



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources

Joe Lombardo, *Governor*
James A. Settelmeyer, *Director*
Jennifer L. Carr, *Administrator*

December 2, 2024

Ms. Shannon Morgan
Senior Regulatory Project Manager
U.S. Army Corps of Engineers Sacramento District
300 Booth Street Room 3050
Reno, NV 89509

Re: Nevada Division of Environmental Protection Clean Water Act Section 401 Water Quality Certification Determination for Regional General Permit 4 - Lake Tahoe Minimal Impact Activities and Structures (NV-401-24-025; SPK-2023-00852)

Dear Ms. Morgan:

Enclosed is the Certification determination for Regional General Permit 4 - Lake Tahoe Minimal Impact Activities and Structures (NV-401-24-025; SPK-2023-00852) proposed by United States Army Corps of Engineers – Sacramento District, Nevada Section. This Water Quality Certification (Certification) determination has been submitted by Nevada Division of Environmental Protection (NDEP), Bureau of Water Quality Planning (BWQP) under the authority of the Clean Water Act Section 401, 40 CFR §121, and Nevada Revised Statutes Section 445A.620.

The federal action authorizes activities with impacts or potential impacts to waters of the United States and requires a federal permit from the Army Corps of Engineers (USACE). Clean Water Act Section 401 requires state Certification of activities which may result in discharges to waters of the United States, in the state the discharge originates, before a federal permitting agency may issue a license or permit. To receive Certification, the proposed project must comply with State of Nevada regulations and provisions of the Clean Water Act Sections 301, 302, 303, 306, and 307. This water quality certification action has been issued in compliance with public notice procedures in the State of Nevada pursuant to Clean Water Act Section 401(a)(1) and Nevada Revised Statutes Section 445A.620.

This Certification determination contains important conditions developed for this permit, including statements justifying the purpose of a condition and references to applicable federal or State law (40 CFR §121.7(d)(3)). All conditions set forth in this Certification shall be incorporated into any resulting federal permit (40 CFR §121.10). Failure to meet conditions of this Certification, requirements of any other permit issued by NDEP for this project, or any violation of NAC Chapter 445A or NRS Chapter 445A may constitute a violation of the certification action. This Certification is subject to the acquisition of all necessary local, regional, State, and federal permits and approvals as required by law.

At NDEP's discretion and prior to initial operation under a federal license or permit which NDEP has issued Certification, NDEP shall be allowed to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other applicable water quality requirements will not be violated (§401(a)(4); NRS 445A.655).

All conditions of the Authorization to Discharge (Working in Waterways permit) issued by the Bureau of Water Pollution Control or any other permits issued by NDEP for the project must be followed pursuant to NRS 445A.475-445A.515 and NAC 445A.228-445A.272.

If you have any questions, please contact me via ndep401@ndep.nv.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Zachary Carter', with a long horizontal flourish extending to the right.

Zachary Carter
Environmental Scientist III
Nonpoint Source Branch
Bureau of Water Quality Planning

cc: Jason Kuchnicki, Bureau of Water Quality Planning, NDEP
Kristie Black, Bureau of Water Pollution Control, NDEP
Mitchell Cowles, Bureau of Water Pollution Control, NDEP
Ellery Stahler, Nevada Division of State Lands
Elizabeth vanDiepen, Lahontan Regional Water Quality Control Board
Nancy Haley, Nevada Regulatory Section, U.S. Army Corps of Engineers
Samuel Bohannon, Nevada Regulatory Section, U.S. Army Corps of Engineers
Kirsten Grabreck, Nevada Regulatory Section, U.S. Army Corps of Engineers



**Nevada Division of Environmental Protection
Clean Water Act Section 401 Water Quality Certification Action**

The Nevada Division of Environmental Protection submits this Clean Water Act Section 401 Water Quality Certification (Certification) action for:

**Regional General Permit 4 - Lake Tahoe Minimal Impact Activities and Structures (NV-401-24-025; SPK-2023-00852)
proposed by United States Army Corps of Engineers – Sacramento District, Nevada Section.**

This Certification action applies to projects utilizing Regional General Permit 4 (Lake Tahoe Minimal Impact Activities and Structures) within the portions of Lake Tahoe that are within the State of Nevada's jurisdiction. This Certification is formatted as follows:

- A. Certifying Authority's Decision by Activity
- B. Certification Action General Information
- C. General Conditions (including statutory citations)
- D. Special Conditions (including statutory citations)
- E. Condition Statements of Necessity

Nevada Division of Environmental Protection has examined the information furnished by the federal permitting agency and issues the following actions identified in Section A.

