March 7, 2025 Reg Measure ID: 458380

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Board Order No. R6-2025-0008, Granting Clean Water Act Section 401 Water Quality Certification and Exemption to Waste Discharge Prohibitions for Regional General Permit 4 for Lake Tahoe Minimal Impact Activities and Structures, Placer and El Dorado Counties

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I. INTRODUCTION

Lahontan Regional Water Quality Control Board (Lahontan Water Board) staff received a Clean Water Act (CWA) section 401 Water Quality Certification (WQC) request on June 12, 2024 from the United States Army Corps of Engineers (USACE) for the Regional General Permit 4 for Lake Tahoe Minimal Impact Activities and Structures (RGP 4) in Placer and El Dorado Counties. Board Order No R6-2025-0008, Granting

CWA Section 401 WQC for Regional General Permit 4 for Lake Tahoe Minimal Impact Activities and Structures (Order) is hereby assigned Regulatory Measure Identification (ID) No. 458380. Please use this reference number in all future correspondence regarding this Order.

Any person aggrieved by this action of the Lahontan Water Board may petition the State Water Resources Control Board (State Water Board) to reconsider this Order in accordance with California Water Code section 13320 and California Code of Regulations (CCR), title 23, sections 2050 and 3867. The State Water Board must receive the petition within thirty (30) days after the date of this Order, by 5:00 p.m. on the thirtieth day except 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 the Water Quality Petitions page: (http://www.waterboards.ca.gov/public _notices/petitions/water_quality/) or will be provided upon request.

II. ORDER INFORMATION

This grant of CWA section 401 WQC with conditions, which includes Attachments 1 through 5, is issued at the request of the USACE, Sacramento District, for certification of RGP 4 authorizing certain activities involving structures or work in or affecting Lake Tahoe and the discharge of fill material into Lake Tahoe.

Order details are listed in the following table.

Category	Data
Applicant	U.S. Army Corps of Engineers, Sacramento District
Contact	Shannon Morgan, Senior Project Manager USACE, Sacramento District 300 Booth Street Reno, NV 89509-1328 (916) 326-9130 shannon.r.morgan@usace.army.mil
Project Name	Regional General Permit 4
Order Address or other Locating Information	Within Lake Tahoe, El Dorado and Placer Counties
Hydrologic Unit	634.00 – Lake Tahoe Hydrologic Unit
Receiving Water Name	Lake Tahoe
Water Body Type	Lake
Beneficial Uses	Municipal and domestic supply (MUN); agricultural supply (AGR); groundwater recharge (GWR); navigation (NAV); water contact recreation (REC-1); noncontact water recreation (REC-2); commercial and sportfishing (COMM); cold freshwater habitat

Category	Data
	(COLD); wildlife habitat (WILD); preservation of biological habitats of special significance (BIOL); migration of aquatic organisms (MIGR); spawning, reproduction, and development (SPWN).
Direct Impacts Description	Projects proposed under the USACE Sacramento District's RGP 4 cover a wide variety of activities, all of which can be found in RGP 4: https://www.spk.usace.army.mil/Portals/12/documents/regulatory/gp/RGP-04/2024.08.21%20Final%20RGP%204_202300852.pdf Direct impacts to waters of the state may include temporary fill activities such as temporary access points, staging locations, use of Best Management Practices (BMPs), or permanent impacts such as placement of permanent structures in waterways. These activities may result in temporary impacts to water quality or may result in a permanent physical loss of lake bed area or permanent degradation of ecological conditions. To ensure that project impacts do not cumulatively cause adverse impacts to waters or interfere with compliance with water quality standards or objectives, this certification further defines and conditions the activities authorized in RGP 4.
Potential Water Quality Impacts	This Order is intended to cover only projects with minimal potential to affect water quality. However, water quality impacts that could result from the scope of activities certified in this Order include: • Discharges to or resuspension of sediment in Lake Tahoe • Construction-related pollutants (petroleum by-products or hydraulic fluids, construction debris) entering Lake Tahoe • Discharges of pollutants in stormwater, including sediment, to Lake Tahoe • The introduction or spread of aquatic invasive species (AIS)
Federal Permit	RGP 4 Lake Tahoe Minimal Impact Activities and Structures, SPK-2023-00852, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403) and CWA section 404.
Non-Compensatory Mitigation	This Order provides reasonable assurance that projects enrolled under this Order will be designed to avoid and minimize impacts to Lake Tahoe to the greatest practicable extent. Discharges of lakebed sediment will be mitigated through the use of controls such as turbidity curtains and caissons for activities with the potential to generate significant turbidity. Water Quality Monitoring Plans will also be required for activities with the potential to generate significant turbidity. Discharges of construction-related pollutants will be mitigated by the development and implementation of Spill Prevention and

