



Board of Adjustment Update Memo

Meeting Date: February 6, 2020

Subject: Update of WSUP17-0018 (Soule Grading)
Applicant: Randy and Kim Soule
Agenda Item Number: 8A
Project Summary: A special use permit to allow for grading within Thomas Creek Critical Stream Zone Buffer Area and Sensitive Stream Zone Buffer Area.
Prepared by: Julee Olander, Planner
Washoe County Community Services Department
Planning and Building Division
Phone: 775-328-3627
E-Mail: jolander@washoecounty.us

Summary

In response to direction from the Board of Adjustment (BOA) on October 4, 2018, staff has prepared a memo to update the BOA on the status of WSUP18-0017 (Soule Grading), as required by the conditions of approval.

Background

In the spring of 2018 complaints were received of grading along Thomas Creek. The complaints were investigated by Washoe County code enforcement and an administrative warning letter and stop work order were issued on parcels 049-165-06 and 049-165-07. A meeting was held with County staff and the property owner to resolve the violation. The owner was directed to apply for a special use permit (SUP) for grading. On October 4, 2018, the BOA approved the SUP (WSUP18-0017) with conditions of approval to mitigate the grading that had occurred on the parcels. One of the conditions required the applicant return to the BOA the following year and report on the status of the conditions of approval. This memo provides information on the status of the conditions of approval.

Reviewing Departments and Agencies

The following departments and agencies reviewed the application and provided conditions:

- Washoe County Community Services Department
 - Planning and Building Division
 - Engineering and Capital Projects Division
 - Parks and Open Spaces
- Nevada Department of Forestry
- Nevada Department of Environmental Protection
- Nevada Department of Wildlife

The applicant has met the requirements of the conditions of approval (see Exhibit D). The Vegetation Restoration Plan has been included as Exhibit F to address conditions from Washoe County and the Nevada Division of Wildlife. The applicant is still waiting to confirm the status of

any requirements by the US Army Corps of Engineers and the Department of Environmental Protection (NDEP). The Corps has an active enforcement case for the site which could take several months to resolve to determine if there are any violations. NDEP has sent a letter of violation to the property owner (see Exhibit E). Currently, NDEP is reviewing all activities that have occurred on the site. NDEP is requiring weekly Storm Water Prevent Protect Plan (SWPPP) reports, which provides information on the Thomas Creek water quality. Both of these outside agencies have specific requirements the property owner will need to meet in order to resolve the violations that have occurred on the site. At the time of writing this memo neither agencies had concluded their findings on possible violations.

Exhibits:

Exhibit A: Board of Adjustment Signed Action Order dated October 8, 2018

Exhibit B: Board of Adjustment Staff Report dated September 17, 2018

Exhibit C: October 4, 2019 BOA Minutes

Exhibit D: Consultants Comments on Condition of Approval Comments

Exhibit E: Agency Letters

Exhibit F: Vegetation Restoration Plan

Applicant/Property Owner: Randy and Kami Soule
13390 Welcome Way
Reno, NV 89511
email: randy@encorenv.com



WASHOE COUNTY
COMMUNITY SERVICES DEPARTMENT
 Planning and Building

1001 EAST 9TH STREET
 PO BOX 11130
 RENO, NEVADA 89520-0027
 PHONE (775) 328-3600
 FAX (775) 328.6133

Board of Adjustment Action Order
Special Use Permit Case Number WSUP18-0017 (Soule Grading)

Decision: Approval with Conditions
 Decision Date: October 4, 2018
 Mailing/Filing Date: October 8, 2018
 Applicant: Randal & Kami Soule
 Assigned Planner: Julee Olander, Planner
 Washoe County Community Services Department
 Planning and Building Division
 Phone: 775.328.3627
 E-Mail: jolander@washoecounty.us

Special Use Permit Case Number WSUP18-0017 (Soule Grading) - For possible action, hearing, and discussion to approve a special use permit for grading, which was performed without the required permit(s) within a significant hydrological resource (SHR), by grading and removing vegetation within the Thomas Creek Critical Stream Zone Buffer Area and Sensitive Stream Zone Buffer Area. Grading has also taken place outside the stream zone buffer area.

- Applicant/Property Owner: Randal and Kim Soule
- Location: 13410 & 13430 Welcome Way
- APN: 049-165-06 and 049-165-07
- Parcel Size: 2.77 acres and 2.4 acres
- Master Plan: Rural (R) and Suburban Rural (SR)
- Regulatory Zone: Low Density Suburban & General Rural (GR)
- Area Plan: Southwest Area Plan
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permits and Article 438, Grading
- Commission District: 2 – Commissioner Lucey

Notice is hereby given that the Washoe County Board of Adjustment granted approval with conditions for the above referenced case number based on the findings in accordance with Washoe County Development Code Article 810, Special Use Permit. If no appeals have been filed within 10 calendar days from the Mailing/Filing Date shown on this Action Order, the approval by the Washoe County Board of Adjustment is final. If filed, an appeal stays any further action on the decision until final resolution of the appeal. An appeal shall be filed in accordance with the provisions found in Article 912 of the Washoe County Development Code.

The action was based on the following findings in accordance with Washoe County Code Section 110.810.30:



INTEGRITY



EFFECTIVE COMMUNICATION



QUALITY PUBLIC SERVICE

To: Randal & Kami Soule
Subject: Special Use Permit Case WSUP18-0017
(Soule Grading)
Date: October 8, 2018
Page: 2

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for Major Grading in a Critical Stream Zone Buffer Area, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

This Action Order is issued subject to the attached conditions and Washoe County development standards. Please contact the planner assigned to your project at the above-referenced phone number within 7 days of receipt of this Order to review the steps necessary to satisfy the Conditions of Approval. Any business license, certificate of occupancy, or final approval shall not be issued until all of the Conditions of Approval are satisfied. Additionally, compliance shall be required with all federal, state, and local statutes, ordinances, and regulations applicable to the approved project.

This Action Order does not authorize grading or building without issuance of the necessary permits from the Washoe County Planning and Building Division.

Washoe County Community Services Department
Planning and Building Division



Trevor Lloyd
Secretary to the Board of Adjustment

TL/JO/df

Attachments: Conditions of Approval

Applicant/Owner: Randy & Kami Soule
13390 Welcome Way
Reno, NV 89511
email: randy@encorenv.com

Action Order xc: Nathan Edwards, District Attorney's Office; Keirsten Beck, Assessor's Office; Cori Burke, Assessor's Office; Leo Vesely, Engineering and Capital Projects; Lisa Beaver, Truckee Meadows Fire Protection District; Nevada Division of Environmental Protection, 901 South Stewart Street, Suite. 4001, Carson City, NV 89701-5249; South Truckee Meadows Citizen Advisory Board



Conditions of Approval

Special Use Permit Case Number WSUP18-0017

The project approved under Special Use Permit Case Number WSUP18-0017 shall be carried out in accordance with the Conditions of Approval granted by the Board of Adjustment on October 4, 2018. Conditions of Approval are requirements placed on a permit or development by each reviewing agency. These Conditions of Approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act.

Unless otherwise specified, all conditions related to the approval of this Special Use Permit shall be met or financial assurance must be provided to satisfy the conditions of approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning and Building Division.

Compliance with the conditions of approval related to this Special Use Permit is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the Special Use Permit may result in the institution of revocation procedures.

Washoe County reserves the right to review and revise the conditions of approval related to this Special Use Permit should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, "may" is permissive and "shall" or "must" is mandatory.

Conditions of Approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- Prior to the issuance of a business license or other permits/licenses.
- Some "Conditions of Approval" are referred to as "Operational Conditions." These conditions must be continually complied with for the life of the project or business.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

1. Washoe County Planning and Building Division

The following conditions are requirements of the Planning and Building Division, which shall be responsible for determining compliance with these conditions.

Contact Name: Julee Olander, (775)328-3627, jolander@washoecounty.us

- a. The applicant shall comply with all conditions of approval within 6 months from the date of approval by Washoe County. The applicant shall provide documentation showing how each of the conditions has been completed. Determination that each condition is complete shall be determined by the Planning and Building Division.
- b. A note shall be placed on all construction drawings and grading plans stating:

NOTE

Should any cairn or grave of a Native American be discovered during site development, work shall temporarily be halted at the specific site and the Sheriff's Office as well as the State Historic Preservation Office of the Department of Conservation and Natural Resources shall be immediately notified per NRS 383.170.

- c. The applicant shall return to the Board of Adjustment within prior to October 4, 2019 for a review to determine if all conditions are completed. The Board of Adjustment may direct Washoe County staff to pursue further enforcement actions based on non-completion of conditions.
- d. The applicant shall obtain a Grading Permit for all work on the subject site. At the discretion of the Director of the Planning and Building Division, permit fees may be increased by up to four times the standard applicable fees (not to exceed \$4,000) in accordance with WCC Section 100.133.3.1 for any work commenced prior to permit issuance.
- e. All trash and debris within the project area shall be removed.
- f. The applicant shall develop and submit a restoration plan to the Washoe County Planning and Building Division that includes revegetation with native riparian plant species and measures for erosion and weed control. The revegetation shall protect Thomas Creek both the critical and sensitive stream zone buffer areas. The plan will include the amount of shrubs and trees, will include evergreen trees at least seven (7) feet in height and deciduous trees at least two (2) inch caliper, and the pounds per acre of the seed mix. The plan will be submitted with the Building permit for grading. Washoe County Planning and Building Division will consult with Nevada Division of Forestry (NDF) and will be in compliance with the Master Plan policies concerning the appropriateness and viability of the plan for the area to be restored at the project site.

2. Washoe County Engineering and Capital Projects Division

The following conditions are requirements of the Engineering Program of the Engineering and Capital Projects Division, which shall be responsible for determining compliance with these conditions.

Contact Name: Walt West, (775)328-2310, wwest@washoecounty.us

- a. A complete set of construction improvement drawings, including an on-site grading plan illustrating both completed and proposed grading, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMP's) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), slope stabilization, and mosquito abatement. Placement or removal of any excavated materials shall be indicated on the grading plan. Silts shall be controlled on-site and not allowed onto adjacent properties or into Thomas Creek.
- b. Prior to final approval of a grading permit, the applicant shall obtain all required state and federal permits. The permits may include, but are not limited to, Nevada Division of Environmental Protection's Working in Waterways Permit, Construction Stormwater Permit, 401 Water Quality Certification (or waiver), and U.S. Army Corps of Engineers 404 permit. Copies of all permits shall be provided to Washoe County Engineering Program.
- c. Prior to final approval of the grading permit, the applicant shall demonstrate that the Cease and Desist order or enforcement cases initiated by Nevada Division of Environmental Protection and the U.S. Army Corps of Engineers (SPK-2018-00705) have been or will be satisfied with the scope of work identified in the grading permit application and plans.
- d. The Truckee Meadows Regional Stormwater Quality Management Program Construction Permit Submittal Checklists and Inspection Fee shall be submitted with the grading permit application.
- e. A construction estimate shall be prepared by a licensed engineer for the work required to restore the disturbed areas and a financial assurance in the amount 120% of the estimated assessment, as approved by the Washoe County Engineering Program, shall be submitted as part of the grading permit application. The financial assurance shall be returned upon establishment of vegetation to the satisfaction of Washoe County Planning and Building Division.
- f. Cross-sections indicating cuts and fills shall be submitted when applying for a grading permit. Estimated total volumes shall be indicated on submitted plans.
- g. All disturbed areas left undeveloped for more than 30 days shall be treated with a dust palliative. Disturbed areas left undeveloped for more than 45 days shall be revegetated. Specifications for revegetation procedure and seed mix shall be prepared by a licensed landscape architect.
- h. No fencing is allowed across the drainage easement maintained by Washoe County. Grading permit plan submittal shall accurately reflect the alignment of fencing approved under the previously issued fence permit for the property(s).
- i. There are two areas of proposed grading along the west property line on steep sloping terrain. The application showing the grading of these areas will provide sufficient detail as to finished grades/slope of land proposed. All proposed grading shall comply with Washoe County Code Chapter 110, Article 438.
- j. The FEMA 100-year floodplain, floodway, and/or shaded X boundaries with associated flood elevations shall appear on the site plan to the satisfaction of the County Engineer. Building permits for structures and fill in these areas shall be in conformance with the Washoe County Code Article 416

3. Nevada Division of Environmental Protection (NDEP)

The following conditions are requirements of the NDEP, which shall be responsible for determining compliance with these conditions.

