

FOR CONTRACT NO.: 03-1A73U4

INFORMATION HANDOUT

WATER QUALITY

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LAHONTAN REGION**

WDID 6A091202005

PERMITS

**UNITED STATES ARMY CORPS OF ENGINEERS
NON-REPORTING NATIONWIDE 404 PERMIT**

TAHOE REGIONAL PLANNING AGENCY

AGREEMENTS

**CALIFORNIA DEPARTMENT OF FISH AND GAME
NOTIFICATION NO. 1600-2012-0033-R2**

ROUTE: 03-ED-50-73.7/75.4

Lahontan Regional Water Quality Control Board

MEMORANDUM

TO: Erik Schwab, Associate Biologist
Caltrans District 3 Office of Environmental Management
2379 Gateway Oaks Drive, Suite 150
Sacramento, CA 95833


FROM: Harold J. Singer
Executive Officer
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: MAY 15 2012

**SUBJECT: ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY
CERTIFICATION AND PROHIBITION EXEMPTION FOR HIGHWAY 50
AIRPORT TO 50/89 JUNCTION ("Y") ENVIRONMENTAL
IMPROVEMENT PROJECT, EL DORADO COUNTY, WDID 6A091202005**

The California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) has received a complete Clean Water Act Section 401 Water Quality Certification (WQC) application and application filing fee from the California Department of Transportation (Applicant) for the Highway 50 Airport to 50/89 Junction (aka "Y") Environmental Improvement Program Project (Project) in El Dorado County. The Lahontan Water Board also received information to support granting an exemption to a waste discharge prohibition in the Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan). This Order for WQC and waste discharge prohibition exemption hereby assigns this Project the following reference number: Waste Discharger Identification (WDID) No. 6A091202005. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations

applicable to filing petitions may be found on the Internet at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A091202005
Applicant	Erik Schwab, Associate Biologist Caltrans District 3 Office of Environmental Management 2379 Gateway Oaks Drive, Suite 150 Sacramento, CA 95833
Agent	None
Project Name	Highway 50 Airport to "Y" Environmental Improvement Program (EIP) Project
Project Purpose and Description	The purpose of the Project is to improve the quality of runoff water discharging to Lake Tahoe and its tributaries. The project includes the following: <ul style="list-style-type: none"> • Install concrete curb and gutter and widen paved shoulders for bike travel, • Rehabilitate or replace existing drainage systems, • Install additional collection systems, sand traps, infiltration galleries, vegetated swales, and sand vaults, and • Revegetate bare or eroding areas
Location (closest City & County)	South Lake Tahoe, El Dorado County
Location Latitude/Longitude	Latitude: 38.8929; Longitude: -119.9999
Hydrologic Unit(s)	South Tahoe Hydrologic Area, 634.10 in the Lake Tahoe Hydrologic Unit, 634.00
Project Area	54.77 acres (Environmental Study Limits)
Receiving Water(s) Name	Upper Truckee River, in the Lake Tahoe Basin
Water Body Type(s)	River
Area and Linear Feet of Water(s) of the U.S. (WOUS) within the project area	1.7 miles 0.4 acres
Area of Permanent Impacts to WOUS	0.04 acres
Linear Feet of Permanent Impact to WOUS	9.2 linear feet
Volume of Fill to WOUS	10.8 cubic yards
Federal Permit(s)	The applicant has applied for U.S. Army Corps of Engineers (USACE) authorization to proceed under a Nationwide Permit No. 14, pursuant to Clean Water Act section 404.

Table of Project Information Continued:

Non-Compensatory Mitigation	Impacts to Environmentally Sensitive Areas (ESAs) beyond those identified will be avoided and protected by ESA fencing. All disturbed areas will be re-contoured to match pre-project conditions and bare areas will be mulched and re-vegetated. Potential direct impacts to streams and fisheries will be avoided by conducting work during seasonal low water levels or when flows have ceased. Sediment and erosion control Best Management Practices (BMPs) will be used throughout the construction period and for winterization to control erosion.
Compensatory Mitigation	Per USACE requirements, Caltrans is participating in the USACE's "In-Lieu Fees" program with a total fee of \$13,500 proposed for temporary and permanent impacts to waters of the U.S. No other mitigation is required.
Applicable Fees	\$944.00 (\$944.00 flat fee for Low Impact Discharges – less than 0.1 acre, 200 linear feet, and 25 cubic yards fill).
Fees Received	\$944.00

CEQA COMPLIANCE

On November 13, 2007 the Applicant circulated a negative declaration (SCH No. 2007112066) for the project in order to comply with the California Environmental Quality Act (Public Resources Code 21000 et seq.) and filed a Notice of Determination on October 29, 2009. Pursuant to Guidelines section 15096(f) Lahontan Water Board staff has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment. The Applicant has incorporated appropriate erosion, storm water runoff, and other controls to avoid and minimize impacts from the project as described above.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

The Water Board has adopted a *Water Quality Control Plan for the Lahontan Region* (Basin Plan), in which Chapter 5 specifies the following discharge prohibitions:

"13. The discharge or threatened discharge, attributable to new development in Stream Environment Zones (SEZs) of solid or liquid waste, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral or earthen materials to Stream Environment Zones in the Lake Tahoe Basin is prohibited."