Category	Data
	Response Plans, interception of construction debris with fine mesh, and the use of fully biodegradable hydraulic fluids. Discharges of pollutants in stormwater will be mitigated by avoidance of soil and vegetation disturbance to the extent feasible, prohibition against soil disturbance in the winter months, and the development and implementation of Spill Prevention and Response Plans and Erosion Control Plans. The introduction or spread of AIS will be avoided through development and implementation of a Hazard Analysis and Critical Control Points (HACCP) Plan; additionally, this Order requires dischargers to prevent the spread or introduction of noxious/invasive organisms. Additional mitigation measures associated with specific activities covered in this Order are described in the Basin Plan Prohibition Exemption Findings (Attachment 1). All temporarily impacted areas below the highwater rim of Lake Tahoe will be restored to pre-project or natural conditions.
Application/Project Fee	This Order is conditioned upon total payment of any fee required under title 23 of CCR. The application fee for individual projects authorized under this Order is determined as required by CCR, title 23, sections 3833(b). Note that fees are periodically adjusted. Dischargers should confirm the correct fee amount prior to submitting payment. Non-notifying activities do not require submittal of a Notice of Intent (NOI, Attachment 2) and therefore do not have an associated application fee.

III. SCOPE OF ORDER

A. The purpose of RGP 4 is described in the public notice issued by USACE on August 21, 2024. RGP 4 authorizes work or structures within navigable waters of the U.S. and/or permanent or temporary discharges of fill material into waters of the U.S. associated with minimal impact activities and structures in Lake Tahoe.

B. This Order is limited to authorization of actions that are covered under RGP 4 and that meet specific eligibility criteria in this Order.

C. Coverage under this Order is limited to activities that meet the following California Environmental Quality Act (CEQA) categorical exemption criteria under CCR, title 14, section(s): 15304 Minor Alterations to Land, 15311 Accessory

Structures, 15306 Information Collection, 15302 Replacement or Reconstruction, 15333 Small Habitat Restoration Projects, and 15301 Existing Facilities.

D. This Order does not provide coverage for projects involving new structures within Stream Mouth Protection Zones[1], as defined by the Tahoe Regional Planning Agency (TRPA).

E. This Order covers projects involving one or more of the covered activities, either notifying or non-notifying, eligible for coverage under this Order.

F. Projects involving multiple activities that result in potentially significant cumulative impacts are not eligible for coverage under this Order.

G. Activities authorized under this Order are listed below under Sections III.I. and III.J. These activities are split into two categories: Notifying and non-notifying activities. The submittal of an NOI and application fee for projects only involving non-notifying activities is not required. The submittal of an NOI and application fee for projects involving notifying activities is required.

H. The Lahontan Water Board reserves the right to determine whether an activity is eligible for coverage under this Order. If the proposed project is not eligible for coverage, the Lahontan Water Board will require the discharger to apply for an individual 401 WQC or enroll under another general 401 WQC.

I. Non-notifying activities covered under this Order are defined below with specific eligibility criteria:

1. **Mooring Buoys:** For purposes of this Order, Mooring Buoys are defined as the installation, relocation, modification, maintenance, replacement, repair, expansion, or removal of mooring buoys, mooring buoy fields, low water adaptation buoys, and associated anchor blocks. This activity also includes the movement or placement of buoys or anchor blocks during low lake levels into deeper water, and as approved by other applicable agencies.

2. **Fish Habitat Mitigation:** For purposes of this Order, Fish Habitat Mitigation is defined as the placement, maintenance, replacement, or repair of fish habitat mitigation structures as required when a project results in a net increase to lakebed impact in Spawning and Feed and Cover fish habitat zones designated by the TRPA. For a map showing the different fish habitat zones, visit: https://gis.trpa.org/ShorelineMap/.

3. **Crayfishing Structures:** For purposes of this Order, Crayfishing Structures are defined as the placement, relocation, maintenance, replacement, repair,

[1] Stream Mouth Protection Zones are locations of streams connecting to Lake Tahoe within a 100-year floodplain. These locations define sensitive watershed areas and support or could support migrating populations of fish. TRPA Code of Ordinances, (https://www.trpa.gov/wp-content/uploads/TRPA-Code-of-Ordinances.pdf) page 10-2.

or removal of crayfishing structures used to remove crayfish, such as traps. Crayfishing structures must not exceed three feet in greatest dimension.[2]

4. **Scientific Devices:** For purposes of this Order, Scientific Devices are defined as the placement, maintenance, replacement, repair, or removal of monitoring devices or equipment for scientific research related to natural resources and environmental quality. This category includes equipment or structure installation for basic data collection, research, experimental management, and resource evaluation activities that do not result in a significant adverse effect on water quality or beneficial uses. These may be strictly for information gathering purposes, or as part of a study leading to an action that a public agency has not yet approved, adopted, or funded. Devices may include staff gages, current gages, water recording and biological observation devices, water quality testing and improvement devices, and similar structures. The discharge of dredged or fill material is limited to three cubic yards.

5. **Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains:** For purposes of this Order, Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains are defined as diver-assisted suction harvesting and the installation or removal of laminar flow aeration or bubble curtain devices for the purposes of managing aquatic invasive plants. Diver-assisted suction harvesting is limited to a five-acre treatment area for any given project.

J. Notifying activities covered under this Order are defined below with specific eligibility criteria:

1. **New Piers**: For purposes of this Order, New Piers are defined as pier piling/ dock projects involving the installation of new pilings such as newly constructed piers, or pier expansion projects where the only lakebed impacts are the addition of new pilings. New pier piling projects may include the installation or addition of catwalks and/or boat lifts, as approved by applicable agencies.