Contact Name: Katrina Pascual, (775)687-9435, kpascual@ndep.nv.gov

- a. The applicant will obtain a Construction Stormwater Permit and a Working in Waterways permit, as required by NDEP.

4. Nevada Division of Wildlife (NDOW)

The following conditions are requirements of the NDOW, which shall be responsible for determining compliance with these conditions.

Contact Name: Mark Freese, (775)688-1145, markfreese@ndow.org

- a. The applicant shall use Best Management Practices for any dirt work (e.g. sediment control devices).
- b. The applicant shall reseed to minimize erosion issues and install sediment control devices on the exposed banks at water line to help vegetation establish.

*** End of Conditions ***



Board of Adjustment Staff Report

Meeting Date: October 4, 2018

Agenda Item: 8E

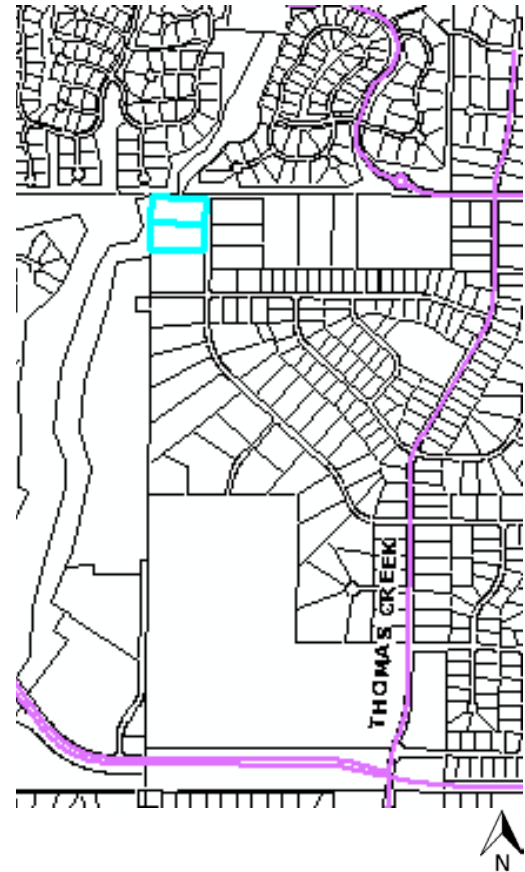
SPECIAL USE PERMIT CASE NUMBER: WSUP18-0017 (Soule Grading)

BRIEF SUMMARY OF REQUEST: A special use permit to allow for grading within Thomas Creek Critical Stream Zone Buffer Area and Sensitive Stream Zone Buffer Area.

STAFF PLANNER: Planner's Name: Julee Olander
Phone Number: 775.328.3627
E-mail: jolander@washoecounty.us

CASE DESCRIPTION

For possible action, hearing, and discussion to approve a special use permit for grading, which was performed without the required permit(s) within a significant hydrological resource (SHR), by grading and removing vegetation within the Thomas Creek Critical Stream Zone Buffer Area and Sensitive Stream Zone Buffer Area. Grading has also taken place outside the stream zone buffer area.



Applicant/Property Owner: Randal and Kim Soule
 Location: 13410 & 13430 Welcome Way
 APN: 049-165-06 and 049-165-07
 Parcel Size: 2.77 acres and 2.4 acres
 Master Plan: Rural (R) and Suburban Rural (SR)
 Regulatory Zone: Low Density Suburban & General Rural (GR)
 Area Plan: Southwest Area Plan
 Citizen Advisory Board: South Truckee Meadows/Washoe Valley
 Development Code: Authorized in Article 810, Special Use Permits and Article 438, Grading
 Commission District: 2 – Commissioner Lucey
 Area Plan: Southwest

STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

POSSIBLE MOTION

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with conditions, Special Use Permit Case Number WSUP18-0017 for Randal and Kim Soule, having made all four findings in accordance with Washoe County Code Section 110. 810. 30.

(Motion with Findings on Page 13)

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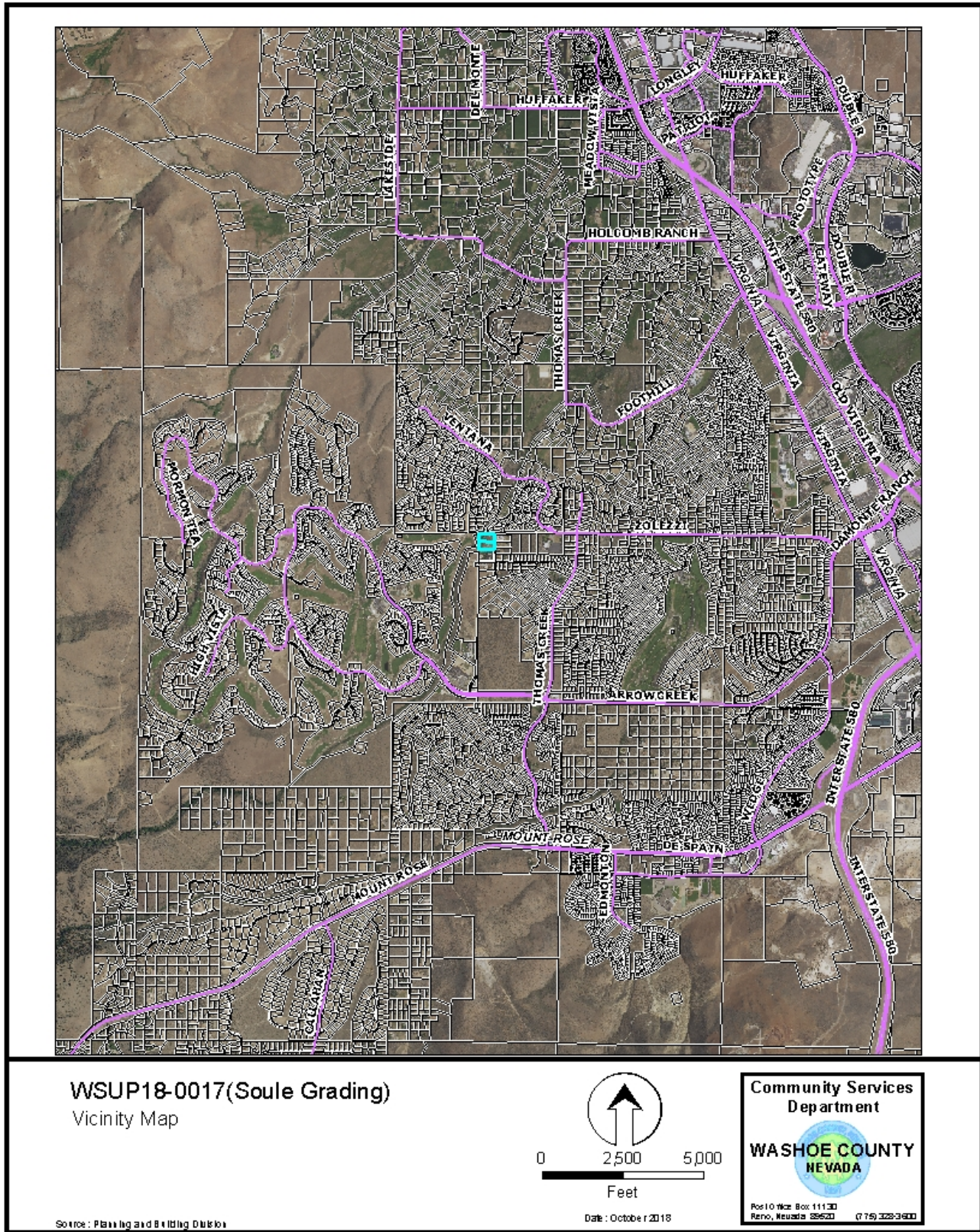
Special Use Permit

The purpose of a Special Use Permit is to allow a method of review to identify any potential harmful impacts on adjacent properties or surrounding areas for uses that may be appropriate within a regulatory zone; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate possible adverse impacts. If the Board of Adjustment grants an approval of the Special Use Permit, that approval is subject to Conditions of Approval. Conditions of Approval are requirements that need to be completed during different stages of the proposed project. Those stages are typically:

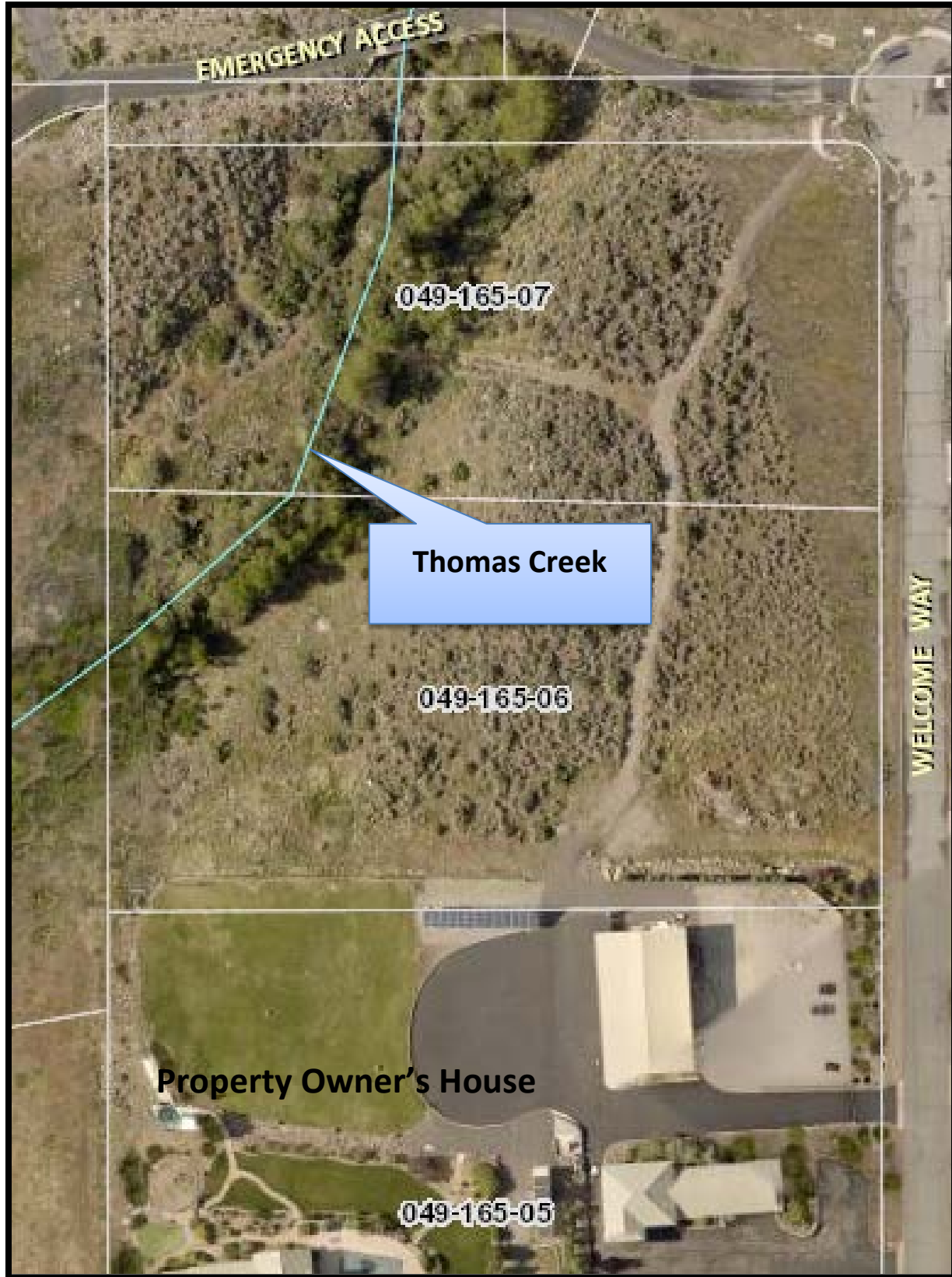
- Prior to permit issuance (i.e. a grading permit, a building permit, etc.)
- Prior to obtaining a final inspection and/or a certificate of occupancy on a structure
- Prior to the issuance of a business license or other permits/licenses
- Some Conditions of Approval are referred to as “Operational Conditions.” These conditions must be continually complied with for the life of the business or project.