Programmatically certified activities are identified in Section A. i. of this Certification action. NDEP certifies that there is reasonable assurance that these activities will comply with water quality requirements (Nevada Revised Statute (NRS) Chapter 445A, Nevada Administrative Code (NAC) Chapter 445A, and Clean Water Act Sections 301, 302, 303, 306, and 307), provided that the project proponent complies with all Certification conditions listed in Sections C, D and E. All Certification conditions contained herein shall be incorporated as a condition of the federal permit for the project (CWA Section 401(d)). All conditions are justified as required by 40 CFR 121.7(d)(3), with statements justifying why a condition is necessary to assure that the discharge from a proposed project will comply with water quality requirement(s) and citations to appropriate federal and/or State water quality regulation(s) that authorizes the condition. This water quality Certification action has been issued in compliance with public notice procedures in the State of Nevada pursuant to Clean Water Act Section 401(a)(1) and Nevada Revised Statutes Section 445A.620. Project proponents unable to comply with the conditions identified in Sections C, D, and E of this Certification action must consult NDEP regarding the need for individual Certification for the proposed activities.

Denied activities are identified in Section A. ii. of this Certification action. Compliance with applicable water quality requirements (e.g., NRS Chapter 445A, NAC Chapter 445A, and Clean Water Act Sections 301, 302, 303, 306, and 307) cannot be determined programmatically since discharges, methodologies, and best management practices for these activities can vary substantially and are not available on a programmatic basis. Project proponents seeking authorization through RGP 4 for activities identified in Section A. ii. must receive individual Certification from NDEP. Resources and applicable submission procedures are available on the NDEP Water Quality Certification Program webpage (<https://ndep.nv.gov/water/rivers-streams-lakes/401-certification>).

A. Certifying Authority's Decision by Activity

i. Conditional Certification

- a. Placement, maintenance, replacement, repair, or removal of:
 - 1. New mooring buoys
 - 2. Fish habitat mitigation structures

3. Crawfishing operations
4. Scientific measuring devices
5. Piers, catwalks, docks and similar features where the only disturbance is piling installation or removal
6. Boat lifts
7. Aquatic invasive species non-chemical management activities utilizing benthic barriers
- b. Pier modifications or expansions where the only disturbance is piling installation or removal
- c. Mooring buoy field modification, maintenance, expansion, or removal

ii. **Denial**

- a. Placement, maintenance, replacement, repair, or removal of:
 1. Bulkheads or static revetments in existing/enclosed marinas (no deflection of wave action to other areas that would cause erosion) and associated minor excavation
 2. Dynamic revetment structures designed to actively deform in large waves (90th percentile) without structural compromise
 3. Aquatic invasive species non-chemical management activities utilizing methods other than benthic barriers
 4. Fill activities (e.g., for shoreline revetments or boulder relocation) and associated minor excavation
- b. Removal of previously authorized structures not already listed
- c. Maintenance dredging activities that employ the suction dredging method that do not go beyond established lake bottom elevations

B. Certification Action General Information

Certification Number:	NV-401-24-025; SPK-2023-00852
Federal Permit or License:	Regional General Permit 4 - Lake Tahoe Minimal Impact Activities and Structures
Project Proponent:	United States Army Corps of Engineers – Sacramento District, Nevada Section
Pre-Filing Meeting Request Date:	3/25/2024
Certification Request Date:	6/12/2024
Reasonable Period of Time Deadline:	12/9/2024
Date Certification Determination Submitted to Federal Permitting Agency:	12/2/2024
Summary of Conditionally Certified Activities:	<p>Regional General Permit 4 may be used to authorize permanent or temporary work or structures in or affecting Lake Tahoe and/or the discharge of clean fill material into Lake Tahoe. In accordance with 33 CFR 322.2(f)(1) and 33 CFR 323.2(h)(1), Regional General Permit 4 authorizes activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts, when conducted under the terms and conditions of the permit. Authorities: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).</p> <p>The activities programmatically and conditionally certified by NDEP in this Certification action include:</p> <ul style="list-style-type: none"> • Placement, maintenance, replacement, repair, or removal of: <ul style="list-style-type: none"> ○ new mooring buoys ○ fish habitat mitigation structures <p style="text-align: right;">(cont.)</p>