2. **Removed or Reconstructed Piers:** For purposes of this Order, Removed or Reconstructed Piers are defined as pier piling/dock projects where pilings are removed, or removed and reconstructed either at the same site or at another location as approved by applicable agencies. Removed or Reconstructed Piers may include the installation or addition of catwalks and/or boat lifts, as approved by applicable agencies.

3. **Bulkheads or Static Revetments:** For purposes of this Order, Bulkheads or Static Revetments are defined as the maintenance, replacement, repair, or removal of bulkheads or static revetments, and associated minor excavation

[2] CDFW, Inland Fisheries - Informational Leaflet No. 31 REGULATIONS GOVERNING TAKE, SALE OR TRANSPORT OF CRAYFISH FOR COMMERCIAL PURPOSES, page 1 (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=3255).

within existing and enclosed marinas, such that no deflection of wave action to other areas that would cause erosion would occur. Permanent impacts must not exceed 300 linear feet and 0.1 acres. Structures must not be installed below elevation 6,193 feet. Projects involving the installation of new bulkheads or static revetments along natural shoreline where no static revetment or bulkhead exists are not eligible for enrollment in this Order. Minor excavation associated with bulkhead or static revetment structures may be permitted under this category if necessary for keying in replacement structures.

4. **Dynamic Revetments**: For purposes of this Order, Dynamic Revetments are defined as the placement, maintenance, or replacement of dynamic revetment structures designed to actively deform in large waves (90th percentile) without structural compromise. Minor excavation associated with dynamic revetment structures may be permitted under this category if necessary for keying in new or replacement structures.

5. **Benthic Barriers:** For purposes of this Order, Benthic Barriers are defined as the installation and removal of benthic barriers for the purposes of managing AIS. Placement of benthic barriers must be intended to reduce or mitigate impairment of beneficial uses. No more than five acres of benthic barriers shall be placed for any given project.

6. **Removal of Previously Authorized Structures[3]:** For purposes of this Order, Removal of Previously Authorized Structures is defined as the removal of structures associated with activities not already covered in this Order. Activities may include, but are not limited to, the removal of rock cribs, gabions, breakwaters, jetties, boat ramps, etc. This category is limited to activities that eliminate, reduce, or mitigate an existing source of water pollution and/or an impairment of beneficial uses of water; and enhance beneficial uses of water bodies. Activities removing toxic or hazardous waste are not eligible for enrollment in this Order. Activities are limited to the removal of no more than 25 cubic yards of material.

7. **Maintenance Suction Dredging:** For purposes of this Order, Maintenance Suction Dredging is defined as maintenance dredging activities that employ the suction dredging method and do not go beyond legally established lake bottom elevations specified in Attachment 3. Projects involving beach replenishment are not eligible for enrollment in this Order.

[3] For the purposes of this Order, previously authorized structures refer to USACE regulated: (1) discharge of dredged and/or fill material in waters of the U.S under Section 404 of the CWA as specified under Code of Federal Regulations (CFR), title 33, part 323; (2) work and/or structures in navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act as specified under CFR, title 33, part 322; and (3) structures constructed in Lake Tahoe prior to December 18, 1968; that do not interfere with navigation and do not require specific authorization from USACE, provided the structure meets the specifications under CFR, title 33, part 330.3.

IV. PROHIBITION EXEMPTION GRANTED

Resolution No. R6T-2015-0038 delegates to the Executive Officer the authority to grant exemptions to the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) waste discharge prohibitions when the Basin Plan conditions are met. As demonstrated in Attachment 1, the discharges associated with this Order meet the conditions in the Basin Plan for granting an exemption to prohibitions on the discharge of waste to surface waters within the Lake Tahoe Hydrologic Unit and land below the highwater rim of Lake Tahoe. See Attachment 1 for the exemption findings. A notice of exemption was distributed through an interested-persons mailing list, allowing at least 10 days for comments to be submitted. The comment period ended on March 3, 2025, and no comments were received. Discharges associated with this Order are granted an exemption to the waste discharge prohibitions cited in Attachment 1.

V. CEQA COMPLIANCE

The Lahontan Water Board has determined activities authorized by this Order are exempt from review under CEQA, pursuant to CCR, title 14, section 15061. Specifically, the issuance of this Order and the activities described herein meet the exemption criteria under CCR, title 14, section(s): 15304 Minor Alterations to Land, 15311 Accessory Structures, 15306 Information Collection, 15302 Replacement or Reconstruction, 15333 Small Habitat Restoration Projects, and 15301 Existing Facilities.

The Lahontan Water Board will file a Notice of Exemption with the State Clearinghouse concurrently with the issuance of this Order (CCR, title 14, section 15062).

VI. SECTION 401 WATER QUALITY CERTIFICATION

A. Authority

This Order is adopted pursuant section 401 of the CWA and the California Porter-Cologne Water Quality Control Act (California Water Code section 13000, et seq.) CWA section 401 (33 U.S. Code section 1341) requires that any applicant for a federal license or permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the U.S., must provide the permitting agency a certification from the state that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. The discharger has applied for USACE authorization to proceed under RGP 4 pursuant to CWA section 404. This Order qualifies for such WQC.