The Conditions of Approval for Special Use Permit Case Number WSUP18-0017 are attached to this staff report and will be included with the Action Order.

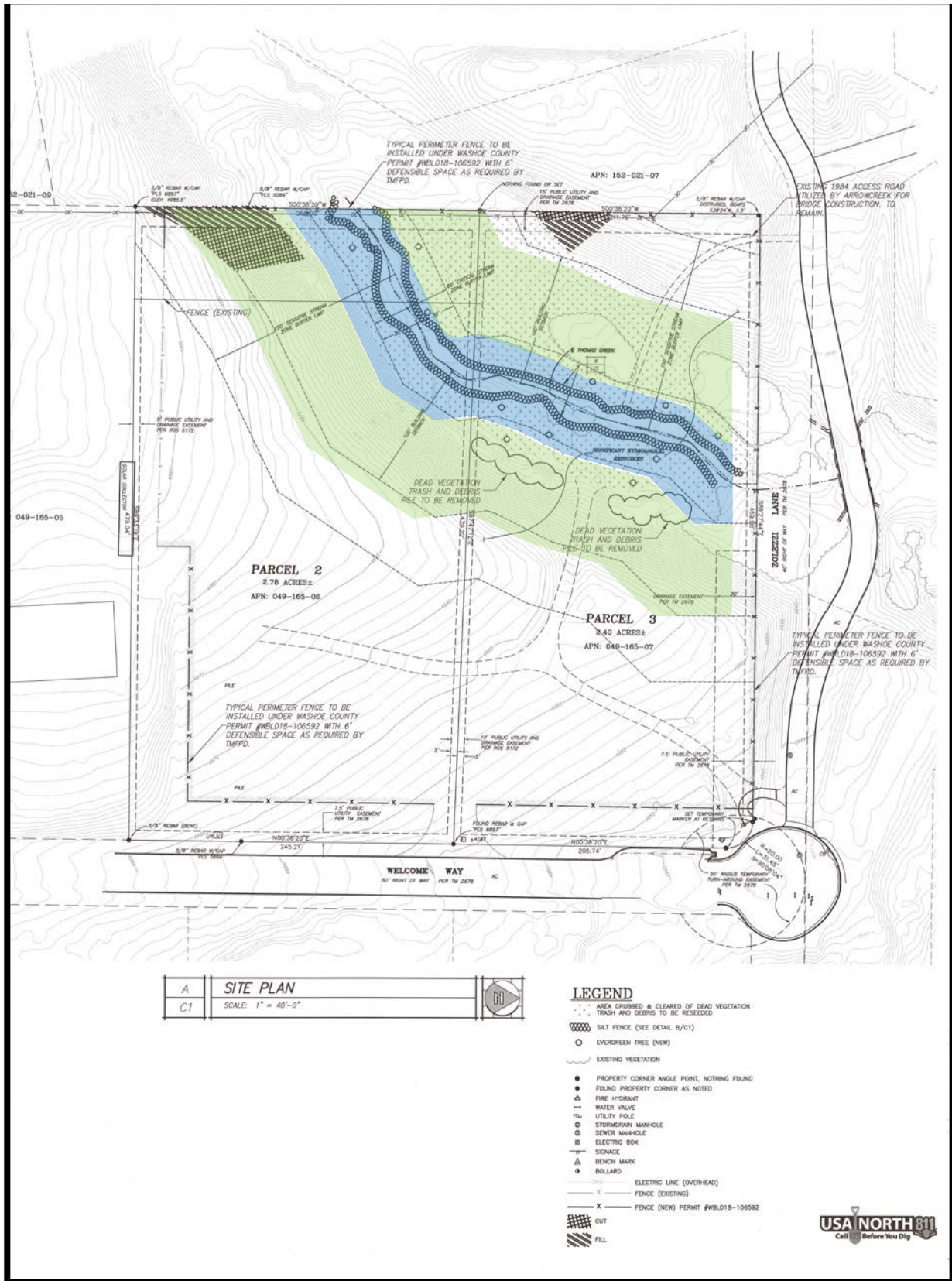
The subject property is designated as Low Density Suburban (LDS) and General Rural (GR). Grading is permitted in all regulatory zones with a Special Use Permit (SUP) in accordance with Washoe County Code (WCC) Section 110.438.35. The applicant is seeking approval of this SUP from the Board of Adjustment. The applicant has already done major grading without having first obtained the appropriate approvals from Washoe County. Therefore, the applicant is seeking approval of this SUP from the Board of Adjustment for after-the-fact grading done without appropriate permits that trigger Major Grading. The grading done includes grading within the Critical and Sensitive Stream Buffer Zones as defined in Article 418 (Significant Hydrologic Resources) of the Washoe County Development Code.



Vicinity Map



Site Location



Site Plan

Project Evaluation

In May of this year a complaint was received by Code Enforcement of “grading without a permit in a critical stream zone of Thomas Creek and all trees and shrubs were removed”. A Code Enforcement Officer went to the property owner’s house, which is on a parcel adjacent to Thomas Creek and spoke to the owner and was told that only debris and dead vegetation around the creek had been removed to prevent obstructions in the creek and no grading work had been done. The Code Enforcement Officer told the owner if any more work was done in the critical stream zone buffer area of Thomas Creek that the property owner needed to contact the County, no violation was issued. In June, another complaint was received and the Code Enforcement Officer was able to inspect the area where Thomas Creek is located on the property and confirmed that grading was being done in the critical stream zone buffer area. An administrative warning letter and stop work order were issued. On June 21st a meeting was held with the property owner and Washoe County staff to discuss the possible options to resolve the violation. The property owner was directed to not do any more grading or work in the area and was required to obtain a special use permit (SUP) for the grading in the Critical Stream Zone Buffer Area per WCC 110.438.35(a)(7) as well as a grading permit for all grading on the property. The owner would be permitted to remove the piles of dead debris that had been already cleared. (See Exhibit B)

It is important to note that under the Washoe County Development Code Article 438, grading is defined as, “any clearing, excavation, cutting, filling, or other disturbance of the natural state of the landform or natural vegetation and/or any combination thereof.” Also, the development code has specific requirements detailed in Article 418, Significant Hydrological Resources, concerning perennial streams in Washoe County. The purpose of Article 418 is to “regulate development activity within and adjacent to perennial streams to ensure that these resources are protected and enhanced.” Thomas Creek is defined as a hydrological resource by Article 418 and is identified as a U.S. Waterway by the federal government. According to Article 418, perennial stream buffer areas are, “established to provide adequate setbacks and land use controls to ensure water quality functions of each perennial stream are not jeopardized through development activity.” There are two buffer areas that are defined: the critical stream zone buffer area, which “is all land and water surface within thirty (30) feet from the centerline of the perennial stream” and sensitive stream zone buffer, which is “all land and water surface between the critical stream zone buffer area boundary of thirty (30) feet and one hundred fifty (150) feet from centerline or thalweg of the perennial stream.” The applicant has indicated that the removal of vegetation is allowed per 418.20(7), which states: “Landscape improvements and maintenance of native vegetation is allowed within an established critical stream zone buffer area including the pruning of trees and the removal of dead vegetation and debris. Ornamental landscaping that would require fertilizer or pesticide applications for growth and maintenance is not permitted within the critical stream buffer zone area.”

The SUP is the mechanism to access the work done on the site, to correct the cited violation, and provide specific direction to resolve the violation. Various local, state and federal departments and agencies have been requested to review the application and provide the appropriate corrections as needed to enable resolution of the violation.



Looking northwest at Thomas Creek – photo taken on 8.24.18



Looking southeast at Thomas Creek – photo taken on 9.12.18



Aerial Photo of Site

The applicant submitted a special use permit on July, 30 2018 stating that “trash, debris, dead, and dying vegetation” had been removed from the area around Thomas Creek. Staff visited the site on August 30th and observed the area on the east side of Thomas Creek which had been cleared of all vegetation except for a few trees. Also, an area had been cleared; primary along the property line. The property owner indicated it was cleared for the installation of a fence that would be constructed to prohibit trespassers. The property owner obtained a fence permit, WBLD18-106592, to install the fence but did not state on the application that any vegetation was being removed to install the fence (Exhibit C). However, the property owner stated that the areas needed to be cleared to get equipment in to install the fence. Since then, the property owner has also cleared the area on the west side of Thomas Creek of vegetation.

The site is now void of vegetation except for a few trees along the creek and a few pockets along the property line as the aerial photo above shows. The amount of grading on the site within the critical stream zone buffer area is approximately 11,121 square feet; for the area outside the critical stream zone, 10,926 square feet, and 7,871.7 square feet for the defensible space. The total area of disturbance is approximately 30,009.7 square feet for the two parcels and 1,072 cubic yards were graded for the fence installation. According to the Truckee Meadows Fire Protection District (TMFPD), defensible space is not required when no structures are located on the property.

The applicant’s engineer has provided the following calculations:

SURFACE DISTURBANCE TABLE		
AREA DISCRPTION	APN: 049-165-06	APN: 049-165-07
SURFACE DISTURBANCE FOR REMOVAL OF DEAD/DYING VEGETATION & DEBRIS WITHIN CRITICAL STREAM ZONE (SQ.FT.)	6,497.2	4,624.0
SURFACE DISTURBANCE FOR REMOVAL OF DEAD/DYING VEGETATION & DEBRIS OUTSIDE CRITICAL STREAM ZONE (SQ.FT.)	976.0	9,950.0
CUT - (CU.YD.) FOR PERIMETER FENCE INSTALLATION (PERMIT #WBLD18-106592)	449.0	87.0
FILL + (CU.YD.) FOR PERIMETER FENCE INSTALLATION (PERMIT #WBLD18-106592)	449.0	87.0
IMPORTED MATERIAL (CU.YD.)	0.0	0.0
SURFACE DISTURBANCE FOR DEFENSIBLE SPACE OF FENCE (SQ.FT.)	2,972.4	4,899.3

This special use permit is the mechanism by which County staff uses to help prevent erosion, improve the site, and to support the natural function of the stream. Conditions have been provided by technical experts who have the expertise in such matters. It is important to note that the grading on this property is currently a code enforcement matter and this special use permit is the tool by which Planning and Code Enforcement staff will use to ensure that the disturbed areas including the stream and riparian areas are restored to the extent possible.

South Truckee Meadows /Washoe Valley Citizen Advisory Board (STMWV CAB)

The proposed project was presented by Randy Soule at the regularly scheduled Citizen Advisory Board meeting on September 6, 2018. At the CAB meeting seven people spoke and had issues on the following items:

- All trees and vegetation along Thomas Creek have been removed whether it was healthy or not and this will increase flooding;
- Thomas Creek and the water that flows within it belongs to the community;
- This section of Thomas Creek is visible to other neighbors;
- The creek has been destroyed and fish and animal habitat have been destroyed;
- The area has not been cleaned-up it has been bulldozed and everything has been removed;
- The creek has been re-directed and re-aligned and a large pool has been created; and
- The property owner has created his own backyard water feature.

