plan discharge prohibitions in the Lake Tahoe Hydrologic Unit for specific discharges where the proposed Project meets the conditions in the Basin Plan and will be regulated under a WQC. The Project will be regulated under the terms and conditions of this WQC, which includes coverage under general waste discharge requirements of State Water Board Order No. 2003-0017-DWQ.

Based on the information above and contained in the application materials provided, the Project meets the above-referenced criteria.

### **PROHIBITION EXEMPTION GRANTED**

As demonstrated above, the Project meets the conditions and criteria for exemptions to

the above-cited waste discharge prohibitions. A draft notice of exemption was posted on the Water Board website and distributed through an interested persons mailing list allowing at least ten (10) days to submit comments. The Project is hereby granted exemptions 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 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. Thomas Nuris (Applicant) submitted a complete application and the fees required for WQC under section 401 for the Project. The Applicant has applied for USACE authorization to proceed under a Nationwide Permit 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 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 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 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. A copy of this WQC Order, and a copy of the complete WQC application submitted to the Water Board, must be available at the Project site during construction of the Project.
2. Prior to initiating any work involving removing water from excavated areas, the Applicant must prepare and submit a dewatering plan to the Water Board for review and acceptance. The dewatering plan must include monitoring procedures

(visual monitoring and water quality sampling) sufficient to determine compliance with Basin Plan water quality objectives for Lake Tahoe.

3. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality. No debris, 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, and from any areas adjacent to the work area where such material may be transported into waters of the state.
4. All temporary BMPs must be inspected by Project personnel daily during Project construction. The Applicant must maintain daily inspection logs on site during Project construction and provide a copy of inspection logs to Water Board staff upon request.
5. The Applicant must monitor predicted weather patterns for the Project area. If inclement weather is eminent (60 percent chance of precipitation or greater based on National Weather Service forecasts), construction activity at the Project site must halt except as needed for soil stabilization measures to be implemented until the weather event has ceased.
6. The Applicant must immediately (within two hours) notify Water Board staff by telephone whenever an adverse condition occurs as a result of 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.
7. An emergency spill kit must be at the Project site at all times.
8. There must be no construction activity between October 31 and May 1 of the following year unless a written variance is granted by the Executive Officer.

### **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.

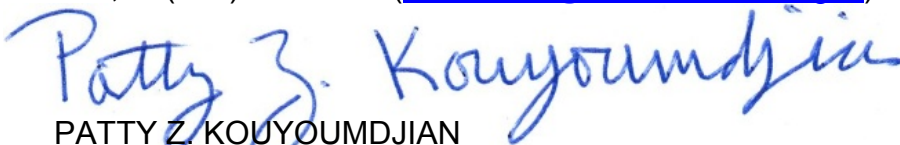
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring report the State Water Board or Water 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.

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](mailto:Dale.Payne@waterboards.ca.gov)), or Alan Miller, P.E., Chief, North Basin Regulatory Unit, at (530) 542-5430 ([Alan.Miller@waterboards.ca.gov](mailto:Alan.Miller@waterboards.ca.gov)).



PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

cc (via email):

Jason Brush, Wetlands Regulatory Office (WTR-8), US EPA, Region 9  
Kristine Hansen, U.S. Army Corps of Engineers, Sacramento District  
Bill Orme, State Water Resources Control Board, Division of Water Quality  
Beverly Terry, California State Lands Commission  
Bob Hosea, California Department of Fish and Wildlife



# Notice of Exemption

---

**To:** Office of Planning and Research  
P.O. Box 3044  
1400 Tenth Street, Room 222  
Sacramento, CA 95812-3044

**From:** Lahontan Regional Water Quality Control Board  
2501 Lake Tahoe Blvd.  
South lake Tahoe, California 96150

**Project Title:** Lakeland Village Storm Drain Outfall Project

**Project Location - Specific:**

3535 Lake Tahoe Blvd., South Lake Tahoe, El Dorado County, CA

**Project Location – City:** South Lake Tahoe    **Project Location - County:** El Dorado

**Description of Project:** The project proponent plans to remove two segments of existing corrugated steel storm drain pipe and replace with a pre-cast concrete storm drain pipe.

**Name of Public Agency Approving Project:** Lahontan Regional Water Quality Control Board

**Name of Person or Agency Carrying Out Project:** Thomas Nuris

**Exempt Status:** *(check one)*

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Replacement or Reconstruction 15302
- Statutory Exemptions. State code number:

**Reasons why project is exempt:**

The RWQCB, Lahontan Region finds that this project, as permitted, will not have a significant effect on the environment and shall, therefore, be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15302, Replacement or Reconstruction.

**Responsible Agency Contact Person:** Dale Payne                      **Area Code/Telephone/Extension:** (530) 542-5464

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?    x Yes     No

Signature: Patty J. Kouyoumdjian    Date: 07-17-2015    Title: Executive Officer

- Signed by Responsible Agency                      Date received for filing at OPR: \_\_\_\_\_
- Signed by Applicant