	<ul style="list-style-type: none"> ○ crawfishing operations ○ scientific measuring devices ○ piers, catwalks, docks and similar features where the only disturbance is piling installation or removal ○ boat lifts ○ aquatic invasive species non-chemical management activities utilizing benthic barriers ● Pier modifications or expansions where the only disturbance is piling installation or removal ● Mooring buoy field modification, maintenance, expansion, or removal
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A detailed project description, including measures to ensure that discharges to waters of the U.S. do not significantly impact water quality, is included in the Certification Request and in additional information attached to the Certification Request.

C. General Conditions

Condition Number	Condition Title	Condition Description and Reference to Federal and/or State Water Quality Requirement(s)
1	Permits and Licenses	All other required federal and State permits or licenses must be obtained prior to construction commencement to ensure compliance with all federal and State regulations (NRS 445A.300 - 445A.730; NAC 445A.228).
2	Water Quality Standards/Beneficial Uses	Any discharge associated with the proposed activity shall not exceed State water quality standards or impair the beneficial uses of any water of the State. Beneficial uses define the water quality criteria required to protect the uses of a waterbody and exceedances are a violation of State regulation. No exceedances of water quality standards or impairment of beneficial uses of the waterbody are permitted (NRS 445A.520; NRS 445A.720; NAC 445A.118 - 445A.2234).
3	High Quality Waters	Any surface waters of the State whose quality is higher than the applicable water quality standards, as of the date when those standards become effective, must be maintained in their higher quality. No discharges of a pollutant may be made which will result in lowering the quality of these waters (NRS 445A.565).
4	Waters with Approved TMDLs and 303(d) Listed Waters	If the proposed project would discharge into a waterbody listed as impaired and on the current 303(d) list or has an approved TMDL, no discharges of a pollutant may be made which will result in further degradation of beneficial uses to these waters without approval by NDEP. For the most current list of approved TMDLs for Nevada, please refer to NDEP's Water Quality Integrated Report (https://ndep.nv.gov/uploads/water-wqm-docs/IR2022FINAL_Report.pdf). Proposed discharges that would exceed applicable water quality standards or would result in degradation or impairment to beneficial uses are not authorized by this programmatic Certification action. Projects proposing discharges exceeding water quality standards must request an individual Certification from NDEP to ensure proposed activities will not violate applicable water quality requirements. NDEP requires review to ensure the proposed project will not exceed numeric or narrative water quality criteria for the waterbody and that BMPs for the project adhere to suggested BMPs outlined in applicable TMDLs (NRS 445A.520; NRS 445A.720; NAC 445A.228).
5	Best Management Practices (BMPs)	Work in or adjacent to waters of the State shall be performed in such a way that minimizes discharges of pollutants to the receiving waterbody. Best Management Practices to control and mitigate inputs of pollutants must be implemented and functional prior to commencement of work and shall be maintained and modified throughout the duration of work performed to assure that State water quality standards are met. Pollutants are defined as artificially made or induced alterations