B. Standard Conditions

The following Standard Conditions are requirements of this Order. The discharger must comply with all Standard Conditions, regardless of whether a project contains non-notifying or notifying activities.

1. This Order is subject to remand, amendment, or vacatur by judicial or administrative adjudication, including review pursuant to California Water Code section 13330, and CCR, title 23, chapter 28, Article 6 commencing with section 3867.

2. Enrollment under this Order is conditioned upon total payment of the full fee required under CCR, title 23, section 3833, unless otherwise stated in writing by the certifying agency. Application fees are not required for non-notifying activities specified above in the Scope of the Order, Section III.I.

3. This Order 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 USC sections 1531, et seq.). If a "take" will result from any act authorized under this Order, the discharger must obtain authorization for the take prior to construction or operation of the project. The discharger is responsible for meeting all requirements of the applicable endangered species act for the project authorized under this Order.

4. Each individual project must conform to the engineering plans, specifications, technical reports, and all other documents submitted with the application materials. California Water Code section 13264 prohibits any discharge that is not specifically authorized in this Order.

C. Additional Conditions

The following Additional Conditions are requirements of this Order. The discharger must comply with all Additional Conditions, regardless of whether a project contains non-notifying or notifying activities, unless otherwise specified.

1. This Order and all conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the project.

2. For all projects involving notifying activities, project proponents must request a pre-application consultation at least 30 days prior to formally submitting an NOI. Pre-application consultation may be waived in writing by Lahontan Water Board staff.

3. For all projects involving notifying activities, work must not commence until (1) the Lahontan Water Board has issued a Notice of Applicability (NOA), or (2) 60 days have elapsed since the Lahontan Water Board received a complete NOI, and no notification has been received by the discharger from the Lahontan Water Board that the NOI is incomplete or that the project is not eligible for enrollment in this Order.

4. For projects involving notifying activities, all elements detailed in the NOI and NOI Instructions (Attachment 4) are required for a complete application.

5. Any discharge by itself or in combination with other discharges must not have a significant cumulative effect or degrade water quality or beneficial uses. Projects authorized under this Order must be designed to avoid and minimize impacts to waters of the state to the greatest practicable extent.

6. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plan by the Lahontan Water Board or any applicable State Water Board water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.

7. Site Access: The discharger must permit Lahontan Water Board staff or an authorized representative (including an authorized contractor acting as a Lahontan Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:

    a. Enter upon the project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.

    b. Have access to and copy any records that are kept and are relevant to the project or the requirements of this Order.

    c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.

    d. Sample or monitor for the purposes of assuring Order compliance.

8. A Water Quality Monitoring Plan must be submitted with the NOI for all projects involving notifying activities with the potential to generate significant volumes of turbid water. All measurements must be analyzed by a certified lab or with a handheld meter calibrated in accordance with manufacturer specifications. Implementation of the plan is required..

9. Staging and motorized equipment access over Stream Environment Zones (SEZs) or 100-year floodplains are prohibited. An exception may be made by Lahontan Water Board staff upon review of the NOI for staging or motorized access over disturbed, developed, or subdivided lands classified as SEZs, or SEZs dominated by beach soils.

10. A Land Capability Verification[4] from the TRPA is required with the NOI for all projects with notifying activities involving disturbance or motorized access in or directly adjacent to functional SEZs.

11. Equipment access and staging in lands above elevation 6,229.1 feet must avoid soil and vegetation disturbance to the maximum extent practical using steel plates or functionally equivalent protection measures described in the NOI and accepted by Lahontan Water Board staff. For all projects involving notifying activities, if vegetation disturbance occurs because of project implementation, a Revegetation Monitoring and Reporting Plan to restore disturbed areas back to pre-project conditions must be submitted to Lahontan Water Board staff for review and written acceptance. The Revegetation Monitoring and Reporting Plan must include, at a minimum: 1) a map of revegetation areas; 2) monitoring methods; 3) success criteria for revegetation efforts, including metrics for invasive species; and 4) a reporting schedule. Implementation of the plan is required following Lahontan Water Board staff acceptance. Steel plates or functionally equivalent protection measures may not be required for equipment access and staging in previously disturbed areas, enclosed basins (e.g. detention basins), pre-existing or existing roads or staging areas, paved surfaces, or hardened (e.g. gravel) surfaces.

12. An Erosion Control Plan (ECP) must be submitted with the NOI for all projects involving notifying activities with the potential to generate erodible materials above elevation 6,229.1 feet. If enrollment in the Lake Tahoe Construction General Permit or a superseding stormwater Construction General Permit is required, then a Stormwater Pollution and Prevention Plan (SWPPP) may be submitted in lieu of an ECP. Any subsequent revisions to the ECP or SWPPP must be submitted to Lahontan Water Board staff for review and acceptance at least 30 days prior to project commencement. Implementation of the plan is required following Lahontan Water Board staff acceptance.

13. Removal, including trimming, of hydrophytic vegetation[5] is prohibited.

14. A Compensatory Mitigation Plan or description of compensatory mitigation is required with the NOI for all projects including notifying activities involving permanent impacts to habitat designated by the TRPA as feed and cover or spawning. Any subsequent revisions to the Compensatory Mitigation Plan must be submitted to Lahontan Water Board staff for review and acceptance at least 30 days prior to project commencement. Implementation of the plan is required following Lahontan Water Board staff acceptance.