The Project involves the placement of extended culverts, flared-end sections, rock energy dissipation, and scour protection within SEZs to reduce erosion and control pollutants in storm water runoff.

STREAM ENVIRONMENT ZONES WASTE DISCHARGE PROHIBITION EXEMPTION

Chapter 5 of the Basin Plan allows exemptions to the above-cited discharge prohibition for erosion control, habitat restoration, wetland rehabilitation, SEZ restoration, and similar projects, programs, and facilities if all the following findings can be made:

1. *The project, program, or facility is necessary for environmental protection.*

The project is necessary to control and treat pollutants in roadway storm water runoff as required under the Applicant's Municipal Separate Storm Sewer System NPDES permit (No. 99-06-DWQ). The project is necessary for environmental protection.

2. *There is no reasonable alternative, which avoids or reduces the extent of encroachment in the SEZ.*

The purpose of the Project is to stabilize eroding areas and reduce potential erosion from discharge flows using energy dissipation structures. There are no reasonable alternatives that would reduce the extent of encroachment in the SEZ because the erosion control structures must, by their very nature, be placed in the SEZ.

3. *Impacts are fully mitigated.*

The Applicant has proposed a list of Best Management Practices (BMPs) that will be in place during Project implementation, including scheduling the work when stream levels are low, installing temporary sediment control and stabilization BMPs during construction, and implementing permanent post-construction stabilization measures. The Project incorporates BMPs to ensure that erosion and surface runoff problems caused by the Project will be mitigated to levels of insignificance.

EXEMPTION GRANTED

The Project will be regulated under a Clean Water Act (CWA) section 401 water quality certification and the project is needed to reduce, control, or mitigate existing sources of erosion. The Applicant meets the criteria for an exemption and the Project is hereby granted an exemption to the above-cited waste discharge prohibition.

Except in emergency situations, the Executive Officer shall notify the Board and interested members of the public of his intent to issue an exemption at least ten (10) days before the exemption is issued. A notice of exemption will also be posted on the Water Board website and distributed through an interested persons mailing list allowing at least ten (10) days to submit comments.

SECTION 401 WATER QUALITY CERTIFICATION

Authority

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA Section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the United States, must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No Section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and fee required for WQC under Section 401 for the Project. The Applicant has applied for U.S. Army Corps of Engineers (ACOE) authorization to proceed under Nationwide Permit No. 14 pursuant to CWA section 404.

California Code of Regulations (CCR) title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The Project qualifies for such WQC.

Standard Conditions

Pursuant to CCR title 23, section 3860, the following standard conditions are requirements of this certification:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code Section 13330 and CCR title 23, section 3867.
2. This certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent certification application was filed pursuant to CCR title 23, section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action must be conditioned upon total payment of the full fee required under CCR title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither project construction activities nor operation of the project may cause a violation of the Water Quality Control Plan for the Lahontan Region (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the Water Code.

5. The project must be constructed and operated in accordance with the project described in the application for WQC that was submitted to the Water Board. Deviation from the project description constitutes a violation of the conditions upon which the certification was granted. Any significant changes to this project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including project operation, must be submitted to the Executive Officer for prior review and written approval.
6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
7. The Lahontan Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act, or as appropriate to coordinate the operations of this project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
8. This certification does not authorize any act that results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the applicant must obtain authorization for the take prior to construction or operation of the project. The Applicant is responsible for meeting all applicable requirements of the Endangered Species Act for the project authorized under this certification.

Additional Conditions

Pursuant to CCR title 23, section 3859(a), the following additional conditions are requirements of this certification:

1. No debris, cement, concrete (or wash water therefrom), oil or petroleum products must enter into or be placed where it may be washed from the Project site by rainfall or runoff into waters of the State. When operations are

completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported into waters of the State.

2. The Applicant must immediately notify Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. A written notification of the adverse condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.
3. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Measures must include the cleaning of all equipment and gear that has been in an infested site with water heated to 120 degrees Fahrenheit or more, the use of weed-free erosion control materials, and the use of weed-free seeds and plant material for revegetation of disturbed areas.
4. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
5. An emergency spill kit must be at the Project site at all times.
6. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of Clean Water Act section 401(d), the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
2. In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (State Water Board) or the Lahontan Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring

report the State Water Board or Lahontan Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

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

Section 401 Water Quality Certification Requirements Granted

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of State law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this WQC.

Except insofar as may be modified by any preceding conditions, all WQC certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's project description and the terms specified in this WQC order, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Bud Amorfini, Engineering Geologist, at (530) 542-5463 or Alan Miller at (530) 542-5430.

cc: California Department of Fish and Game, Rancho Cordova Office
Dave Smith / Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Leah Fisher/ U.S. Army Corps of Engineers, Sacramento Office
(via email at Leah.M.Fisher@usace.army.mil)
Bill Orme / State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

August 2, 2012

Regulatory Division (SPK-2012-00190)

State of California
Department of Transportation
Attn: Mike Cook
703 B Street/P.O. Box 911
Marysville, Ca 95901

Dear Mr. Cook:

We are responding to your February 15, 2012 request for an approved jurisdictional determination (JD) and a Department of the Army (DA) Nationwide Permit (NWP) verification for the Lake Tahoe Airport to the US 50/SR 89 Junction - Water Quality Improvement Project (EA 03-1A732). We received your Pre-construction Notification (PCN) for the proposed California Department of Transportation (Caltrans) project on February 17, 2012. After reviewing the PCN, on February 24, 2012, we determined it was incomplete and requested additional information to complete your request. On July 26, 2012, we received the additional information from Caltrans Biologist, Erik Schwab, and determined your PCN was complete.