The CAB stated that the unpermitted work along this section of Thomas Creek needs immediate action and voted 4 in favor and 1 abstained for the special use permit (see Exhibit D for the CAB minutes).

Numerous phones calls have been received and an email. (See Exhibit E)

Reviewing Agencies

The following agencies received a copy of the project application for review and evaluation:

- Washoe County Community Services Department
 - Planning and Building Division
 - Engineering and Capital Projects Division
 - Parks and Open Spaces
- Washoe County Health District
 - Air Quality
 - Environmental Health Services Division
- Truckee Meadows Fire Protection District
- US Fish and Wildlife
- US Army Corps of Engineers
- Nevada Department of Water Resources
- Nevada Department of Environmental Protection
- Nevada Department of Wildlife
- Nevada Department of Parks
- Nevada Department of Water Resources
- Washoe-Storey Conservation District

Nine out of the fourteen above listed agencies/departments provided comments and/or recommended conditions of approval in response to their evaluation of the project application. Letters were received by the following (Exhibit F):

- US Army Corps of Engineers sent a letter to the applicant concerning work being in the waters of the United States of American without a permit and a request for information of the specific work that had been done. The applicant will need to provide the Corps information to access whether work was done below the high water mark, which is within their jurisdiction.
- Washoe-Storey Conservation District sent a letter with recommendations. The recommendations have been addressed and included by other agencies conditions and the District had no further conditions.
- Natural Resources Conservation Service (NRCS) could not provide conditions; there focus is working with farmers and ranchers on agricultural land. However, NRCS did provide guides on stream management practices.

A **summary** of each agency's recommended conditions of approval and their contact information is provided. The Conditions of Approval document is attached to this staff report and will be included with the Action Order (Exhibit G), if approved.

- Washoe County Planning and Building Division addressed revegetation and management standards for the project.
Contact: Julee Olander, 775.328.3627, jolander@washoecounty.us
- Washoe County Engineering and Capital Projects Division addressed the requirement for complete construction drawings, Stormwater Discharge Permit, a hydrology report, and technical standards for proposed roadways and drainage features associated with the project.

Contact: Walt West, 775.328.2310, wwest@washoecounty.us

- Washoe County Community Services Department-Parks addressed revegetation, working with other agencies and future access to the site from Washoe County property for the construction of a bridge.

Contact: Joanne Lowden, 775.328.2039, jlowden@washoecounty.us

- Nevada Division of Forestry (NDF) addressed revegetation and visual mitigation standards for the project.

Contact: Anna Higgins, 775.849.2500 ext. 237, ahiggins@forestry.nv.gov

- Nevada Department of Environmental Protection addressed revegetation and required permits.

Contact: Katrina Pascual, 775.687.9435, kpascual@ndep.nv.gov

- Nevada Department of Wildlife addressed the use of Best Management Practices on the site.

Contact: Mark Freese, 775.688.1145, markfreese@ndow.org**Staff Comment on Required Findings**

WCC Section 110.810.30, Article 810, *Special Use Permits*, requires that all of the following findings be made to the satisfaction of the Washoe County Board of Adjustment before granting approval of the request. Staff has completed an analysis of the special use permit application and has determined that the proposal is in compliance with the required findings as follows.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Area Plan.

Staff Comment: There are no specific Policies or Action Programs included in the Master Plan or Southwest Area Plan that prohibit grading. The approval of the special use permit will enable staff and other agencies to ensure the restoration of Thomas Creek, which is recognized in the Recreational Opportunities Plan of the South West Area Plan and Washoe County Development Code 110.418 as a significant hydrologic resource. Also, restoring the area that has been graded will meet goals and policies within the Conservation Element of the Master Plan.

2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven.

Staff Comment: The special use permit is needed to support the restoration the area that has been graded without a permit. All improvements are existing and the only improvements that are needed are restoring the site to meet the Conditions of Approval.

3. Site Suitability. That the site is physically suitable for grading and for the intensity of such a development.

Staff Comment: The grading was done without a permit. The special use permit will restore the area that has been disturbed.

4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

Staff Comment: The issuance of the special use permit will help enable the restoration of the site so it will not be significantly detrimental to the public health, safety or welfare or injurious to the property or improvements of adjacent properties, or detrimental to the

character of the surrounding area. The reason for the special use permit is to restore an area that was graded without appropriate permits. Without restoring the area graded may be seen to be significantly detrimental to the public health, safety or welfare or injurious to the property or improvements of adjacent properties, or detrimental to the character of the surrounding area.

5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of the military installation.

Staff Comment: *There is no military installation within the area of required notice for this special use permit.*

Recommendation

Those agencies which reviewed the application recommended conditions in support of approval of the project. Therefore, after a thorough analysis and review, Special Use Permit Case Number WSUP18-0017 is being recommended for approval with conditions. Staff offers the following motion for the Board of Adjustment's consideration.

Motion

I move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with conditions, Special Use Permit Case Number WSUP18-0017 for Randy & Kami Soule, having made all four findings in accordance with Washoe County Code Section 110.810.30:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for Major Grading in a Critical Stream Zone Buffer Area, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

Appeal Process

Board of Adjustment action will be effective 10 calendar days after the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant, unless the action is appealed to the Washoe County Board of County Commissioners, in which case the outcome of the appeal shall be determined by the Washoe County Board of County Commissioners. Any appeal must be filed in writing with the Planning and Building Division within 10 calendar days from the date the written decision is filed with the Secretary to the Board of Adjustment and mailed to the applicant.

Applicant/Owner: Randy & Kami Soule
13390 Welcome Way
Reno, NV 89511
email: randy@encorenv.com



WASHOE COUNTY BOARD OF ADJUSTMENT Meeting Minutes

Board of Adjustment Members

Clay Thomas, Chair
Kristina Hill, Vice Chair
Lee Lawrence
Brad Stanley
Kim Toulouse
Trevor Lloyd, Secretary

Thursday, October 4, 2018
1:30 p.m.

Washoe County Health District
Conference Room – Bldg. B
1001 East Ninth Street
Reno, NV

The Washoe County Board of Adjustment met in regular session on Thursday, October 4, 2018, in the Washoe County Administrative Complex Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

1. *Determination of Quorum

Chair Thomas called the meeting to order at 1:30 p.m. The following members and staff were present:

Members present: Clay Thomas, Chair
Kristina Hill, Vice Chair
Brad Stanley
Kim Toulouse
Lee Lawrence (Arrived at 1:55 p.m.)

Members absent: None

Staff present: Julee Olander, Planner, Planning and Building Division
Roger Pelham, Senior Planner, Planning and Building Division
Eva Krause, Planner, Planning and Building Division
Trevor Lloyd, Planning Manager, Planning and Building Division
Nathan Edwards, Deputy District Attorney, District Attorney's Office
Donna Fagan, Recording Secretary, Planning and Building Division

2. *Pledge of Allegiance

Member Stanley led the pledge to the flag.

3. *Ethics Law Announcement

Deputy District Attorney Edwards recited the Ethics Law standards.

4. *Appeal Procedure

Mr. Lloyd recited the appeal procedure for items heard before the Board of Adjustment.

5. *Public Comment

As there was no response to the call for public comment, Chair Thomas closed the public comment period.

6. Approval of Agenda

In accordance with the Open Meeting Law, Member Stanley moved to approve the agenda of October 4, 2018. The motion, seconded by Member Hill, passed four in favor and none opposed.

7. Possible action to approve September 6, 2018 Draft Minutes

Member Stanley moved to approve the draft meeting minutes of September 6, 2018. The motion, seconded by Member Hill, passed four in favor and none opposed.

8. Public Hearings

The Board of Adjustment may take action to approve (with or without conditions), modify and approve (with or without conditions), or deny a request. The Board of Adjustment may also take action to continue an item to a future agenda.

A. Special Use Permit Case Number WSUP18-0007 (T-Mobile Lighthouse Baptist Church) – For possible action, hearing, and discussion to approve an application by T-Mobile for a Special Use Permit for the construction of a new wireless cellular facility consisting of a 55-foot high tower utilizing a stealth design disguised as a pine tree (also known as a monopine) with faux branches screening the proposed antenna panels. The associated 30' x 30' (900 s.f.) lease area and equipment cabinets will be enclosed by a 7 foot concrete block wall, which will be treated with a stucco finish and painted to match the existing church building on property owned by the Lighthouse Baptist Church of Reno.

- Applicant: T-Mobile
- Property Owner: Lighthouse Baptist Church Reno
- Location: 5350 Pembroke Drive, 1/3 mile east of McCarran Blvd

- APN: 021-140-20
- Parcel Size: 4 acres
- Master Plan Category: Rural (R)
- Regulatory Zone: General Rural (GR)
- Area Plan: Southeast Truckee Meadows
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 324, Communication Facilities and Article 810, Special Use Permits

- Commission District: 2 – Commissioner Lucey
- Staff: Chad Giesinger, AICP, Senior Planner
Washoe County Community Services Department
Planning and Building Division

- Phone: 775-328-3626
- E-mail: cgiesinger@washoecounty.us

Chair Thomas opened the public hearing.

Roger Pelham, Washoe County Senior Planner, provided a staff report presentation.

Member Stanley disclosed he attended the CAB meeting where this application was heard. He asked if FAA required a light and what the timing of that decision is. Mr. Pelham said we do not know, but it will be prior to when the applicant gets their building permit. Member Stanley asked about the size of the light. Mr. Pelham said FAA sets those standards.

Member Toulouse said he understands it's not our purview; he asked if Planning contacted FAA about the requirements. Mr. Pelham said the applicant has contacted the FAA.

Chair Thomas said there may be a base pad for the monopine which affects the height. He asked if FEMA requires the base pad. Mr. Pelham said Washoe County engineering decides the pad height.

Member Stanley asked about the sequencing. Mr. Pelham said all necessary documents will need to be received and reviewed prior to issuing a building permit.

Karen Lienart, applicant representative for T-Mobil, gave a presentation. She addressed the lighting issue. She said she has been in contact with neighbor who had the concern as well as the consultant who is working on the light with FAA. She said she committed to the neighbor to use a light with the least amount of impact that meets requirements.

Chair Thomas asked about design process. Ms. Lienart said the previous design of the cross would interrupt with utilities. She said the monopine was considered. She said the steeple was first proposed to fit with the design of the church. She said they had 3 different designs before coming to this design.

Public Comment:

Bernard Smith said he lives behind the church. He said the tower would be visible from his house. He spoke about flooding issues. He spoke about FAA lighting requirements for the flight path. The steeple was a nice idea because it blended with the church building, but the monopine is located in the parking lot. There was a cost involved with steeple design. It's a source of revenue for the church. The pastor doesn't live on property so he doesn't have to see the required red light. He said he doesn't want to see the light every day.

No further requests for public comment, Chair Thomas closed public comment.

Board discussion:

Member Stanley said this design and process seems to be the best option; however, the light is not wanted. He wondered if the angle of the light could be adjusted based on the flight path to help reduce impacts on neighbors. Mr. Pelham said that is the decision of the FAA.

Member Toulouse asked if there is a way in the future to include a picture of just the pole with the antenna.

**Member Lawrence arrived 1:55 p.m., before the motion.

Member Stanley move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve with conditions in (Exhibit A to the staff report) Special Use Permit Case Number WSUP18-0007 for T-Mobile, having made all four findings required in accordance with Washoe County Code Section 110.810.30; and the three additional findings required by WCC Section 110.324.35 for approval of wireless communication facilities. Member Toulouse seconded the motion which carried unanimously.