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[4] A Land Capability Verification is a determination of the land capability districts. An application must be completed and submitted to the TRPA for verification (https://www.trpa.gov/land-coverage/).

[5] Canopy cover is dominated (greater than 50% of total canopy cover) by obligate wetland (OBL) and/or facultative wetland (FACW) plant species, excluding any overhanging cover from stems that are outside of the plot.

15. The discharger is responsible for work conducted by its consultants, contractors, and any subcontractors. A copy of this Order and, if applicable, NOA shall be provided to all consultants, contractors, and subcontractors working on this project. A copy of this Order and NOA, if applicable, must remain at the project site for the duration of project-related activities and must be available at all times to site operating personnel and agencies. All personnel performing work on the project must be familiar with the contents of this Order and its location at the project site. The discharger is responsible for informing all personnel performing project-related work of the Standard and Additional Conditions contained in this Order.

16. For non-notifying activities, appropriate types and sufficient quantities of materials must be maintained on site at all times to contain and clean up any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the state. Construction personnel must know how to use appropriate containment and clean up materials.

17. Subsurface utilities, including gravity and pressurized sewer lines, are located along Lake Tahoe's shoreline. Prior to starting the project, the discharger, contractor, subcontractor, or other responsible entity must determine the location of subsurface utilities to avoid utility damage and protect human health, safety, and the environment.

18. Project activities must be halted if inclement weather or wave or wind action threatens to compromise the effectiveness of BMPs or allows turbid water to escape from the containment area. The discharger must take action to ensure that the performance of the BMPs remains effective at all times, even in adverse conditions, such as high winds, wave action, or currents.

19. Vehicle washing is prohibited on the project site.

20. Portable toilets must have secondary containment and be located at least 50 feet from any flow lines or surface waters.

21. Grading, filling, and all other disturbances of soil between October 15 of any year and May 1 of the following year, defined as the soil disturbance prohibition period, are prohibited above elevation 6,229.1 feet. All disturbed soil areas not subject to a variance to the soil disturbance prohibition period granted by the Lahontan Water Board must be winterized by October 15 in a manner that will remain effective until May 1. "Winterized" means implementing erosion or sediment controls, or both, that will minimize or prevent the discharge of earthen materials from the site during the soil disturbance prohibition period without requiring maintenance.

22. All temporary access routes and staging areas must be restored to pre-project lines and grades unless Lahontan Water Board staff grant an exception following review of the Project Completion Report.

23. All excess sediment excavated from the site that is not used on-site must be stockpiled in an upland location so as to not be transported by wind or water into surface waters. An effective combination of sediment and erosion control BMPs must be implemented and maintained to stabilize stockpiled soils in a manner to prevent soils from being transported by wind or water until such time that they are reused and/or disposed of at an authorized location.

24. The use of preservatives, spray paint, and tributyltin on wood that will be in contact with surface waters is prohibited.

25. All decking and materials must be pre-cut and prefabricated to the extent feasible; sawdust and other similar materials must not be discharged to surface waters. Fine mesh fabric or similar must be suspended over the water under active/unfinished work areas during construction activities to capture accidental discharges of construction waste.

26. The discharge of garbage or other solid waste to lands within the Lake Tahoe Basin is prohibited. All construction waste products must be removed from the project site or any areas adjacent to the work area upon project completion and disposed of in accordance with local, state, and federal requirements. Food waste and wildlife attractants must be contained in secure or wildlife proof containers and must be locked when not in active use.

27. Debris, oil, or other petroleum products (e.g., asphalt grindings) must be properly contained through BMPs, and must not be allowed to enter or be placed where they may be washed from the project site by rainfall or runoff into waters of the state. When construction activities are complete, all excess material and debris 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.

28. Concrete pouring and curing in place are prohibited.

29. To prevent the introduction of plastics, such as polystyrene and foams, brittle plastics, thin films, or plastics prone to photodegradation (or other materials that may photodegrade) below elevation 6,229.1 feet, the discharger, when feasible, must limit the use of plastic materials if functional equivalents exist. Any expanded polystyrene (including but not limited to, fusion of polymer spheres, injection molding, foam molding, and extrusion blow molding) or other plastic foam used as a part of any permanent structure must be fully enclosed and contained in a shell made of aluminum, concrete, steel or plastic (including HDPE) with a minimum thickness of 0.15 inches.

30. Permanent erosion control BMPs used above elevation 6,229.1 feet must be fully biodegradable (e.g. straw wattles/jute mats with plastic netting are prohibited). The discharger must consider the use of plastic materials resistant to snow loading and freeze/thaw where there are no feasible

alternatives to the use of plastic materials. Gravel/sandbags with woven plastic textile bags are prohibited.

31. Hydraulic fluids in mechanical equipment working in waters of the state must not contain organophosphate esters. Bio-lubricants and greases used in and on all construction equipment operating in direct contact with, or directly over waters of the state, must be vegetable-oil based.