This approximately 75-acre project involves activities, including discharges of dredged or fill material, in waters of the United States, including wetlands, to upgrade the existing storm drains. The project is located on US50 near the Lake Tahoe Airport, Section 5, Township 12 North, Range 18 East, Mount Diablo Meridian, Latitude 38.9018633232383°, Longitude -120.000911089917°, El Dorado County, California.

Based on a review of the study area and Corps permit area at a meeting on July 3, 2012, Caltrans Biologist, Erik Schwab, concurred that a preliminary JD, in accordance with our Regulatory Guidance Letter (RGL) 08-02, would be sufficient for permit issuance. After reviewing the final delineation map submitted July 26, 2012, we concurred with the amount and location of water bodies present within the study area as depicted on the attached December 2007 *Figure 4a: Wetlands and Other Waters of the U.S.* drawing prepared by Caltrans biologists, and as updated by this office, on July 30, 2012. The approximately 2.58 acres of wetlands and 0.33 acres of other waters of the U.S. present within the survey area are potential waters of the United States regulated under Section 404 of the Clean Water Act. A copy of our RGL 08-02 Preliminary Jurisdictional Determination Form for this site is enclosed. Please sign and return a copy of the completed form to this office.

Additionally, based on the information you provided, the proposed activity, resulting in the permanent loss of approximately 0.001 acres of wetlands and 0.003 acres of other waters, including approximately 0.004 acres of temporary impacts as indicated on the attached July 18, 2012 *Environmental Impact Acreage, Sheets 1-2 and Onsite Watershed Areas, Sheets 3-4* drawings prepared by Caltrans, is authorized by Nationwide Permit Number 14, Linear Transportation Projects.

Furthermore, we understand the State of California, Department of Transportation (Caltrans) is the National Environmental Policy Act (NEPA) lead Federal agency for this project, and as such, will ensure the authorized work complies with the NEPA, the Endangered Species Act, the National Historical Preservation Act, and any other applicable federal laws. Your work must comply with the following General Conditions listed on the enclosed *Nationwide Permit Summary* sheet (specifically 2-4, 6-14, 16-21, 25, 27, and 30), the Regional Conditions listed on the enclosed *Final Sacramento District Regional Conditions for California, excluding Lake Tahoe Basin* (specifically 5-8, and 11-15), and the following special conditions:

Special Conditions

1. You shall comply with all terms and conditions of the attached May 14, 2012, Section 401 Water Quality Certification and Prohibition Exemption (WDID 6A091202005).

2. To mitigate for the permanent loss of 0.001 acre of wetland, and 0.003 acre of ephemeral drainage, you shall submit a check in the amount of \$600.00 (\$150,000 per acre x 0.004 acres) payable to the National Fish and Wildlife Foundation (NFWF). Lake Tahoe, Hydrologic Unit Code #16050101, must be indicated in the in-lieu fee agreement in order to insure the proper location of future mitigation. Within fourteen (14) days of receiving a receipt that your fees have been deposited, you shall submit a copy (typically Exhibit B) to this office for recordation.

3. To ensure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the attached U.S. Fish and Wildlife Service letter of concurrence (Number 08ESMF00-2012-I-0310-1, dated July 3, 2012). If you are unable to implement any of these measures, you must immediately notify the this office and the U.S. Fish and Wildlife Office, so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

4. The mitigation commitments (including Pre- and Post-Construction Best Management Practices (BMPs)) detailed in the attached *Section 5.5 and Table 5: Summary of General Avoidance, Minimization, and Mitigation Measures*, of the *Biological Assessment*, dated February 2012 are incorporated by reference as a condition of this NWP verification.

5. Prior to any work in waters of the U.S., you shall submit to this office, for review and acceptance, all design plans, maps, and/or drawings which outline or detail the activities authorized by this DA permit, including but not limited to; de-watering, grading, access, Disposal, Staging, and Borrow (DSB), and Environmentally Sensitive Areas (ESA). Plans, maps and/or drawings may be submitted electronically to regulatory-info@usace.army.mil.

6. You shall notify this office of any proposed modifications to the project, including revisions to any of the work plans or documents cited in this authorization, for review and approval prior to construction work associated with the proposed modification(s).

7. If any of the above conditions are violated or unauthorized activities occur, you shall stop work immediately and notify this office. You shall provide us with a detailed description of the unauthorized activity(s), photo documentation, and any measures taken to remedy the violation.