		to the physical, chemical, or biological integrity of the water (NRS 445A.525; NAC 445A.121).
6	Equipment Use	<ul style="list-style-type: none"> a. Equipment used during project implementation must be in proper working condition and free from leaks to prevent discharge of debris, oil, grease, scum, and other floating materials to waters of the State which could have adverse effects on the chemical, physical, or biological function of the waterbody (NAC 445A.121). b. Equipment fueling, staging, maintenance, and repair must be conducted in an upland position where discharge of pollutants, incidental to these activities, do not have the potential to pollute waters of the State (NAC 445A.121). c. Equipment operation shall be conducted in a manner that minimizes impacts to waters of the State (NAC 445A.121).
7	Construction	Except those authorized by this Certification, no pollutants associated with this project shall be discharged or allowed to remain in a position where a pollutant can be carried to waters of the State by any means. Material permitted to enter waters of the State must be stabilized in a position to prevent excessive erosion. Pollutants are defined as artificially made or induced alterations to the physical, chemical, or biological integrity of the water. Pollutants can include, but are not limited to soil, sand, silt, rock, dredge material, chemical waste, biological material, heat, concrete, concrete washings, and discarded equipment (NRS 445A.400; NRS 445A.465).
8	Concrete	Wet and uncured concrete can negatively impact the chemical and physical integrity of water, such as pH, if allowed to enter a waterbody and poses a serious hazard to aquatic life. No wet or uncured concrete shall be allowed to enter waters of the State by any means. Impermeable covers shall be placed over any wet or uncured concrete to prevent leaching of this pollutant into a waterbody. This condition is necessary to prevent exceedances of water quality standards within the aquatic feature (NRS 445A.465).
9	Invasive Species Management	Equipment and materials must be free from invasive species that could be discharged or carried into the waters of the State by any means. If BMPs incorporate natural materials, such as seeds, mulch, straw bales, or coir logs, they shall be certified as weed free. Equipment and materials must be free from invasive species to protect the physical, chemical, and biological integrity of waters of the State and to prevent the spread of invasive species throughout the State (NRS 445A.465; NRS 555.010; NRS 555.150).
10	Revegetation and Site Restoration	Disturbance of existing vegetation shall not exceed the minimum necessary to complete the project. If revegetation is proposed to restore and stabilize areas affected during construction, site-appropriate plant materials shall be used with an emphasis on native and/or adapted perennial vegetation. Site stabilization is necessary to prevent erosion, decrease sediment inputs into waters of the State, and reduce encroachment of invasive species in denuded areas since invasive species are associated with modified hydrologic regimes and deleterious impacts to the aquatic environment (NRS 445A.305).
11	Post-Construction	Upon completion of the project, affected areas must be returned to pre-construction elevations and contours. All temporary and excess materials and installments used during construction must be removed from the site to prevent pollutants from entering waters of the State by any means (NRS 445A.465).
12	Pre-Construction Notification	Prior to beginning any activity authorized by this RGP, NDEP must receive notification concurrent with the pre-construction notification submitted to the U.S. Army Corps of Engineers. Any modifications to the original 401 notification must be provided to NDEP prior to implementation. Electronic notification can be provided to NDEP Bureau of Water Quality Planning at NDEP401@ndep.nv.gov. This condition is necessary to ensure consistency of the proposed activities with the activities programmatically certified in this Certification action (NV-401-24-025) (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.121).

13	Post-Project Reporting	Following project completion, the project proponent shall send NDEP as-built drawings and digital color photographs (jpg/jpeg preferred) that are representative of waters impacted by the activity. Photos must include BMPs used to prevent erosion, control sediment, and protect water quality. Before, during, and after photos should be taken from a consistent photo point in the same direction using the same zoom and aspect. Post-project reporting is necessary to ensure project BMPs were installed as required (NRS 445A.530).
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D. Special Conditions