32. A Spill Prevention and Response Plan must be submitted with the NOI for all projects involving notifying activities with the potential to leak or spill petroleum hydrocarbons, hydraulic fluids, or greases. Any subsequent revisions to the Spill Prevention and Response Plan must be submitted to Lahontan Water Board staff for review and acceptance at least 30 days prior to project commencement. Implementation of the plan is required following Lahontan Water Board staff acceptance.

33. A Hazard Analysis Critical Control Point (HACCP) Plan is required with the NOI for all projects involving notifying activities. Any subsequent revisions to the HACCP Plan must be submitted to Lahontan Water Board staff for review and acceptance at least 30 days prior to project commencement. Implementation of the plan is required following Lahontan Water Board acceptance.

34. The discharger must prevent the introduction or spread of noxious or invasive organisms within the project area (including all staging areas, stockpile areas, and access routes). Control measures may include the treatment of onsite 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.

35. All boats and other equipment that come into contact with surface waters must meet the requirements of the Watercraft Inspection Program[6.]

36. For all projects involving notifying activities where overland access occurs on beach sands above elevation 6,229.1 feet, a Tahoe Yellow Cress (Rorippa subumbellata) survey must be performed during the most recent growing season and submitted with the NOI and annually each year on the date specified in the NOA. If present, any area containing Tahoe Yellow Cress must be flagged and avoided.

37. Disturbance of the lakebed must be kept to the minimum necessary to complete project activities. All temporarily impacted lakebed must be restored (e.g., leveled with hand tools) to pre-project or natural conditions. For all projects involving notifying activities, verification of the lakebed condition

[6] The Watercraft Inspection Program requires the inspection of all motorized watercraft prior to entry into Lake Tahoe to ensure new AIS are not introduced, (https://tahoeboatinspections.com/).

through photo point monitoring must be submitted with the Project Completion Report.

38. The removal or relocation of boulders from or in Lake Tahoe for navigation purposes is prohibited.

39. **Mooring Buoys:** the following requirements apply to Mooring Buoys:

    a. Mooring buoys and buoy anchor blocks must not contain chemicals or materials that could adversely affect water quality, including quick curing chemicals and concrete that has not fully cured. Buoy paint must not create a nuisance[7] to Lake Tahoe.

    b. Design plans must receive approval from the TRPA prior to eligibility for this Order.

    c. Standard installation means and methods with the lowest probability of generating turbidity must be used.

40. **Fish Habitat Mitigation:** the following requirements apply to Fish Habitat Mitigation:

    a. Fish habitat mitigation must be created to meet at least the minimum mitigation ratio required, depending on fish habitat type.

    b. Rock used for fish habitat mitigation must be washed, silt free, and equivalent in strength to the natural rock of Lake Tahoe of either cobble or gravel size. Fish habitat grain size is determined by the fish habitat zone and must be consistent with substrate in the impacted area(s).

    c. Fish habitat mitigation must be created near the impacted fish habitat zone as near as possible to project-related impacts.

    d. Rock must be placed in a way that generates the lowest turbidity feasible, such as hand placement by divers.

    e. Fish habitat mitigation associated with any notifying categories must be included in the NOI materials in the compensatory mitigation section.

41. **Crayfishing Structures:** the following requirements apply to Crayfishing Structures:

    a. Traps must not remain in place for more than 48 hours at a time.

[7] California Water Code section 13050(m) defines nuisance as anything that meets all of the following: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, (3) Occurs during, or as a result of, the treatment or disposal of wastes.

b. Any species other than crayfish taken in traps must be returned to the water immediately.

c. Activities must not result in permanent impacts to waters of the state.

d. Structures and associated equipment must not be placed within the foreshore[8] of public recreational use areas or in such a way that creates a navigation or recreation hazard.

42. **Scientific Devices:** the following requirements apply to Scientific Devices:

a. Scientific devices and any other structures or fill material associated with those devices (e.g., foundations, anchors, buoys, lines, etc.) must be removed to the maximum extent practicable, and the site must be restored to pre-project elevations upon completion of the use of the device to measure and record scientific data.

b. All applicable and practicable control and mitigation measures must be incorporated into the project to minimize any discharges of waste to surface waters during or following construction.

c. Scientific devices must remain functional while in place and be removed from service within 60 days of ceasing to function as intended unless an extension is granted by Lahontan Water Board staff in writing.

43. **Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains:** the following requirements apply to Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains:

a. Laminar flow aeration disks and bubble curtains must remain functional while in place and be removed from service within 60 days of ceasing to function as intended unless an extension is granted by Lahontan Water Board staff in writing.

b. Plant removal must be performed by a professional qualified in the field of aquatic invasive plant species identification or by a person trained by the League to Save Lake Tahoe's Eyes on the Lake Program. The removal of native plants is prohibited.

c. Suction hose intakes must be elevated above the lake bottom and must not come into direct contact with the lakebed. Only plant material may be fed through suction hose intakes, and care must be taken to avoid feeding sediment into intakes.