You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid for two years from the date of this letter or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. Failure to comply with the General and Regional Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We would appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2012-00190 in any correspondence concerning this project. If you have any questions, please contact Ms. Leah Fisher at our California South Regulatory Branch at 1325 J Street, Room 1350, Sacramento, California 95814-2922, email Leah.M.Fisher@usace.army.mil, or telephone 916-557-6639. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,



Paul M. Maniccia
Chief, California South Branch

Enclosures

Copies Furnished with Enclosures:

Mr. Paul Jones, U.S. Environmental Protection Agency, Region IX, Wetlands Regulatory Office (WTR-8), 75 Hawthorne Street, San Francisco, California, 94105-3901

Mr. Eric Tattersall, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, Ca 95825-1846

Mr. Harold Singer, California Regional Water Quality Control Board, Lahontan Region, 2501 Lake Tahoe Blvd. South Lake Tahoe, Ca 96150

Ms. Sharon Stacey, California Department of Transportation, North Region/District 2, 1031 Butte Street, MS 30, P.O. Box 496073, Redding, California 96049-6073

COMPLIANCE CERTIFICATION

Permit File Number: SPK-2012-00190

Nationwide Permit Number: 14, Linear Transportation Projects

Permittee: State of California
Department of Transportation
Attn: Mike Cook
703 B Street/PO Box 911
Marysville, California 95901

County: El Dorado

Date of Verification: August 1, 2012

Within 30 days after completion of the activities, including the implementation of erosion control and re-vegetation measures, authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922
DLL-CESPK-RD-Compliance@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the Corps of Engineers.

* * * * *

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

Signature of Permittee

Date



U S Army Corps of
Engineers
Sacramento District

Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide
Permits – March 19, 2012

14. Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 31.) (Sections 10 and 404)

Note: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

A. Regional Conditions

1. Regional Conditions for California, excluding the Tahoe Basin

http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CA.pdf

2. Regional Conditions for Nevada, including the Tahoe Basin

http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-NV.pdf

3. Regional Conditions for Utah

http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-UT.pdf

4. Regional Conditions for Colorado.

http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/2012_nwps/2012-NWP-RC-CO.pdf

B. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters,

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the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

- 2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
- 3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
- 4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- 5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
- 6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
- 8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
- 9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
- 10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
- 11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
- 13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
- 14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
- 15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
- 16. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
- 17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 18. **Endangered Species.**
 - (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
 - (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to

demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

19. **Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

20. **Historic Properties.**

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified

historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or

ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

- (3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).
- (4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.
- (5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.
- (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.
- (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.
- (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
- (g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.
- (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.
- 24. Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.
- 25. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
- 26. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
- 27. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

31. Pre-Construction Notification.

(a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification

(PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2)..

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property

may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: he standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where

there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10- acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining

whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWP's do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's do not authorize interference with any existing or proposed Federal project.

E. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in

which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWP, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.



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PERMIT

PROJECT DESCRIPTION: Caltrans – U.S. Highway 50, from Airport Road to the U.S. 50/State Route 89 Y Water Quality Improvement Project, Caltrans Project 1A732

TRPA PROJECT NUMBER: 520-201-00

FILE: EIPC2008-0003

PERMITTEE(S): State of California, Department of Transportation (Caltrans)

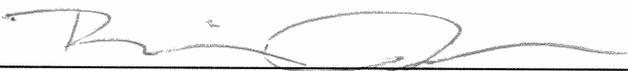
COUNTY/LOCATION: El Dorado / U.S. Highway 50 Airport to Y

Having made the findings required by Agency ordinances and rules, TRPA approved the project on July 30, 2012, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on July 30, 2015 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities, or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO DEMOLITION, TREE REMOVAL, CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL:

- (1) TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT;
- (2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT;
- (3) THE PERMITTEE OBTAINS ALL NECESSARY PERMITS. THE TRPA PERMIT AND OTHER PERMITS ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS; AND
- (4) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.



TRPA Executive Director/Designee

7-31-12

Date

PERMITTEE'S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s)

A handwritten signature in black ink, consisting of several fluid, overlapping strokes, is written over a horizontal line.

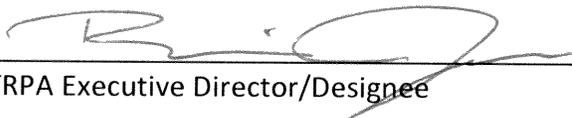
Date

08/01/12

Security Posted: N/A

Required plans determined to be in conformance with approval: Date: 8-1-12

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date:

 8-1-12
TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit specifically authorizes stormwater treatment, sidewalks, curb and gutter, and 4 foot shoulders where possible on U.S. Highway 50 between Airport Road and the U.S. 50/State Route 89 Y in South Lake Tahoe, California.
2. The Standard Conditions of Approval listed in Attachment Q shall apply to this permit.
3. Bike lanes shall be constructed on both the east and west bound shoulders the length of the project area. Ideally bike lanes should be a minimum of 4 feet wide, not including the gutter pan, where space and design considerations allow. Caltrans shall make space for bike lanes through curb and gutter design (e.g. using modified type A2-6 versus A2-8 or other alternative); narrowing travel lanes and center turn lanes; narrowing sidewalks or counting top of curb width as portion of sidewalk width; or other considerations. These changes to the project may be accomplished through change orders, plan revisions, or other means. Bike lanes shall be marked in accordance with standards.
4. Prior to commencement of construction submit a letter signed by City of South Lake Tahoe (CLST) stating they concur with final plans as submitted to TRPA.
5. Prior to commencement of construction submit a letter signed by the Lahontan Regional Water Quality Control Board stating they concur with final plans as submitted to TRPA.
6. An onsite inspection by TRPA staff is required prior to any construction or grading activity. TRPA staff shall determine if the onsite improvements required by Attachment Q (Standard Conditions of Approval) have been properly installed. No grading or construction shall commence until TRPA pre-grade conditions of approval are met.