Condition Number	Condition Title	Condition Description and Reference to Federal and/or State Water Quality Requirement(s)
14	Spill Prevention Plan	A spill prevention plan must be developed for any project utilizing the programmatic Certification of RGP 4. At a minimum, spill prevention plans must identify responsible parties, spill prevention measures, spill response measures, and reporting resources including the NDEP Spill Report Form (https://nevadaenvironmentalactivities.ndep.nv.gov/Spill/ReportForm.aspx). The spill prevention plan must be available at the project location during project implementation to allow for timely response if a spill should occur. This condition is necessary to facilitate prevention of, preparedness for, and response to the discharge of hazardous substances or contaminants which pose a danger to public health and the aquatic environment including exceedances of applicable water quality requirements for Lake Tahoe (NAC 445A.3473, NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
15	Turbidity Curtains and Caissons	Activities proposing the use of turbidity curtains and caissons as temporary BMPs during project implementation shall utilize contractor-grade turbidity curtains and caissons. These BMPs shall be free from aquatic invasive species and properly installed, per manufacturer's specifications, around the anticipated area of impact during construction activities. Additional precautions should be taken during inclement weather and high winds to prevent failure of turbidity curtains. The turbidity curtains and/or caissons shall remain in place and maintained until suspended sediment has settled and turbidity meets water quality standards for Lake Tahoe. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
16	Piling Installation and Removal	Projects that incorporate hydraulic jetting and auguring for pile installation and removal are not authorized under this programmatic Certification and will require individual Certification action from NDEP. Projects that include the installation and removal of pilings shall utilize methodologies that minimize disturbance of the substrate within Lake Tahoe. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
17	Construction Debris	Construction debris shall be prevented from entering Lake Tahoe. Any debris entering the waterbody shall be removed (e.g., skimmed from the lake surface) as soon as practicable. This condition is necessary to comply with narrative water quality standards applicable to all surface waters (NAC 445A.121). Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water. Waters must be free from materials from controlled sources in amounts sufficient to change the existing color, turbidity, or other conditions in the receiving waterbody to such a degree as to create a public nuisance or in amounts sufficient to interfere with any

		beneficial uses or violate water quality standards (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
18	Anchor Block Relocation	Relocation of buoy anchor blocks may potentially disturb lake bottom sediments leading to excess turbidity in the adjacent water column. To minimize turbidity impacts, anchor block relocation should occur during calm lake conditions. Anchor blocks shall not be dragged when relocating the anchor block to the desired new location. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
19	Fish Habitat Mitigation Structures	Material used in the construction of fish habitat mitigation structures shall consist of clean fill that is free from fine sediment. Precautions shall be taken to minimize lakebed disturbance or turbidity impacts during the installation of fish habitat mitigation structures. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity and water clarity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
20	Scientific Measuring Devices	Scientific measuring device projects installed within Lake Tahoe that involve the discharge of thermal pollutants are not authorized under this programmatic Certification and will require individual Certification action from NDEP. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for temperature within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
21	Aquatic Invasive Control - Benthic Barrier	Activities utilizing benthic barriers to control aquatic invasive species must directly target aquatic invasive species removal and function to remove aquatic invasive species. Disturbance to the lakebed shall be kept to a minimum during aquatic invasive species control activities utilizing benthic barriers. Benthic barriers shall be properly installed and maintained, per manufacturer's specifications, while deployed within Lake Tahoe. Precautions shall be taken to minimize turbidity/siltation during installation and removal of benthic barriers. Any material used as a benthic barrier or ballast should have no more fine sediment particles than the lakebed substrate over which fill would be placed. All material introduced to Lake Tahoe in benthic barrier operations shall be removed from the project site upon project completion. Plant material to be removed shall be disposed properly and prevented from reentering any aquatic feature within the jurisdiction of the State of Nevada. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity and water clarity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).

E. Condition Statements of Necessity

The conditions above ensure compliance with applicable water quality requirements, minimization of individual and cumulative adverse effects on the aquatic environment, and the continued use and enjoyment of Nevada's water resources for future generations (NRS 445A.720). The State has an obligation to protect the beneficial uses of waterbodies across its jurisdiction through the development of water quality standards and criteria (NRS 445A.530; NAC 445A.118 - 445A.2234). Projects which require a federal license or permit must first receive Certification from the state in which the discharge originates, or will originate, to verify that any proposed activity complies with federal, State, and local regulation (40 CFR §121; NRS 445A.620; NRS 445A.720). The conditions above have been developed for the proposed project because these activities have been determined to have an increased potential to pollute waters of the State and steps must be taken to ensure compliance with applicable water quality requirements (NRS 445A.525; NRS 445A.565). The State must develop limitations necessary to meet water quality standards, treatment standards, and schedules of compliance

established pursuant to the laws of this State and any other federal law or regulation and is required to implement any applicable water quality standard established pursuant to NRS 445A.300 to 445A.730, inclusive, such limitations shall be established (NRS 445A.530; NAC 445A.118 - 445A.2234).