Article 810 findings:

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southeast Truckee Meadows Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for a wireless communication facility, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area;

Article 324 findings:

1. Meets Standards. That the wireless communications facility meets all the standards of Sections 110.324.40 through 110.324.60 as determined by the Director of the Planning and Development Division and/or his authorized representative;

2. Public Input. That public input was considered during the public hearing review process;
3. Impacts. That the wireless communications facility will not unduly impact the adjacent neighborhoods or the vistas and ridgelines of the County.

B. Variance Case Number WPVAR18-0006 (David Wood) – For possible action, hearing, and discussion to approve the reduction in the side yard setback from 8 feet to 5 feet and the rear yard setback from 20 feet to 8 feet on one parcel of land; and to reduce the front yard setback from 20 feet to 8 feet and the rear yard setback from 20 feet to 15 feet on an adjacent parcel of land. The reductions in setbacks are being requested to facilitate the placement of one dwelling unit on each of the parcels and would be applicable only after an associated boundary line adjustment was also approved. The boundary line adjustment would change the dividing line between the parcels roughly from a north-south direction to an east-west direction, which would allow the placement of a dwelling unit on the eastern portion of each parcel without having to locate it within a flood zone. Currently, almost all of the buildable area of the western parcel is located in a flood zone.

- Applicant/Property Owner: David Wood
- Location: 5443 and 5445 Pearl Drive, approximately 650 feet north of its intersection with 4th Avenue in the Sun Valley area
- APN: 085-722-24 and -25
- Parcel Size: ±14,985 and ±15,159 square feet
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: Medium Density Suburban (MDS)
- Area Plan: Sun Valley
- Citizen Advisory Board: Sun Valley
- Development Code: Authorized in Article 804, Variances
- Commission District: 3 – Commissioner Jung
- Staff: Roger Pelham, Senior Planner
Washoe County Community Services Department
Planning and Building Division
- Phone: 775-328-3622
- E-mail: rpelham@washoecounty.us

Chair Thomas opened the public hearing.

Roger Pelham, Washoe County Senior Planner, provided a staff report presentation.

Member Hill said it appears in the maps that the property is land locked. Mr. Pelham said there is an easement coming from the east. He said it's common in Sun Valley to have access by easement instead of right-of-way. The properties are owned by the same person.

Nathan Robinson, engineer and applicant representative, said it's for the safety of public to eliminate structures from the flood way and with this variance they hope to have the least impact.

Public Comment:

Vicky Maltman said this property is behind her parcel. She said she has been flooded 5 times and that she had 5 feet of water on her property; her property is in the flood zone. Her neighbor attached a drainage pipe to Washoe County drainage. She said the drainage pipe changes sizes from 24 to 18 inches which causes flooding. A property owner should do what they want with their property. She said she is tired of the codes inflicted on the owners. She said she has concerns with the adjustment of the subject property to cause more water and flooding. She has requested the county to come out to take care of the ditches, but they had not.

Board Discussion:

Member Toulouse wanted to review the map to see where Ms. Maltman lives in relation to the subject property.

Member Stanley asked if Ms. Maltman's concerns will be addressed by engineering. Mr. Pelham said by moving obstructions such as a structure it's supposed to help with the flow. Mr. Robinson said the removal from the house from the floodway is negligible. He said he is confident it won't cause additional issues; it's a slight positive affect. Member Stanley said he appreciates the consideration taken into account for flooding for that area.

Member Toulouse move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case Number WPVAR18-0006 for David Wood, with the Conditions of Approval included as Exhibit A for this matter, having made all required findings in accordance with Washoe County Development Code Section 110.804.25. Member Lawrence seconded the motion which carried unanimously.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property;
5. Effect on a Military Installation. Issuance of the permit will not have a detrimental effect on the location, purpose or mission of a military installation.

C. Variance Case Number WPVAR18-0007 (SYGO – Yount Elevator) – For possible action, hearing, and discussion to approve a variance to reduce the side yard setback from 5 feet to ± 2 inches to allow for the construction of an elevator within a residence along the north side property line.

- Applicant/Property Owner: G. Stuart and Geraldine M. Yount Family Trust
- Location: 400 State Route 28, Crystal Bay
- APN: 123-144-12
- Parcel Size: $\pm 8,712$ square feet
- Master Plan: Suburban Residential (SR)
- Regulatory Zone: High Density Suburban (HDS)
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804, Variances
- Commission District: 1 – Commissioner Berkbigler
- Staff: Roger Pelham, Senior Planner
Washoe County Community Services Department
Planning and Building Division

- Phone: 775.328.3622
- E-mail: rpelham@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. Kristina Hill she said she worked with Stewart Yount at Sierra Nevada College. Mr. Yount is on the Board of Directors for the school. She doesn't have a ongoing business relationship with the college and it's been over a year since the last contact with the applicant. Mr. Edwards said there isn't a conflict.

Roger Pelham, Washoe County Senior Planner, provided a staff report presentation.

Member Lawrence asked if there is a fence between US Forest land and subject property. Mr. Pelham said no.

Member Stanley said the CAB unanimously approved this. There is a 40% slope. He wanted to know about the findings for the variance.

Mr. Pelham said the findings are laid out in NRS, exceptional narrowness, exceptionally shallow, shape, exceptional topographic conditions. He explained how these are not extraordinary conditions.

Member Hill asked if they received a variance for front or side yard setbacks. Mr. Pelham said not for the side, but perhaps for the front but he is not certain.

Member Lawrence asked about the square footage of the roof.

Elise Fett, applicant representative, spoke about special circumstances and site constraints. She showed the assessors map. It's a unique shape into the NDOT right-of-way. It's a special circumstance. The property has 71% slope in the beginning area. NDOT gave half of the right-of-way due to slope. The slope is consistent of 51%. The property has an average of 49 feet narrowness where it should be 60 feet minimum in zoning. There are height limitations per TRPA. The contours are tight in right-of-way. Steepness is extreme in this case. It's common in the area. She said they have made many considerations for the location of the elevator. The proposed elevator services the top 3 floors. Through step-height code, the front section is where it's being proposed. A chair lift won't work. She spoke about constraints with height and current footprint. Dr. Koch's letter is included in the staff report. Special circumstance: Extreme slope, width is less than allowed by zoning, CAB considered it a hardship. It doesn't provide special privileges. She spoke about other variances in the area. There is no deterrent.

Member Lawrence asked the square footage of the roof of elevator. Ms. Elise said approximately 56 square foot. Member Lawrence said TRPA didn't support the other location options. Ms. Fett explained TRPA step-height codes.

Member Stanley asked if this the only location TRPA will accept. Ms. Fett said yes. He asked about other properties with similar variances. Ms. Fett spoke about other homes on Gonowabi with similar setbacks. She spoke about options to mitigate erosion to US Forest Service property by reducing the gutter and moving it internal. Member Stanley asked about the different sloping. Ms. Fett explained the slope calculations. She said they would be requesting a side setback, not a front setback.

Chair Thomas asked about the interior floor size of the elevator. Ms. Fett said it's a common size installed for a wheelchair. He asked about a letter regarding TRPA's opinion. Ms. Fett said representatives met together with TRPA and came to an agreement, but she said she didn't believe it was on paper. She said they had to make sure they could move forward before spending money on this project.

Chair Thomas asked why a stair lift could not be added. He said he called an elevator lift company, and they said a stair lift is possible. Ms. Fett said she didn't try to find one because the stairwell is narrow; you have to have 6 inches at each turn. She said she hasn't had anyone look at it. She said the lifts take up space on the width; it's already hard to maneuver these stairs already.

Member Lawrence asked for clarification on sloping. Ms. Fett showed the site plan. The 51% slope is natural, the 71% was excavation when creating the roadway.

Public Comment:

Stewart Yount, property owner, said the CAB unanimously voted to approve it and considered it a hardship. He said his wife is claustrophobic and has back problems. He said she will need an attendant with her in the elevator. He said we cannot identify an alternative location.

Board Discussion:

Member Hill said the runoff from the roof will be directed through a gutter and downspout not to disturb the forest service. The US Forest Services was concerned with erosion and this will be addressed. She said she went out there this morning and took pictures – she said that side of the house has the same encroachment; it won't create a visual or environmental impact since there are already improvements on that side of the house of the same size.

Member Lawrence said the roof isn't a concern. He said he has difficulty making a decision; he said he isn't able to make the findings. He said there are other walls where it can be located. He said he is on the fence with this issue.

Member Toulouse said he cannot make the findings to allow this project to go forward. He said he doesn't believe the alternatives, including the option of a chair lift has been explored. He said there hasn't been enough exploration on alternatives.

Member Stanley said the CAB is extremely diligent and they approved this project. He said 40-70% slopes which are hardships, as well as the narrowness can be challenging to build on those slopes. He said the CAB minutes reflected TRPA acceptable location. Member Stanley said he could consider a continuance for more work to be done with the different parties to explore more options.

Mr. Lloyd said we don't consider agency requirements such as TRPA's code with the findings we are making. The requirements are not considered in our analysis when we are considering the unique situations of the property.

Chair Thomas said he feels for the applicant and the issues they face. Within the confines of the statutes, he said he is having a hard time making the findings to approve this. It would be nice to see a letter from TRPA to reflect the other options aren't appropriate. The US Forest Service is the other property owner who opposes this. There needs to be more exploration to the other options including a chairlift. If other issues are explored with dead ends, it might help make a future decision. The applicant would need to ask for a continuance.

Member Hill said the slope is a challenge. Run-off will be mitigated. More and more people in Incline Village are getting elevators; it's very common. It's not a special privilege. She said she can make the findings for approval.

Chair Thomas asked if a continuance can be entertained. DDA Edwards said yes, it's up to the applicant. Ms. Fett said yes, the applicant would like to request a continuance to explore the options.

Mr. Lloyd said he would need clear direction for staff to continue the item, time certain for the next meeting on December 6, 2018.

Member Stanley said assess the size of elevator with smaller footprint, if feasible; reassess slope numbers; mitigation to reduce or eliminate the runoff concerns of US Forestry Service.

Member Lawrence said he is interested in why TRPA will not support the location somewhere else on the structure and why they would support this particular proposed location for the elevator.

Chair Thomas said he is interested to see if a chair lift is an option, and if a smaller footprint with the elevator is possible.

The applicant confirmed they would like to continue their application to December 6, 2018 in order to explore more options.

Member Toulouse moved that, Variance Case Number WPVAR18-0007 (SYGO – Yount Elevator) be continued to the next regular Board of Adjustment meeting of December 6, 2018 at 1:30 p.m. in Washoe

County Chambers to allow the applicant to consider more options. Member Stanley seconded the motion which carried unanimously.

****3:20 – 3:29 Recess****

D. Variance Case number WPVAR18-0005 (Blaszyk – Wittmann) - For possible action, hearing, and discussion to approve a variance for the reduction of the general 15 foot front yard setback as follows: 1) to approximately 8 feet to build a roof over the staircase to the front entry; 2) to approximately 11 feet to build a roof over the front entry deck; and 3) to approximately 11 feet to extend the roof eaves over the front of the garage.

- Applicant/Property Owner: Michael Blaszyk & Leslie Wittmann
- Location: 455 Fairview Blvd, Incline Village
- APN: 131-221-05
- Parcel Size: 0.5 acres
- Master Plan: Suburban Residential
- Regulatory Zone: Medium Density Suburban
- Area Plan: Tahoe
- Citizen Advisory Board: Incline Village/Crystal Bay
- Development Code: Authorized in Article 804 Variances
- Commission District: 1 – Commissioner Berkbigler
- Staff: Eva Krause, Planner
Washoe County Community Services Department
Planning and Building Division

- Phone: 775.328.3628
- E-mail: ekrause@washoecounty.us

Chair Thomas opened the public hearing.