[8] The Foreshore is the zone of lake level fluctuation between the high and low water level. For Lake Tahoe, the elevations are 6,229.1 feet Lake Tahoe Datum and 6,223.0 feet Lake Tahoe Datum, respectively. TRPA-Code-of-Ordinances (https://www.trpa.gov/wp-content/uploads/TRPA-Code-of-Ordinances.pdf), page 90-21.

d. Boats must operate in sufficiently deep water to avoid contact with the lakebed.

e. All harvested plant material must be removed and disposed of at an authorized disposal facility.

44. **New Piers:** the following requirements apply to New Piers:

a. Piles must be driven.

b. Caissons, turbidity curtains, or other BMPs to limit generated turbidity to the smallest area practicable must be used for pile driving where the lakebed contains clayey or silty substrate.

c. If the project results in a permanent impact to the lakebed, the appropriate fish habitat mitigation, as designated by the TRPA the fish habitat zones map, must be installed.

d. Construction, delivery, staging, access, and removal of equipment and materials must occur using equipment staged or mounted on a barge or amphibious vessel to avoid and minimize potential temporary lakebed disturbance.

45. **Removed or Reconstructed Piers:** the following requirements apply to Removed or Reconstructed Piers:

a. Projects including reconstructed piers must comply with the Additional Conditions in Section VI.C.44.a. through section VI.C.44.d.

b. Removed Pilings must be completely removed from the lakebed or attempted to be removed from the lakebed. If, after attempting to remove a piling entirely from the lakebed substrate, it is determined that complete removal is not possible, the piling must be cut below or flush with the lakebed. For wood pilings that splinter or break apart when pulled, all fragmented pieces must be recovered and removed from the lake.

c. Demolition and construction, delivery, staging, access, and removal of equipment and materials must occur using equipment staged or mounted on a barge or amphibious vessel, where feasible, to avoid and minimize potential temporary lakebed disturbance.

46. **Bulkheads or Static Revetments:** the following requirements apply to Bulkheads or Static Revetments:

a. Replacement bulkheads must be placed immediately in front of and as close as possible against the failing bulkhead.

b. If minor excavation is needed to key in replacement structures, the discharger must explain why excavation is necessary in the NOI and

perform the minimal amount of excavation required to accomplish the project.

c. Where sheet piling is not proposed, a bioengineered revetment[9] is required.

47. **Dynamic Revetments:** the following requirements apply to Dynamic Revetments:

a. The discharger must submit calculations with the NOI that demonstrate the revetment has been designed to actively deform when encountering large waves (90th percentile).

b. If minor excavation is needed to key in new or replacement structures, the discharger must explain why excavation is necessary in the NOI and perform the minimal amount of excavation required to accomplish the project.

c. Dynamic revetment structures must be designed to help reduce wave reflection and erosion, and dissipate wave energy.

d. Dynamic revetment structures must consist of washed, silt free rock equivalent in strength to the natural rock of Lake Tahoe.

48. **Benthic Barriers:** the following requirements apply to Benthic Barriers:

a. All benthic barriers installed must be intact with no visible signs of deterioration.

b. Benthic barriers must not be installed earlier than May 1 of any year and must be removed by November 30 that same year unless the discharger requests and receives an extension in writing by Lahontan Water Board staff.

c. Benthic barriers must be inspected at least monthly, and conditions must be documented in a log that includes observations (including integrity of the barriers), inspector's name, and date. Any fragments of benthic barriers observed during monthly inspections must be removed at the time of inspection. Any visibly deteriorating benthic barriers must be removed within 30 days of detection.

d. Boats must operate in sufficiently deep water to avoid contact with the lakebed.

[9] A bioengineered revetment is a sloping structure placed on banks in such a way as to absorb the energy of incoming water and consists of rock, and incorporates trees or other native plant materials.

e. Benthic barriers that become dislodged must be repaired as soon as feasible following discovery or, if they are an immediate threat to public safety, within 48 hours of discovery.

f. Benthic barrier installation locations must be recorded using the Global Positioning System (GPS).

g. At least 30 days prior to installation of benthic barriers each year the discharger is enrolled in this Order, a Benthic Barrier Implementation Plan must be provided to Lahontan Water Board staff for review and written acceptance prior to implementation. If the current Benthic Barrier Implementation Plan is provided with the NOI for that year's work, the NOA may serve as written acceptance of the Benthic Barrier Implementation Plan by Lahontan Water Board staff. The Benthic Barrier Implementation Plan must include the following information on that year's proposed work: 1) a map of treatment areas, 2) description and map(s) of access and staging areas, 3) anticipated implementation schedule for each treatment site, 4) where potential conflicts with recreational users may exist, a plan to avoid or reduce conflicts, and 5) a survey with a minimum one-foot vertical resolution for any benthic barrier installation proposed in marshes or tributaries outside the open lake. If modifications to benthic barrier installation are proposed following Lahontan Water Board staff acceptance, the discharger must submit an amended Benthic Barrier Implementation Plan to Lahontan Water Board staff for review and acceptance prior to implementing the amended plan. If no benthic barrier installation is planned for the upcoming season, the discharger must provide that update in writing to Lahontan Water Board staff by July 1 in lieu of the Benthic Barrier Implementation Plan.

h. By January 30 following each year the discharger installs or removes benthic barriers, a Post-season Report is required. The Post-season Report must include a map and description of each treatment site, number of barriers installed or removed in the past year, a maintenance log, and monitoring data consistent with the Water Quality Monitoring Plan submitted with the NOI. This report may be provided in a digital format and include links, where appropriate.