Pursuant to 40 CFR §121.7(d)(3), narrative statements justifying the conditions listed by number follows below:

1. Water Quality Certification does not negate the requirement for applicants to obtain all other required federal, State, and local permits, licenses, and authorizations prior to construction commencement which ensures compliance with all applicable water quality-related requirements (NRS 445A.300 - 445A.730; NAC 445A.228).
2. To protect Nevada's water resources, any discharge associated with a project occurring in waters of the State shall not exceed State water quality standards or impair the beneficial uses for the applicable waterbody (NRS 445A.520). Beneficial uses define the water quality criteria required to support the existing uses of a waterbody and exceedances are a violation of State law. To prevent the proposed activities from interfering with attainment of applicable beneficial uses no exceedances of water quality standards or impairment of beneficial uses of the waterbody are permitted (NRS 445A.520; NRS 445A.720; NAC 445A.118 - 445A.2234).
3. To protect the continued attainment of high-quality waterbodies, no discharges of a pollutant from a point source may be made which will result in lowering the quality of these waters. NDEP requires review to ensure the proposed project will not exceed applicable numeric or narrative water quality standards for the waterbody and that BMPs promote the chemical, physical, and biological integrity of these waters (NRS 445A.565; NRS 445A.720; NAC 445A.228).
4. If the proposed project would discharge into a waterbody listed as impaired and on the current 303(d) list or has an approved TMDL, no discharges of a pollutant may be made which will result in further degradation of beneficial uses to these waters without approval by NDEP. For the most current list of approved TMDLs for Nevada, please refer to NDEP's Water Quality Integrated Report (https://ndep.nv.gov/uploads/water-wqm-docs/IR2022FINAL_Report.pdf). Proposed discharges that would exceed applicable water quality standards or would result in degradation or impairment to beneficial uses are not authorized by this programmatic Certification action. Projects proposing discharges exceeding water quality standards must request an individual Certification from NDEP to ensure proposed activities will not violate applicable water quality requirements. NDEP requires review to ensure the proposed project will not exceed numeric or narrative water quality criteria for the waterbody and that BMPs for the project adhere to suggested BMPs outlined in applicable TMDLs (NRS 445A.520; NRS 445A.720; NAC 445A.228).
5. Best Management Practices are effective measures to control and mitigate point source inputs of pollutants into a waterbody. Prior to commencement of any work in waters of the State, BMPs designed for the project must be in place and shall be maintained throughout the duration of the project to ensure no more than minimal effects to the aquatic environment (NRS 445A.525; NAC 445A.121). A list of BMPs recommended by NDEP are available on the BWQP website: <https://ndep.nv.gov/water/rivers-streams-lakes/nonpoint-source-pollution-management-program/best-management-practices-toolbox>.
6. Equipment used in waters of the State must be in proper working condition and free from leaks. Any maintenance, repair, or staging of this equipment must be completed in an upland position to prevent discharge of debris, oil, grease, scum, and other floating materials to waters of the State which could have adverse effects on the aquatic environment (NRS 445A.520; NAC 445A.121.2).
7. Except those authorized by this Certification, no pollutants associated with this project will be discharged from a point source or allowed to remain in a position where a pollutant can be carried to waters of the State by any means and material permitted to enter waters of the State must be stabilized in a way that prevents excessive erosion. Adherence to this condition prevents violations of water quality standards and State law (NRS 445A.400).