Eva Krause, Washoe County Planner, provided a staff report presentation.

Chair Thomas called for member disclosures. There were no disclosures.

Member Lawrence asked about the roof over the deck, 11' 4". He asked if the deck encroached on the setback. She said they want to install the roof over the deck.

James Borelli, applicant representative/architect, said we are adding a series of roofs to provide protection. The existing house was built without overhangs which created a safety problem. Three different roofs with setback distances: 11' 4" front door, stairwell 8', garage door 22' 2" to edge of pavement. The neighbor to the south objected due to the amount of construction projects in the area. Mr. Borelli said the applicant attempted to meet with the concerned neighbor. He wrote a letter to the neighbor to address their concern. Mr. Borelli said there is a US Forest lot across the street which will help with parking since it's not impacting another neighbor. This is no new living space, just new roof overhangs.

Member Toulouse said he wanted to make sure communication took place between the Wittman's and the neighbor, Mr. Lawless. Mr. Borelli said his client provided a letter addressing concerns, but did not hear back from the neighbor.

DDA Edwards said copies of the photos that were provided by the applicant's representative are available for the public.

With no requests for public comment, Chair Thomas closed public comment period.

Member Hill moved that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve Variance Case Number WPVAR18-0005 for Blaszyk-Wittmann with the Conditions of Approval included as

Exhibit A for this matter, having made all four required findings in accordance with Washoe County Development Code Section 110.804.25. Member Toulouse seconded the motion which carried unanimously.

1. Special Circumstances. Because of the special circumstances applicable to the property, including exceptional narrowness, shallowness or shape of the specific piece of property; exceptional topographic conditions; extraordinary and exceptional situation or condition of the property and/or location of surroundings; the strict application of the regulation results in exceptional and undue hardships upon the owner of the property;
2. No Detriment. The relief will not create a substantial detriment to the public good, substantially impair affected natural resources or impair the intent and purpose of the Development Code or applicable policies under which the variance is granted;
3. No Special Privileges. The granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the identical regulatory zone in which the property is situated;
4. Use Authorized. The variance will not authorize a use or activity which is not otherwise expressly authorized by the regulation governing the parcel of property.

E. Special Use Permit Case Number WSUP18-0017 (Soule Grading) – For possible action, hearing, and discussion to approve a special use permit for grading, which was performed without the required permit(s) within a significant hydrological resource (SHR), by grading and removing vegetation within the Thomas Creek Critical Stream Zone Buffer Area and Sensitive Stream Zone Buffer Area. Grading has also taken place outside the stream zone buffer area.

- Applicant/Property Owner: Randal and Kim Soule
- Location: 13410 & 13430 Welcome Way
- APN: 049-165-06 and 049-165-07
- Parcel Size: 2.77 acres and 2.4 acres
- Master Plan: Rural (R) and Suburban Rural (SR)
- Regulatory Zone: Low Density Suburban & General Rural (GR)
- Area Plan: Southwest Area Plan
- Citizen Advisory Board: South Truckee Meadows/Washoe Valley
- Development Code: Authorized in Article 810, Special Use Permits and Article 438, Grading

- Commission District: 2 – Commissioner Lucey
- Area Plan: Southwest
- Staff: Julee Olander
Washoe County Community Services Department
Planning and Building Division

- Phone: 775.328.3627
- E-mail: jolander@washoecounty.us

Chair Thomas opened the public hearing.

Chair Thomas called for member disclosures. Member Toulouse said he conducted business with Mr. Setty in 2008. Member Stanley said he attended three separate CAB sessions where this was discussed.

Julee Olander, Washoe County Planner, provided a staff report presentation.

Ms. Olander said they recommend to remove conditions from Washoe County Parks and NDF, and recommend a new condition 'f,' "the applicant shall develop and submit the restoration plan to the Washoe County Planning and Building Division that includes re-vegetation with native riparian plant species and measures for erosion and weed control." The re-vegetation shall protect Thomas Creek and both the critical and sensitive stream zone buffer area. The plan will include amount of shrubs and trees; that will include evergreen trees at least 7 feet in height, deciduous trees at least 2 inches in caliber, and pounds per acre of

seed mix; the plan will be submitted with the building permit for grading. Washoe County Planning and Building Division will consult with Nevada Division of Forestry and be in compliance with master plan policies concerning the appropriateness and viability of the plan for the area to be restored at the project site.

Member Toulouse requested a paper copy of the new condition.

Member Hill asked if the applicant has agreed to the new conditions. Ms. Olander said the applicant didn't agree with the other conditions, however, was satisfied with this condition.

The applicant's representative requested to change some wording.

Member Hill asked if the owner would post a security to make sure the work is completed. Ms. Olander said condition 1(a) indicates timelines for completion. He has 6 months to comply. Condition C requires him to come back for review to make sure the work is complete at subject site. The Corp of Engineers and NDEP are involved and have their specific requirements, permits, and fees they can impose if Mr. Soule doesn't meet their requirements. Mr. Lloyd noted condition 2(e) speaks to financial assurance being held prior to issuing grading permit. NDEP is requiring a storm water and working water ways permit. He is having to comply with them.

Member Hill asked about the accessory use of the dwelling. Ms. Olander said it is to store his heavy equipment which is fenced.

Member Stanley said, at the CAB meeting some of the residents saw the applicant using heavy equipment in the middle of the stream. Ms. Olander said yes, he drove through the creek. He is using the roadway to cross the stream. Member Stanley asked if grading was conducted in the stream. She said the applicant said he has maintained the dirt road. Member Stanley asked if a dirt road went through the stream. She said no, that's not allowed. Member Stanley asked if fishing is allowed in Thomas Creek. Ms. Olander said she believes there are fish planted in the creek. Member Stanley asked about code officers and how far the grading is away from the house. A code officer spoke with the wife and she indicated the work was removing dying and dead vegetation. The code officer took her word for it. Ms. Olander said you have to enter the property to see the work done. Member Stanley asked if the code officer was supposed to see the reported problem. The code officer took her word for it that no work was being done.

Member Stanley said when a second report came through, the code officer was able to enter the property. Ms. Olander said Mr. Soule believed what he was doing was ok; he is allowed to remove dead and dying vegetation, but it's more than that. Staff met with Mr. Soule and explained Articles 418 and 438 grading code, which the property owner said allowed him to do it. In May, the first complaint was filed, on June 12, a stop work order was given, on September 13 an administrative penalty notice was given.

Member Toulouse said, after reviewing the new conditions of approval, he doesn't see the stream channel needs to be restored to preexisting condition. Ms. Olander said NDEP requires that. We don't have that language in our code. There isn't language regarding putting the creek back the way it was. NDEP and Corp are regulating that. There was concern with the pool that was made. The Corp or NDEP will review - him from keeping the pool. Member Toulouse said we can make that as part of this condition. DDA Edwards said yes, as long as it fits the framework.

Member Stanley said there is TMWA property nearby. He asked if TMWA was asked for comment. Ms. Olander said TMWA didn't provide feedback for this particular situation. She said they received feedback from NV Div. of Water Resources - they said this property has ground water and surface water rights. Member Stanley spoke about adequate stream flow and water rights downstream. Ms. Olander said she doesn't know specifically, but she believes there are properties along the creek that have it.

Member Stanley asked about the coordination of the agencies' requirements and how they fit together. Ms. Olander said the applicant will have to meet all the agencies' requirements. The applicant will have to prove he meets the requirements. She explained their process. She said we will get a report back regarding the status of his mitigation work. Washoe County will make sure it's all done within a year at the requirements of the Corp and NDEP.

Mr. Lloyd said this is under code enforcement; this is the mechanism to ensure compliance. It remains a code compliance issue until mitigation has been completed to the satisfaction of all the agencies involved.

Under condition 1(f), it addresses planting trees but doesn't indicate how many. Ms. Olander said NDF will address riparian vegetation. They will provide direction depending on the amount of trees. She indicated the size of trees as a guide.

Chair Thomas said this was a scorched earth approach; it was more than dead and dying trees. He said he would like to have documentation and video of progress. We decide what is appropriate; the applicant shouldn't be able to dictate that. The planning department has the authority, the master plan and NDF guides the direction of re-vegetation.

Member Toulouse said he would like to see a condition regarding the survival rate and steps to ensure the vegetation actually works. Ms. Olander said the condition would include the applicant coming back to the Board of Adjustment in a year. Mr. Lloyd said 2(e), the financial assurances will be held until it's completed. It will take a couple of years until it's established. Member Toulouse said he wanted to see specific criteria. He said upland and transition zone was also disturbed and needs to be mitigated.

DDA Edwards said a copy of the conditions with the new language is available for the public.

Member Stanley asked for conditioning regarding fisheries. Ms. Olander said NDOW provided a condition – the applicant shall use best management practices for dirt work. Applicant shall re-seed to minimize erosion with sediment control devices to prevent erosion and it will help the wildlife habitat in the area.

Member Lawrence asked how deep is the the pool/pond. Ms. Olander said deep enough to allow his dogs to swim in it.

Matt Setty, hydrologist and applicant representative, said he is working with US Federal Water Master, Nevada Division of State Lands, Corp of Engineers, NDEP, and Rural Water planning. He wants to merge the conditions into the plan and how they can fulfill those conditions and align the financial assurances. He said he recommends a hard criteria for success.

Mr. Setty provided a presentation.

Member Stanley asked if they assessed the impacts with downstream water rights. Mr. Setty said no impacts were made downstream. He said State Engineer will work with them to create an addendum. The Corp is concern with stream bank impacts. Member Stanley asked how many total acres will have to be restored in all components. Mr. Setty said .92 acres in riparian and .3 acres behind the residence. Member Stanley asked if the mitigation runs with the land. Mr. Setty said yes, it runs with the land. The federal and state has a right to deed restrict compliance. Member Stanley asked for the total cost for restoration – the bond 125% of the license engineer's estimate; \$30-50K in direct plantings as a rough estimate. The engineer will put that cost together.

Member Lawrence said this work was not near Mr. Soule's house. He asked what is the flooding damage? Mr. Setty said there were dead trees debris and material. There is a long standing issue with Parks. There is no easement access. Mr. Soule was having issues with the homeless. He thought he was exercising his rights under Article 418. Mr. Setty said we offered to work in conditions to allow maintenance of the floodway on the county easement, but hasn't heard back. The initial concern was the build up of Alder in the stream zone. It was more esthetic. There was theft by the homeless issues. Member Lawrence said that is a different issue than the stream.

Chair Thomas said there isn't a culvert, rather a bridge that crosses the access road 18-20 feet long, 8 feet tall.

Member Lawrence said it's natural for debris to fall and build up with flooding. Mr. Setty said Mr. Soule is back in compliance with state regulation with in-stream. He exposed system to sedimentation.

Member Toulouse said we are dancing around stream channel restoration. Would it be a good idea for restoration to mimic the natural state of the channel. Mr. Setty said let's take the pool out of consideration.

The stream bottom was untouched, the banks were disturbed. In the SWPPP, the bank is rocky with little silt. It's been sitting and stabilized since June. We won't gain much by going back in because there wasn't a fill or dredge. The pool will fill back in. We can leverage the current roots and build in stability. Trying to do something with that channel cross section except the pond where it went out of the system; focus would be erosion control in the bank areas.

Member Toulouse asked about Mountain Alder as an option. He said it's natural and native. Why wouldn't we want to plant Mountain Alder. Mr. Setty said they will. The Mountain Alder has potential to choke everything out again. Yellow Willow and Mountain Alder is proposed. We need to do the right thing.

Chair Thomas said the pond was built for his dogs. Mr. Setty said he doesn't know if the applicant has dogs. Mr. Setty showed a map of the bar he filled in to create a pond. He excavated that area. Chair Thomas asked about the amount of stream that was disrupted. Mr. Setty said 20 feet x 10 feet of the stream of disturbance.