49. **Removal of Previously Authorized Structures:** the following requirements apply to Removal of Previously Authorized Structures:

a. Project activities must not result in permanent impacts.

b. Project activities must not directly or indirectly destabilize the backshore[10] of Lake Tahoe.

[10] The lakeward limit of the backshore is at the highwater elevation. The landward limit of the backshore is established using criteria found in the TRPA's Shorezone Project Information Packet (https://www.trpa.gov/wp-content/uploads/documents/Shorezone_Project_Application.pdf).

50. **Maintenance Suction Dredging:** the following requirements apply to Maintenance Suction Dredging:

    a. Discharge of slurry or sediment-laden material to surface waters, 100-year floodplains, or SEZs is prohibited.

    b. Dredging beyond legally established lake bottom elevations (see Attachment 3) is prohibited. The process for determining real-time elevation control must be described in the NOI.

    c. A Suction Dredging Effluent Plan is required with the NOI. Any subsequent modifications to the Suction Dredging Effluent Plan must be submitted to Lahontan Water Board staff for review and acceptance at least 30 days prior to project commencement. Implementation of the plan is required following Lahontan Water Board staff acceptance.

    d. By October 1 of every year the discharger is enrolled in this Order, the discharger must report the total volume dredged within the previous fiscal year (June 30 to July 1) along with pre- and post-project bathymetric surveys with a minimum vertical resolution of one foot. Pre- and post-project bathymetric surveys must evaluate a statistically representative portion of the dredged area and include a certification from a California licensed land surveyor or registered civil engineer. Pre- and post-project bathymetric surveys must be performed within 90 days before and 30 days after dredging commencement and completion, respectively.

    e. Dredged spoils must be disposed of at an authorized waste disposal site within two months of completion of dredging activities unless the discharger requests and receives an exception in writing by Lahontan Water Board staff. Prior to commencement of hauling off spoils, the discharger must provide to Lahontan Water Board staff written acceptance authorization from the waste disposal site and applicable agencies and jurisdictions.

    f. Transport of dredged spoils must be conducted with lined or sealed trucks to prevent the leakage of water. Trucks must be inspected for potential leakage prior to loading; any leakage identified must be eliminated prior to departure from the project area.

51. **Monitoring and Reporting Requirements:** The following requirements only apply to notifying activities:

    a. Within 72 hours prior to project commencement, the discharger must provide Lahontan Water Board staff with a project implementation schedule.

    b. The discharger must notify Lahontan Water Board staff by telephone within 48 hours of discovery whenever an adverse condition occurs as a

result of project-related activities. 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 Lahontan Water Board staff within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions completed or necessary to remedy the condition, and specify a timetable, subject to any modifications by Lahontan Water Board staff, for the remedial actions, if not already accomplished.

c. Post-Project Photo Points must be submitted with the Project Completion Report. The discharger is not eligible for termination of coverage until they demonstrate that no construction debris was left on site, including on land and in water, all indentations (e.g., spuds) have been smoothed out, and vegetation has not been disturbed.

d. The discharger must provide relevant documentation verifying implementation of compensatory mitigation to the Lahontan Water Board on the date specified in the NOA.

e. Monitoring data must be provided to the Lahontan Water Board following the reporting schedule in the Water Quality Monitoring Plan or as specified in the NOA.

f. The discharger must request termination of coverage under this Order by submitting a Project Completion Report to Lahontan Water Board staff for review and acceptance following completion of the project. All elements detailed in the Project Completion Report Template (Attachment 5) are required for terminating coverage under this Order.

VII. ENFORCEMENT

In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law and federal law.

In response to a suspected violation of any condition of this Order, the State Water Board or the Lahontan Water Board may require the holder of any permit or license subject to this Order 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.

In response to any violation of the conditions of this Order, the Lahontan Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

VIII. SECTION 401 WATER QUALITY CERTIFICATION REQUIREMENTS GRANTED

I hereby issue this Order certifying that any discharge from the project will comply with the applicable provisions of CWA 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). This discharge is also regulated pursuant to Lahontan Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (California Water Code section 13000 et seq.). State Water Board Order No. 2003-0017-DWQ can be found at: https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.

Authorization is contingent on: (a) compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of the Basin Plan, and Statewide Water Quality Control Plans and Policies.

We look forward to working with you in your efforts to protect water quality. If you have any questions regarding this matter, please contact Bryan Talmadge, Senior Water Resource Control Engineer, at (530) 542-5422 (bryan.talmadge@waterboards.ca.gov).

(*for*) MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER

1) Enclosures:
   1) Basin Plan Prohibition Exemption Findings
   2) Notice of Intent
   3) Legally Established Lake Bottom Elevations
   4) Notice of Intent Instructions
   5) Project Completion Report Template

See next page for cc list –

cc list w/enclosures: Joe Morgan, USEPA
Hudson Slay, USEPA
SWRCB, Division of Water Quality
Sacramento District Regulatory Program, USACE
Kirsten Grabreck, USACE
Patrick Moeszinger, CDFW
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