TRPA PROJECT NUMBER: 520-201-00
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7. Prior to commencement of construction, the permittee shall submit a copy of the completed Storm Water Pollution Prevention Plan (SWPPP) and/or Water Pollution Control Program (WPCP).
8. Prior to commencement of construction the permittee shall identify for TRPA approval all proposed Contractor Staging Areas. All staging areas shall be fitted with temporary BMPs, including construction limit fencing. Temporary staging and storage areas not located on paved surfaces shall be identified on site through use of vegetation protection fencing and erosion control fencing where appropriate.
9. Prior to commencement of construction the permittee shall submit a construction schedule. This schedule shall identify dates for the following:
 - When installation of temporary erosion control structures will occur;
 - When construction will start;
 - When construction spoils and debris will be removed;
 - When installation of all permanent erosion control structures will occur;
 - When construction will be completed and the project area winterized; and,
 - The estimated date for when the final inspection by TRPA Environmental Compliance staff will take place to ensure that all conditions of project approval have been satisfied
10. Drop inlets and storm water conveyance and treatment facilities located downslope of excavated material shall be protected by temporary erosion control fences or fiber rolls logs (minimum 12" diameter), or approved equivalent.
11. Project construction shall be phased to minimize the amount of disturbed soils existing at one time. Additionally, all new and existing conveyance and treatment facilities shall be fitted with temporary Best Management Practices (BMPs) to prevent the transport of sediment during storm events occurring during construction. Temporary BMPs are to be installed and maintained prior to excavation and during all phases of the proposed project. The permittee shall modify installed BMPs at the request of TRPA if the TRPA inspection(s) find the BMPs to be inadequate or improperly placed or constructed.
12. The color of rock or concrete visible from Lake Tahoe, bike trails, or Highway 50 shall be approved by TRPA prior to placement.

TRPA PROJECT NUMBER: 520-201-00
FILE NO. EIPC2008-0003

13. All new galvanized or reflective metal surfaces owned by Caltrans including but not limited to guardrails, guardrail posts, traffic signal posts, light posts, utility boxes, sign posts, backs of signs, markers, and exposed culverts shall be colored through use of Natina, City of South Lake Tahoe green, or an approved equivalent. Samples of colored structures shall be submitted to TRPA and approved prior to installation.
14. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.
15. Any modifications to the TRPA approved plans shall be submitted to TRPA for review and approval.
16. This site shall be winterized in accordance with the provisions of Attachment Q by October 15th of each construction season.
17. Vegetation shall not be disturbed, injured or removed except in accordance with the TRPA Code or the conditions of project approval. All trees, major roots, and other vegetation, not specifically designated or approved for removal shall be protected according to methods approved by TRPA. All vegetation outside the construction site/project area boundary shall not be disturbed.
18. All waste resulting from the saw-cutting of pavement shall be removed using a vacuum (or other TRPA approved method) during the cutting process or immediately thereafter. Discharge of waste material to surface drainage features is prohibited and constitutes a violation of this permit.
19. Dust control measures shall include sprinkling with water as needed to keep the surface moistened but not saturated and sweeping of paved surfaces.
20. All rock material (gravel, cobble, and boulders) shall be clean and thoroughly washed prior to arrival at the site to ensure that the rock is free of any silt or clay particles.
21. All spoil piles shall be protected during construction by properly installing either filter fabric fencing or fiber rolls around the perimeter of the piles with a plastic or other impervious covering.

PERMIT CONTINUED ON NEXT PAGE

22. All excavated materials that are not to be reused on site shall be hauled to a TRPA approved disposal site or out of the Tahoe Region.
23. All vegetated areas disturbed by construction shall be re-vegetated in accordance with the TRPA Handbook of Best Management Practices.
24. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.
25. All permanent BMPs shall be maintained and functional. This includes visually inspecting BMPs at least bi-annually and after major storm events.
26. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

END OF PERMIT



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MITIGATED FINDING OF NO SIGNIFICANT EFFECT

PROJECT DESCRIPTION: Caltrans – U.S. Highway 50, from Airport Road to the U.S. 50/State Route 89 Y Water Quality Improvement Project

TRPA PROJECT NUMBER: 520-201-00

FILE: EIPC2008-0003

PERMITTEE(S): State of California, Department of Transportation (Caltrans)

COUNTY/LOCATION: El Dorado / US Highway 50 from Airport Road to the Y

Staff Analysis: In accordance with Article IV of the Tahoe Regional Planning Compact, as amended, and Section 6.3 of the TRPA Rules and Regulations of Practice and Procedure, the TRPA staff has reviewed the information submitted with the subject project. On the basis of this initial environmental evaluation, Agency staff has found that the subject project will not have a significant effect on the environment.

Determination: Based on the above-stated finding, the subject project is conditionally exempt from the requirement to prepare an Environmental Impact Statement. The conditions of this exemption are the conditions of permit approval.