8. Wet and uncured concrete can negatively impact the chemical and physical integrity of water, such as pH, if allowed to enter a waterbody and poses a serious hazard to aquatic life. No wet or uncured concrete shall be allowed to enter waters of the State by any means. Impermeable covers shall be placed over any wet or uncured concrete to prevent leaching of this pollutant into a waterbody. This condition is necessary to prevent exceedances of water quality standards within the aquatic feature (NRS 445A.465).
9. Equipment and materials must be free from invasive species that could be discharged or carried into the waters of the State by any means. If BMPs incorporate natural materials, such as seeds, mulch, straw bales, or coir logs, they shall be certified as weed free. Equipment and materials must be free from invasive species to protect the physical, chemical, and biological integrity of waters of the State and to prevent the spread of invasive species throughout the State (NRS 445A.465; NRS 555.010; NRS 555.150).
10. Disturbance of existing vegetation shall not exceed the minimum necessary to complete the project. If revegetation is proposed to restore and stabilize areas affected during construction, site-appropriate plant materials shall be used with an emphasis on native and/or adapted perennial vegetation. Site stabilization is necessary to prevent erosion, decrease sediment inputs into waters of the State, and reduce encroachment of invasive species in denuded areas since invasive species are associated with modified hydrologic regimes and deleterious impacts to the aquatic environment (NRS 445A.305).
11. All temporary and excess materials and installments used during construction shall be removed from the site upon project completion to prevent pollutants from entering waters of the State by any means. Affected areas must be returned to pre-construction elevations and contours to prevent unauthorized alterations to a waterbody once a project is complete (NRS 445A.465).
12. Prior to beginning any activity authorized by this RGP, NDEP must receive notification concurrent with the pre-construction notification submitted to the U.S. Army Corps of Engineers. Any modifications to the original 401 notification must be provided to NDEP prior to implementation. Electronic notification can be provided to NDEP Bureau of Water Quality Planning at NDEP401@ndep.nv.gov. This condition is necessary to ensure consistency of the proposed activities with the activities programmatically certified in this Certification action (NV-401-24-025) (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.121).
13. Following project completion, the project proponent shall send NDEP as-built drawings and digital color photographs (jpg/jpeg preferred) that are representative of waters impacted by the activity. Photos must include BMPs used to prevent erosion, control sediment, and protect water quality. Before, during, and after photos should be taken from a consistent photo point in the same direction using the same zoom and aspect. Post-project reporting is necessary to ensure project BMPs were installed as required (NRS 445A.530).
14. A spill prevention plan must be developed for any project utilizing the programmatic Certification of RGP 4. At a minimum, spill prevention plans must identify responsible parties, spill prevention measures, spill response measures, and reporting resources including the NDEP Spill Report Form (<https://nevadaenvironmentalactivities.ndep.nv.gov/Spill/ReportForm.aspx>). The spill prevention plan must be available at the project location during project implementation to allow for timely response if a spill should occur. This condition is necessary to facilitate prevention of, preparedness for, and response to the discharge of hazardous substances or contaminants which pose a danger to public health and the aquatic environment including exceedances of applicable water quality requirements for Lake Tahoe (NAC 445A.3473, NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).

15. Activities proposing the use of turbidity curtains and caissons as temporary BMPs during project implementation shall utilize contractor-grade turbidity curtains and caissons. These BMPs shall be free from aquatic invasive species and properly installed, per manufacturer's specifications, around the anticipated area of impact during construction activities. Additional precautions should be taken during inclement weather and high winds to prevent failure of turbidity curtains. The turbidity curtains and/or caissons shall remain in place and maintained until suspended sediment has settled and turbidity meets water quality standards for Lake Tahoe. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
16. Projects that incorporate hydraulic jetting and auguring for pile installation and removal are not authorized under this programmatic Certification and will require individual Certification action from NDEP. Projects that include the installation and removal of pilings shall utilize methodologies that minimize disturbance of the substrate within Lake Tahoe. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
17. Construction debris shall be prevented from entering Lake Tahoe. Any debris entering the waterbody shall be removed (e.g., skimmed from the lake surface) as soon as practicable. This condition is necessary to comply with narrative water quality standards applicable to all surface waters (NAC 445A.121). Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water. Waters must be free from materials from controlled sources in amounts sufficient to change the existing color, turbidity, or other conditions in the receiving waterbody to such a degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial uses or violate water quality standards (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
18. Relocation of buoy anchor blocks may potentially disturb lake bottom sediments leading to excess turbidity in the adjacent water column. To minimize turbidity impacts anchor block relocation should occur during calm lake conditions. Anchor blocks shall not be dragged when relocating the anchor block to the desired new location. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
19. Material used in the construction of fish habitat mitigation structures shall consist of clean fill that is free from fine sediment. Precautions shall be taken to minimize lakebed disturbance or turbidity impacts during the installation of fish habitat mitigation structures. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity and water clarity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).
20. Scientific measuring device projects installed within Lake Tahoe that involve the discharge of thermal pollutants are not authorized under this programmatic Certification and will require individual Certification action from NDEP. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for temperature within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).