Public Comment:

Jim Sundali said he lives near this subject property. He said there isn't much he can do to restore it. Mr. Soule is a successful, wealthy, smart business man who is strategic. He didn't want to ask for permission, but is asking for forgiveness. There is not penalty except for \$100 fine. Something needs to change with the code enforcement process. You could see on day one the impact he did. He asked what if the neighbors were to do the same thing. You can't do 100 years of growth. You need to de-incentivize someone from doing this again.

Lyn Mundt said she was instrumental in putting together a stream committee comprised of a variety of people who had an issue with streams. The goal was to put together a stream ordinance to protect the stream with buffer zones. It's been an interesting process. The development code, 418, hydrological resources, if followed, is great. To find the enforcement is so chaotic and complex, it's been an eye opener. She agreed with the last speaker that this needs to be looked at. She said she never expected another homeowner to do this. Mr. Soule has disrupted natural corridor and its natural benefits. There will be expenditures of public funds to protect homes from stream flow. She said she appreciates the restoration, but we need to prevent this from happening again. There will be floods and debris flows due to this. The process needs to be more logical. She commends the board members and staff for a job well done.

Board Discussion:

Member Toulouse said he doesn't know where to begin. Ms. Mundt mentioned a stream committee creating ordinances. Member Toulouse said he sat on that committee. He said this is the most egregious violation of the county code we have ever seen. He said it's almost criminal. The county lacks the teeth to enforce the ordinances. He would like to see the citizens approach the county about enforcement. The only correction is through this special use permit. We have no other options. He said he has confidence in Mr. Setty's restoration plan. He said he has worked with him in the past and knows he will accomplish this. We have to approve the special use permit to get the restoration done.

Member Lawrence said he agreed with Member Toulouse. He said he has never seen something like this. He said he has a strong regulatory background and this issue has been raised with staff about stronger regulatory actions. He said he has expressed his concerns about that. He said he wanted to assure the public that they are looking at this process. They are aware there is concern about this. We need to proceed with the best management practice to restore things to the best we can to reduce erosion. He said he disagreed with a statement made about impacts downstream. There are impacts that affect everyone downstream. He said he hopes restoration can be done.

Member Hill said she looks forward to the progress with the restoration. She said she appreciates the condition that it needs to come back before this Board in a year. They need to be held accountable; it's horrific.

Member Stanley said he echoes the comments and outrage. He said he is very disappointed that someone from enforcement couldn't be here. He said we have gone through this only to bless something after the fact. We need to improve the process.

Member Toulouse said we need to approve this in order to get it done. He said he appreciates the condition that the applicant comes back within a year. Member Toulouse said we are going to hold your feet to the fire.

Member Stanley said the county has worked diligently to fix a serious problem. He agrees that stabilization needs to be done and restored. Planning has done a great job.

Chair Thomas said he is disappointed the applicant isn't present. He echoed the comments made by the public. He said he walked the trail and never saw any homeless. He said one person decided to devoid that property. He blatantly destroyed the area to build his own pond for personal reasons. He said he is concerned; he wants to add more teeth, conditions and fines. People have disregarded the codes and come before this board to ask for forgiveness. He said he questions if Mr. Soule will do his part.

Ms. Olander said there is a change in the condition for NDEP under condition 3(a) to read 'applicant will obtain a working and water way permits as required by NDEP' dependent on what is required; it will be decided during the process.

Member Toulouse move that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, the Washoe County Board of Adjustment approve, with amended conditions 2.a., Special Use Permit Case Number WSUP18-0017 for Randy and Kami Soule, having made all four findings in accordance with Washoe County Code Section 110.810.30. Member Lawrence seconded the motion which carried 4 in favor, one against.

1. Consistency. That the proposed use is consistent with the action programs, policies, standards and maps of the Master Plan and the Southwest Area Plan;
2. Improvements. That adequate utilities, roadway improvements, sanitation, water supply, drainage, and other necessary facilities have been provided, the proposed improvements are properly related to existing and proposed roadways, and an adequate public facilities determination has been made in accordance with Division Seven;
3. Site Suitability. That the site is physically suitable for Major Grading in a Critical Stream Zone Buffer Area, and for the intensity of such a development;
4. Issuance Not Detrimental. That issuance of the permit will not be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area.

9. Chair and Board Items

***A. Future Agenda Items**

Member Stanley requested a working session regarding precedence in enforcements and jurisdiction of other agencies. Mr. Lloyd said you can raise the issue with the Planning Commission.

***B. Requests for Information from Staff**

No requests were made.

10. Director's and Legal Counsel's Items

***A. Report on Previous Board of Adjustment Items**

Mr. Lloyd reported the Eekoff variance in Hidden Valley was appealed at the Board of County Commissioners and they upheld the decision of this board.

***B. Legal Information and Updates**

No updates.

11. *General Public Comment

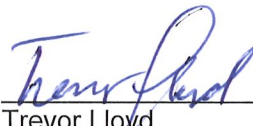
As there was no response to the call for public comment, Chair Thomas closed the public comment period.

12. Adjournment

The meeting adjourned at 5:39 p.m.

Respectfully submitted by Misty Moga, Independent Contractor

Approved by Board in session on December 6, 2018



Trevor Lloyd
Secretary to the Board of Adjustment



Nevada Environmental Consulting, LLC

316 California Ave. # 763 Reno, Nevada 89509 | (775) 544-1149 | kristin@nvenv.net www.nvenv.net

November 18, 2019

Julee Olander
Washoe County
Community Services Department- Planning & Building Division
1001 E. Ninth Street, Bldg. A
Reno, NV 89512

Sent via email: jolander@washoecounty.us

Re: Special Use Permit Case Number WSUP18-0017 (Soule Property)

Dear Julee,

Please see the following documents attached:

1. Conditions of Approval with comments (Matt's comments are in blue.)
2. Signed NOI (CSW-45222) dated 9/18/2018
3. Current SWPPP Inspection dated 11/13/2019
4. Thomas Creek/Soule Property Vegetation Restoration Plan for Riparian Floodplain and Upland Habitats
5. USACE After-the-Fact Nationwide Permit (SPK-2018-00705)

If you have any questions, please let us know.

Sincerely,

Kristin Setty
Owner/Manager



Conditions of Approval

Special Use Permit Case Number WSUP18-0017

The project approved under Special Use Permit Case Number WSUP18-0017 shall be carried out in accordance with the Conditions of Approval granted by the Board of Adjustment on October 4, 2018. Conditions of Approval are requirements placed on a permit or development by each reviewing agency. These Conditions of Approval may require submittal of documents, applications, fees, inspections, amendments to plans, and more. These conditions do not relieve the applicant of the obligation to obtain any other approvals and licenses from relevant authorities required under any other act.

Unless otherwise specified, all conditions related to the approval of this Special Use Permit shall be met or financial assurance must be provided to satisfy the conditions of approval prior to issuance of a grading or building permit. The agency responsible for determining compliance with a specific condition shall determine whether the condition must be fully completed or whether the applicant shall be offered the option of providing financial assurance. All agreements, easements, or other documentation required by these conditions shall have a copy filed with the County Engineer and the Planning and Building Division.

Compliance with the conditions of approval related to this Special Use Permit is the responsibility of the applicant, his/her successor in interest, and all owners, assignees, and occupants of the property and their successors in interest. Failure to comply with any of the conditions imposed in the approval of the Special Use Permit may result in the institution of revocation procedures.

Washoe County reserves the right to review and revise the conditions of approval related to this Special Use Permit should it be determined that a subsequent license or permit issued by Washoe County violates the intent of this approval.

For the purpose of conditions imposed by Washoe County, "may" is permissive and "shall" or "must" is mandatory.

Conditions of Approval are usually complied with at different stages of the proposed project. Those stages are typically:

- Prior to permit issuance (i.e., grading permits, building permits, etc.).
- Prior to obtaining a final inspection and/or a certificate of occupancy.
- Prior to the issuance of a business license or other permits/licenses.
- Some "Conditions of Approval" are referred to as "Operational Conditions." These conditions must be continually complied with for the life of the project or business.

FOLLOWING ARE CONDITIONS OF APPROVAL REQUIRED BY THE REVIEWING AGENCIES. EACH CONDITION MUST BE MET TO THE SATISFACTION OF THE ISSUING AGENCY.

1. Washoe County Planning and Building Division

The following conditions are requirements of the Planning and Building Division, which shall be responsible for determining compliance with these conditions.

Contact Name: Julee Olander, (775)328-3627, jolander@washoecounty.us

- a. The applicant shall comply with all conditions of approval within 6 months from the date of approval by Washoe County. The applicant shall provide documentation showing how each of the conditions has been completed. Determination that each condition is complete shall be determined by the Planning and Building Division.
- b. A note shall be placed on all construction drawings and grading plans stating:

NOTE

Should any cairn or grave of a Native American be discovered during site development, work shall temporarily be halted at the specific site and the Sheriff's Office as well as the State Historic Preservation Office of the Department of Conservation and Natural Resources shall be immediately notified per NRS 383.170.

[A cultural resource survey was conducted by Kautz Environmental in support of the USACE permit. No findings of significance were reported. The report is possessed by the USACE under the provision of the National Historic Preservation Act.](#)

- c. The applicant shall return to the Board of Adjustment within prior to October 4, 2019 for a review to determine if all conditions are completed. The Board of Adjustment may direct Washoe County staff to pursue further enforcement actions based on non-completion of conditions.
- d. The applicant shall obtain a Grading Permit for all work on the subject site. At the discretion of the Director of the Planning and Building Division, permit fees may be increased by up to four times the standard applicable fees (not to exceed \$4,000) in accordance with WCC Section 100.133.3.1 for any work commenced prior to permit issuance. [See engineer's submittal package.](#)
- e. All trash and debris within the project area shall be removed.
 - a. [All trash was removed and the majority of the woody debris was mulched and used on site. Owner brought a large mulcher/chipper onto the property and used the mulch generated from the debris piles on the upper portion of the project site where land disturbance had covered. This mulch application also satisfied elements of the SWPPP in the prevention of sediment runoff.](#)
- f. The applicant shall develop and submit a restoration plan to the Washoe County Planning and Building Division that includes revegetation with native riparian plant species and measures for erosion and weed control. The revegetation shall protect Thomas Creek both the critical and sensitive stream zone buffer areas. The plan will include the amount of shrubs and trees, will include evergreen trees at least seven (7) feet in height and deciduous trees e at least two (2) inch caliper, and the pounds per acre of the seed mix.

The plan will be submitted with the Building permit for grading. Washoe County Planning and Building Division will consult with Nevada Division of Forestry (NDF) and will be in compliance with the Master Plan policies concerning the appropriateness and viability of the plan for the area to be restored at the project site.

- a. A restoration plan was submitted to Washoe County, USACE and NDEP in compliance with requested information. This plan was reviewed by Nevada Division of Forestry, Washoe County Parks, and Nevada Department of Wildlife.

2. Washoe County Engineering and Capital Projects Division

The following conditions are requirements of the Engineering Program of the Engineering and Capital Projects Division, which shall be responsible for determining compliance with these conditions.