TRPA Chairman or Executive Director



Date



April 18, 2012

Erik Schwab
California Department of Transportation
2379 Gateway Oaks Drive, Suite 150
Sacramento, CA 95833

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2012-0033-R2
Unnamed tributaries to Lake Tahoe

Dear Mr. Schwab:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the Lake Tahoe Airport to US 50/89 Junction Project (Project). Before the Department of Fish and Game (Department) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a responsible agency, filed a notice of determination (NOD) on the same date it signed the Agreement. The NOD was based on information contained in the Negative Declaration the lead agency prepared for the Project.

Under CEQA, filing a NOD starts a 30-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 30-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Tim Nosal, Environmental Scientist at (916) 358-2853 or tnosal@dfg.ca.gov.

Sincerely,

Kent Smith
Regional Manager

ec: Tim Nosal, Environmental Scientist
tnosal@dfg.ca.gov

CALIFORNIA DEPARTMENT OF FISH AND GAME
NORTH CENTRAL REGION
1701 NIMBUS ROAD, SUITE A
RANCHO CORDOVA, CA 95670



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2012-0033-R2
Unnamed watercourses and unnamed spring tributary to Upper
Truckee River

California Department of Transportation
LAKE TAHOE AIRPORT TO US 50/89 JUNCTION WATER QUALITY
IMPROVEMENT PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation (Caltrans) (Permittee) as represented by Erik Schwab.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on February 24, 2012 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project is located at unnamed watercourses and unnamed spring tributary to Upper Truckee River, thence Lake Tahoe, in the County of El Dorado, State of California; Latitude 38.892930 N, Longitude -119.999923 W or Section 16, Township 12N, Range 18E, U.S. Geological Survey (USGS) map Emerald Bay, Mount Diablo base and meridian.

PROJECT DESCRIPTION

The California Department of Transportation (Caltrans), in conjunction with the Federal Highways Authority, proposes to improve storm water runoff for a segment of U.S.

Highway 50 (US 50) in the Lake Tahoe basin.

The existing roadway drainage system will be enhanced by adding Portland Cement Concrete or Asphalt Concrete curbs and gutters at the edges of shoulders and rehabilitating and constructing new drainage inlets and culverts. These features convey runoff to underground sand collection vaults (traction sand traps), infiltration basins, and biofiltration swales for treatment.

Spreading of runoff will be proposed where feasible in Stream Environment Zones (SEZ) areas. Sheet flow will be enhanced in areas where it is determined to provide better runoff treatment than drainage collection facilities. Because of the climate and soil conditions in the Tahoe Basin, vegetation may not fully establish in the biofiltration swales. However, even without vegetation, biofiltration swales will provide water quality improvements by decreasing runoff velocities, thus encouraging sedimentation.

Maintenance pullouts will be constructed at sand collection vaults where feasible. Existing shoulders will be widened to 4 feet, where necessary, for water conveyance facilities. Drainage outfalls will be reconstructed to reduce erosion and convey the additional runoff collected, where necessary. Erosion control measures will be incorporated on all eroding slopes within the state right-of-way.

To provide additional water quality improvements, unvegetated dirt areas adjacent to the shoulder will be landscaped to promote vegetation growth and discourage vehicles from entering. Erodible slopes will also be flattened and protected. Rock slope protection (RSP) will be used where appropriate. An AC overlay will be placed over existing pavement. Failed pavement sections will be dug out and replaced. Sand traps and sand vaults will be installed within the project limits (Exhibit 1).

A detailed project description is provided in the notification materials submitted to DFG. The notification, together with all supporting documents submitted with the notification;

- “Biological Assessment: Lake Tahoe Airport to the US 50/SR 89 Junction Water Quality Improvement Project District 3 – Caltrans” February 2012;
- “Project Plans for Construction on State Highway in El Dorado County near Lake Tahoe Airport from 0.1 Mile South of Airport Road to Hwy 50/Rte 89 Intersection (The “Y”) dated October 17, 2011;
- “Categorical Exemption/Categorical Exclusion Determination Form” for 03-ED-50, PM 73.7-75.4, 1A732; October 10, 2011;
- State Clearinghouse: Notice of Determination for El Dorado 50, Segment 2 – Lake Tahoe Airport to US 50/SR 89 Junction Water Quality Improvement Project (#2007112066), dated October 29, 2009;
- “RWQCB Section 401 Water Quality Certification Application Form – Lake Tahoe Airport to the US 50/SR 89 Junction Water Quality Improvement Project”, undated;

are hereby incorporated into this agreement to describe the location, features, avoidance measures and mitigation measures of the proposed project.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: riparian and wetland vegetation, nesting migratory birds and raptors, amphibians, and other aquatic and terrestrial plant and wildlife species.