21. Activities utilizing benthic barriers to control aquatic invasive species must directly target aquatic invasive species removal and function to remove aquatic invasive species. Disturbance to the lakebed shall be kept to a minimum during aquatic invasive species control activities utilizing benthic barriers. Benthic barriers shall be properly installed and maintained, per manufacturer's specifications, while deployed within Lake Tahoe. Precautions shall be taken to minimize turbidity/siltation during installation and removal of benthic barriers. Any material used as a benthic barrier or ballast should have no more fine sediment particles than the lakebed substrate over which fill would be placed. All material introduced to Lake Tahoe in benthic barrier operations shall be removed from the project site upon project completion. Plant material to be removed shall be disposed properly and prevented from reentering any aquatic feature within the jurisdiction of the State of Nevada. This condition is necessary to prevent violations of narrative water quality standards applicable to all surface waters and exceedances of numeric water quality standards for turbidity and water clarity within Lake Tahoe during project implementation (NRS 445A.720; NRS 445A.530; NRS 445A.525; NAC 445A.1626; NAC 445A.121).



Notice of Request for Section 401 Water Quality Certification Action - Bureau of Water Quality Planning

Web Posting: 6/20/2024

Deadline for Comments: 7/22/2024

Regional General Permit 24
Lake Tahoe – Carson City, Washoe, Douglas

United States Army Corps of Engineers
300 Booth Street
Reno, NV 89509-1328

Certification Action Number NV-401-24-025

The proposed Regional General Permit (RGP) 24 (SPK-2023-00852) would authorize work or structures within Lake Tahoe and/or the permanent or temporary discharge of fill into waters of the U.S. Regional General Permit 24 includes limited activities that are considered to have no more than minimal individual and cumulative environmental impacts. Project proponents seeking federal authorization through RGP 24 would be required to notify the U.S. Army Corps of Engineers consistent with the notification procedures described in the draft permit. Each individual project verified under this permit would be required to adhere to all general and special conditions listed in the permit, including adherence to any Clean Water Act Section 401 Certification conditions (if applicable). Regional General Permit 24 would be effective for a duration of five years following issuance.

A 401 certification (or a waiver of certification) is required for any federal license or permit that authorizes activities that may result in any discharge into waters of the United States. Nevada Division of Environmental Protection is in receipt of a complete request for certification in compliance with Clean Water Act Section 401 Certification regulations which the U.S. Environmental Protection Agency promulgated in 2023, codified as 40 CFR 121.

The Administrator is evaluating whether the proposed activity will comply with applicable water quality requirements. Certification actions are valid for the duration of the federal license or permit (typically five years). Any conditions contained within the certification action become a condition of the federal license or permit.

Persons wishing to comment on the application for consideration by the Administrator in making a determination regarding the certification action should submit their comments or request a hearing in writing, emailed no later than 5:00 P.M. on 7/22/2024:

Bureau of Water Quality Planning
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701-5249
ndep401@ndep.nv.gov

The request for a hearing must be filed within the comment period and must indicate the interest of the person filing the request and the reasons why a hearing is warranted. All water quality-related comments or objections received within the thirty (30) day period will be considered in the formulation of final certification action regarding the application. If written comments indicate a significant degree of public interest in the proposed permit, the Administrator shall hold a public hearing. A public notice of such hearing will be issued not less than thirty (30) days prior to the hearing date.

The applications, proposed permits, comments received, and other information are on file and may be copied, or copies may be obtained by writing to the above address or by contacting Zachary Carter, Bureau of Water Quality Planning, at (775) 687-9456 or ndep401@ndep.nv.gov. The public notice for this project can be viewed at the following website: <https://ndep.nv.gov/posts/category/water>.

Please bring the forgoing notice to the attention of all persons interested in this matter.