The adverse effects the project could have on the fish or wildlife resources identified above include: short-term increased turbidity and increased sedimentation; loss or decline of riparian and wetland habitat; disturbance from project activity; direct take of terrestrial species and direct take of non-fish aquatic species.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Authorized Work. The notification, together with all supporting documents submitted with the notification, is hereby incorporated into this agreement to

describe the location and features of the proposed project. The Permittee agrees that all work shall be done as described in the notification and supporting documents, incorporating all project modifications, wildlife resource protection features, mitigation measures, and provisions as described in this agreement. Where apparent conflicts exist between the notification and the provisions listed in this agreement, the Permittee shall comply with the provisions listed in this agreement. The Permittee further agrees to notify DFG of any modifications made to the project plans submitted to DFG. At the discretion of DFG, this agreement will be amended to accommodate modifications to the project plans submitted to DFG and/or new project activities.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Work Period. The time period for completing the work within the stream zone shall be restricted to periods of low stream flow and dry weather and shall be confined to the period of June 15 to October 15. Construction activities shall be timed with awareness of precipitation forecasts and likely increases in stream flow. Construction activities within the stream zone shall cease until all reasonable erosion control measures, inside and outside of the stream zone, have been implemented prior to all storm events. Revegetation, restoration and erosion control work is not confined to this time period.
- 2.2 Work Period Extensions. At DFG's discretion, the work period may be extended based on the extent of the work remaining, on site conditions and reasonably anticipated future conditions. If the Permittee finds more time is needed to complete the authorized activity, the Permittee shall submit a written request for a work period time extension to DFG. The work period extension request shall provide the following information: 1) Describe the extent of work already completed; 2) Provide specific detail of the activities that remain to be completed within the stream zone; and 3) Detail the actual time required to complete each of the remaining activities within the stream zone. The work period extension request should consider the effects of increased stream conditions, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of erosion control grasses due to cool weather. Photographs of the work completed and the proposed work areas are helpful in assisting DFG in its evaluation. Time extensions are issued at the discretion of DFG. DFG will have ten calendar days to approve the proposed work period extension. DFG reserves the right to require additional measures designed to protect natural resources.
- 2.3 Stream Diversions / Dewatering. If work in the flowing portion of the stream is unavoidable, the entire stream flow shall be diverted around or through the work

area during the excavation and/or construction operations. Stream flow shall be diverted using gravity flow through temporary culverts/pipe's or pumped around the work site with the use of hoses. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation.

- 2.4 Bird Nests. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird except as otherwise provided by the Fish and Game Code. No trees that contain active nests of birds shall be disturbed until all eggs have hatched and young birds have fledged without prior consultation and approval of a Department representative.
- 2.5 Special Status Plants. Should a special status plant species [as per CEQA sections 15380 and 15125 (c)] be discovered before or during the life of the project, a 25-foot no-operations buffer shall be flagged around the area and the CDFG shall be immediately notified. Consultation with the CDFG and/or USFWS shall ensure that potential impacts are avoided or minimized, and that project activities do not inhibit long-term conservation efforts for the survival of special status plant species.
- 2.6 Vegetation Removal. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Except for the trees specifically identified for removal in the notification, no native trees with a trunk diameter at breast height (DBH) in excess of four (4) inches shall be removed or damaged without prior consultation and approval of a Department representative. Using hand tools (clippers, chain saw, etc.), trees may be trimmed to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.
- 2.7 Sediment Control. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Monofilament mesh, jute netting and non-biodegradable synthetic erosion blankets are not authorized. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged siltation barriers. The Permittee is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the

disturbed areas have been stabilized with erosion control vegetation (usually after the first growing season). Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation shall be halted until effective Department approved control devices are installed or abatement procedures are initiated.

- 2.8 Pollution Control. Utilize Best Management Practices (BMPs) to prevent spills and leaks into water bodies. If maintenance or refueling of vehicles or equipment must occur on-site, use a designated area and/or a secondary containment, located away from drainage courses to prevent the runoff of storm water and the runoff of spills. Ensure that all vehicles and equipment are in good working order (no leaks). Place drip pans or absorbent materials under vehicles and equipment when not in use. Ensure that all construction areas have proper spill clean up materials (absorbent pads, sealed containers, booms, etc.) to contain the movement of any spilled substances. Any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake by the Applicant or any party working under contract or with the permission of the Permittee, shall be removed immediately. DFG shall be notified immediately by the Permittee of any spills and shall be consulted regarding clean-up procedures.
- 2.9 The Permittee shall follow all avoidance and minimization measures outlined in the Mitigated Negative Declaration and other supporting documents noted in the Project Description (page 2 of this agreement).

3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

- 3.1 Habitat Restoration. All permanently impacted wetlands (0.01 acre) and permanently impacted 'other waters of the U.S.'" (0.03 acre) shall be mitigated with in-lieu fees paid to a mitigation or conservation bank, as per the WRQCB. All temporarily impacted areas and access points within the stream zone shall be restored to their original condition, as outlined in the Revegetation Plan. Seeded areas shall be covered with broadcast straw and/or a biodegradable erosion control blankets such as jute.
- 3.2 Habitat Restoration Plan. Riparian areas and wetland habitats temporarily disturbed by construction shall be replanted with native species typically found in the area. A restoration/revegetation plan shall be prepared by a qualified

revegetation ecologist. The revegetation plan shall be submitted to DFG for approval.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 The Permittee shall notify DFG within two working days of beginning work within the stream zone of any of the unnamed perennial tributaries or unnamed spring tributary to the Upper Truckee River. Notification shall be submitted as instructed in Contact Information section below. Email notification is preferred.
- 4.2 Upon completion of the project activities described in this agreement, the work area within the stream zone shall be digitally photographed. Photographs shall be submitted to DFG within two days of completion. Photographs and project commencement notification shall be submitted as instructed in Contact Information section below. Email submittal is preferred.

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

California Department of Transportation
Erik Schwab
2379 Gateway Oaks, Suite 150
Sacramento, CA 95833
Erik_Schwab@dot.ca.gov

To DFG:

Department of Fish and Game
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Attn: Lake and Streambed Alteration Program – Tim Nosal
Notification #1600-2012-0033 R2

Fax: 916-358-2912
Email: tnosal@dfg.ca.gov

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal.

Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on Dec 31, 2016, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

EXHIBITS

Attachment A: Maps –
Location and Vicinity Map (Exhibit 1)

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

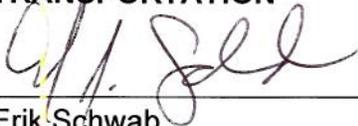
AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR CALIFORNIA DEPARTMENT OF
TRANSPORTATION**



Erik Schwab

Associate Environmental Planner
North Region District Biologist

4-12-12

Date

FOR DEPARTMENT OF FISH AND GAME



Kent Smith
Regional Manager

4/20/12

Date

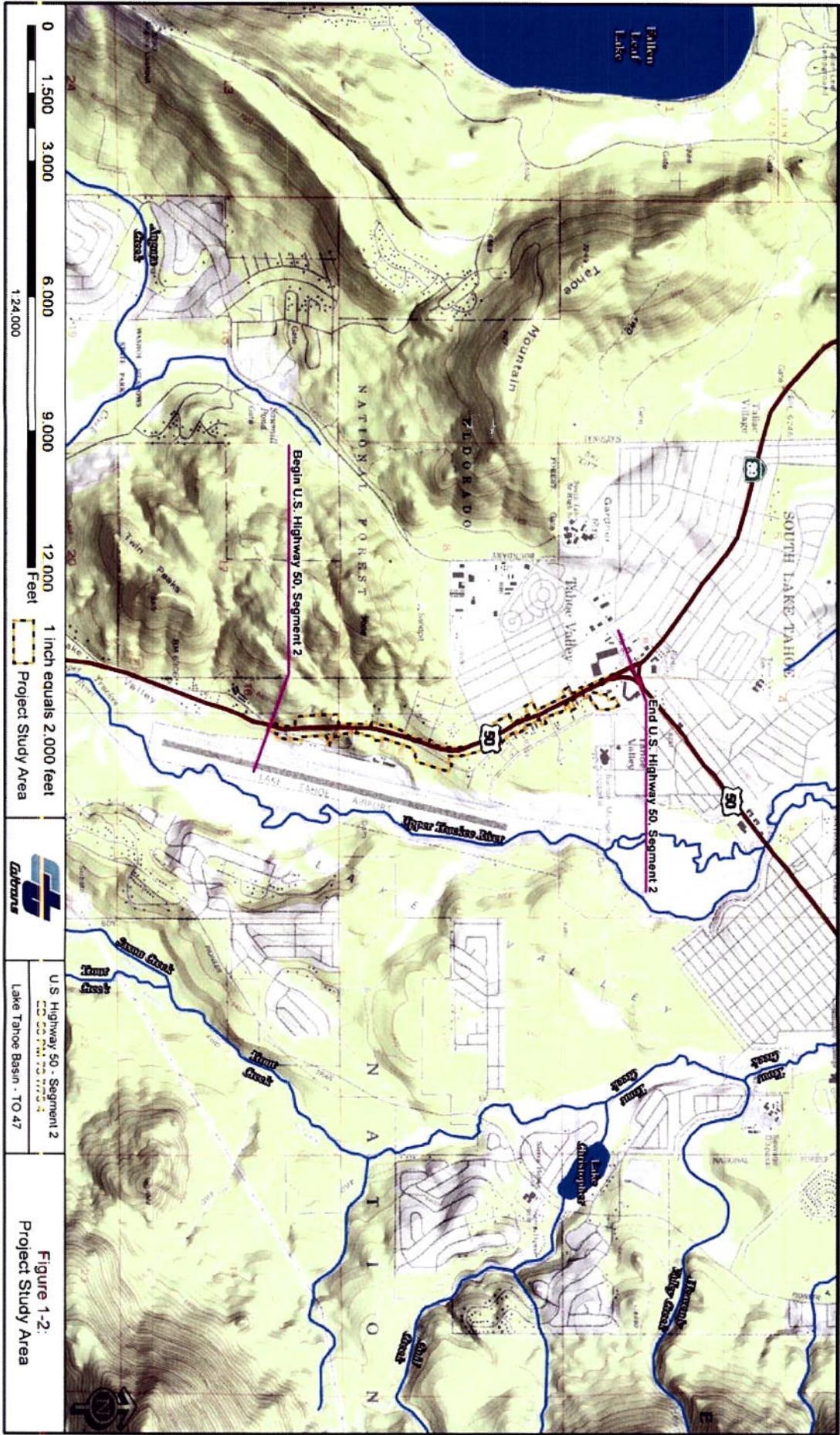
Prepared by: Tim Nosal
Environmental Scientist

Attachment A:
Project Map

Caltans:

LAKE TAHOE AIRPORT TO US 50/89 JUNCTION WATER QUALITY IMPROVEMENT PROJECT
EI Dorado County

LSA#1600-2012-0033-R2



U.S. Highway 50, Segment 2
 Lake Tahoe Basin - TO 47

Figure 1-2:
 Project Study Area