Contact Name: Walt West, (775)328-2310, wwest@washoecounty.us

- a. A complete set of construction improvement drawings, including an on-site grading plan illustrating both completed and proposed grading, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMP's) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), slope stabilization, and mosquito abatement. Placement or removal of any excavated materials shall be indicated on the grading plan. Silts shall be controlled on-site and not allowed onto adjacent properties or into Thomas Creek.
 - a. Property has been managed under a SWPPP since September 2018. A project SWPPP and BMP and permit compliance program has been maintained and the owner has remained informed of SWPPP maintenance needs and compliance issues. Weekly BMP inspections have been performed by NVENV. NDEP and USACE has been party to multiple inspections/on-site meetings. Weekly reports have been maintained and available to Owner and NDEP.
 - b. NVENV understand that the house site grading permit (east half of the property) is being managed by the owner's engineer. However, the SWPPP and BMP program does include this area.
- b. Prior to final approval of a grading permit, the applicant shall obtain all required state and federal permits. The permits may include, but are not limited to, Nevada Division of Environmental Protection's Working in Waterways Permit, Construction Stormwater Permit, 401 Water Quality Certification (or waiver), and U.S. Army Corps of Engineers 404 permit. Copies of all permits shall be provided to Washoe County Engineering Program.
 - a. The applicant has a Working-in-Waterway permit issued by NDEP. The USACE after-the-fact Nationwide Permit has been submitted and is currently being amended to reflect additional channel disturbance. A final USACE action (permit) has not yet been issued.
- c. Prior to final approval of the grading permit, the applicant shall demonstrate that the Cease and Desist order or enforcement cases initiated by Nevada Division of Environmental Protection and the U.S. Army Corps of Engineers (SPK-2018-00705) have been or will be satisfied with the scope of work identified in the grading permit application and plans.
 - a. Applicant has ongoing interactions with the NDEP and USACE related to additional work done (rock placement and channel modification) within the active channel (Below Ordinary High-Water Line). These are being permitted and may be viewed by the State and Federal agencies as additional violation. Currently the USACE is reviewing the revised site report and application.

- d. The Truckee Meadows Regional Stormwater Quality Management Program Construction Permit Submittal Checklists and Inspection Fee shall be submitted with the grading permit application. See engineer's submittal package. SWPPP is a 5-year general permit. Renewal is not required at this time.
- e. A construction estimate shall be prepared by a licensed engineer for the work required to restore the disturbed areas and a financial assurance in the amount 120% of the estimated assessment, as approved by the Washoe County Engineering Program, shall be submitted as part of the grading permit application. The financial assurance shall be returned upon establishment of vegetation to the satisfaction of Washoe County Planning and Building Division. See engineer's submittal package. (NVENV does not know the status of this).
- f. Cross-sections indicating cuts and fills shall be submitted when applying for a grading permit. Estimated total volumes shall be indicated on submitted plans. See engineer's submittal package.
- g. All disturbed areas left undeveloped for more than 30 days shall be treated with a dust palliative. Disturbed areas left undeveloped for more than 45 days shall be revegetated. Specifications for revegetation procedure and seed mix shall be prepared by a licensed landscape architect.
 - a. This applicant has not complied with this condition. He did apply tackifier, mulch, and erosion control BMP, however the long duration of the grading and restoration work has left the majority of the site non-vegetated for more than 45-days. Final seeding and hydromulch was applied in September and October and vegetation appears to be well established.
- g. No fencing is allowed across the drainage easement maintained by Washoe County. Grading permit plan submittal shall accurately reflect the alignment of fencing approved under the previously issued fence permit for the property(s).
 - a. Applicant has a Fencing permit. Obtained by Engineer and has installed the fence pursuant to that permit.
- h. There are two areas of proposed grading along the west property line on steep sloping terrain. The application showing the grading of these areas will provide sufficient detail as to finished grades/slope of land proposed. All proposed grading shall comply with Washoe County Code Chapter 110, Article 438.
 - a. All landscaping is complete along Thomas Creek, per the submitted plan. Slopes are covered in native rock across much of the disturbed hillside area on the north side. Areas that are determined by Washoe County to be considered riprap will be overcast with topsoil and planted with a native upland grass mix.
- i. The FEMA 100-year floodplain, floodway, and/or shaded X boundaries with associated flood elevations shall appear on the site plan to the satisfaction of the County Engineer. Building permits for structures and fill in these areas shall be in conformance with the Washoe County Code Article 416.
 - a. See engineer's submittal package.

3. Nevada Division of Environmental Protection (NDEP)

The following conditions are requirements of the NDEP, which shall be responsible for determining compliance with these conditions.

Contact Name: Katrina Pascual, (775)687-9435, kpascual@ndep.nv.gov

- a. The applicant will obtain a Construction Stormwater Permit and a Working in Waterways permit, as required by NDEP.
 - a. Applicant has ongoing engagement and monitoring by NDEP pursuant to the SWPPP and Working-in-waterway permits. Working in Waterway permit has been closed-out, SWPPP will remain in effect until 70% vegetative cover is attained.

Nevada Division of Wildlife (NDOW)

The following conditions are requirements of the NDOW, which shall be responsible for determining compliance with these conditions.

Contact Name: Mark Freese, (775)688-1145, markfreese@ndow.org

- b. The applicant shall use Best Management Practices for any dirt work (e.g. sediment control devices).
- c. The applicant shall reseed to minimize erosion issues and install sediment control devices on the exposed banks at water line to help vegetation establishment..
 - a. NDOW has not been engaged since the initial submittal package. Agency condition are incorporated into inspection SWPPP and Restoration Plan.

*** End of Conditions ***

Re: Stormwater Construction Permit NVR100000

Site ID: CSW-45222

Project Name: Randy Soule Property

Date: 9/18/2018

Owner: Randy Soule

Operator: Randy Soule

Randy Soule
13390 Welcome Way

Randy Soule
13390 Welcome Way

Reno NV 89511

Reno NV 89511

Renew NO

*** If this is a Renewal Application, NO filing fee is required.**

Submission of this Electronic Notice of Intent constitutes notice that the Permittee identified in this request intends to be authorized by a permit issued by the State of Nevada and has or will comply with the following:

1. The Permittee will comply with all applicable permit conditions,
2. The Permittee understands that implementation of all controls required under by a General Permit will begin at the time the permittee commences work on the project identified in this application;
3. The Permittee understands that failure to submit the required \$200.00 fee and this signed Certification Page within 30 days of the electronic submittal will result in failure for eligible coverage under the General Permit; and,
4. That Nevada Administrative Code (NAC) 445A requires that a Permittee (discharger) who is covered under a general permit shall pay to the Director/Division an annual services fee on or before July 1 of each year that the discharger is covered under that permit; and,
5. To terminate coverage of a General Permit, the Permittee must submit a Notice of Termination ("NOT") form when their facility no longer has any discharges associated with the site identified in this application for General Permit coverage.

Please mail the filing fee of \$200.00 along with this notice to:

Bureau of Water Pollution Control
Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249

For General Stormwater questions, please call 775-687-9442.

For questions regarding other general permits please call 775-687-9492.

Project located in whole or in part on tribal lands: No

NOI Certification Statement

"I hereby certify that I am familiar with the information contained in the application and that to the best of my knowledge and ability such information is true, complete, and accurate."

Owner or Operator Name (Please Print):

RANDY SOULE

Signature (Please use a Non-Black Ink Color):

Randy Soule

Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the provisions of Nevada Administrative Code (NAC) 445A, or by any permit, rule, regulation, or order issued pursuant thereto, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of Nevada Administrative Code (NAC) 445A, inclusive, or by any permit, rule, regulation, or order issued pursuant thereto, is guilty of a gross misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment in the county jail for not more than 1 year, or by both fine and imprisonment.

Attached File: N/A

EXHIBIT D

STORMWATER CONSTRUCTION SITE INSPECTION REPORT



General Information			
Project Name:	Randy Soule Property		
Permit #:	CSW-45222	Location:	13390 Welcome Way Reno, NV
Date of Inspection:	11/13/19	Time:	10:00 AM
Inspector's Name(s):	Kristin Setty		
Inspector's Title(s)	BMP Inspector		
Inspector's Contact Information	775-335-9305 kristin@nvenv.net		
Describe present phase of construction			
Type of Inspection:			
<input checked="" type="checkbox"/> Weekly <input type="checkbox"/> Pre-storm event <input type="checkbox"/> During storm event <input type="checkbox"/> Post-storm event			
Weather Information			
Has there been a storm event since the last inspection? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide: Approximate Amount of Precipitation (in): None Approximate Amount in the last 24 hours (in): None			
Weather at time of this inspection? <input checked="" type="checkbox"/> Clear <input type="checkbox"/> Cloudy <input type="checkbox"/> Rain <input type="checkbox"/> Sleet <input type="checkbox"/> Fog <input type="checkbox"/> Snowing <input type="checkbox"/> Windy <input type="checkbox"/> Other:			
Have any discharges occurred since the last inspection? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, describe:			
Are there any discharges at the time of inspection? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, describe:			

	BMP	BMP Installed?	BMP Maintenance Required?	Comments
1	Wattles	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Properly install or replace wattles along the creek and Welcome Way.
2	Track Out Pad	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Ensure that track out is removed from street daily.
3	Tackifier/Mulch	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
4	Silt Fence	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Maintain silt fence at SE corner along Welcome Way. See notes on recommendations on page 3.



STORMWATER CONSTRUCTION SITE INSPECTION REPORT

	BMP/activity	Observed	Maintenance Required?	Recommendations and Notes
1	Are all stockpiles, slopes and disturbed areas not actively being worked properly stabilized?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Ensure all stockpiles are protected with BMPs.
2	Are natural resource areas (e.g., streams, wetlands, mature trees, etc.) protected with barriers or similar BMPs?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Properly install or replace wattles along the creek.
3	Are perimeter controls and sediment barriers adequately installed and maintained in accordance to the SWPPP?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Ensure silt fence at SE corner of Welcome Way is in working order and free of holes prior to upcoming season.</p> <p>Replace wattles along south end of Welcome Way that are no longer effective (flat, broken, etc...)</p> <p>Wattle along NE corner on Welcome Way is not installed properly and the wattle should extend further south in order to protect the entire curb area.</p> <p>Ensure wattles at golf cart path are properly installed and in position for most effective protection.</p>
4	Are discharge points and receiving waters free of any sediment deposits?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
5	Are storm drain inlets properly protected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Add gravel bags to storm drain channel on Welcome Way.
6	Is the construction exit preventing sediment from being tracked into the street?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Original track out pad is being phased out and new track out pad is located further north on Welcome Way. Please ensure that all track out rock is removed from the street daily.
7	Is trash/litter from work areas collected and placed in covered dumpsters?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
8	Are washout facilities (e.g., paint, stucco, concrete) available, clearly marked, and maintained?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A
9	Are vehicle and equipment fueling, cleaning, and maintenance areas free of spills, leaks, or any other deleterious material?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A

STORMWATER CONSTRUCTION SITE INSPECTION REPORT



10	Are materials that are potential stormwater contaminants stored inside or under cover.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A
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	BMP/activity	Observed	Maintenance Required?	Recommendations and Notes
11	Are non-stormwater discharges (e.g., wash water, dewatering) properly controlled?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
12	Are existing storm drains within the influence of the project protected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Remove/treat noxious weeds on property.

Recommendations/Priorities

1. Wattles along the creek (photos 1-2) and Welcome Way (photos 3) require maintenance or replacement and proper installation to ensure that stormwater is properly retained on site.
2. Silt fence along SE corner along Welcome Way needs maintenance. Ensure it is in working order and free of holes. **The silt fence will be removed after small detention basin and riprap are installed in upcoming weeks.**
3. Add gravel bags to storm drain channel (Welcome Way). (photo 4)
4. Original track out pad is being phased out and new track out pad is located further north on Welcome Way. Please ensure that all track out rock is removed from the street daily. (photo 5)
5. Ensure wattles at golf cart path are properly installed and in position for most effective protection. (photo 6)

CERTIFICATION STATEMENT

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Print name and title: Kristin Setty/BMP Inspector

Signature: *Kristin Setty* Date: 11/13/19

STORMWATER CONSTRUCTION SITE INSPECTION REPORT



STORMWATER CONSTRUCTION SITE INSPECTION REPORT





THOMAS CREEK / SOULE PROPERTY VEGETATION RESTORATION PLAN FOR RIPARIAN FLOODPLAIN AND UPLAND HABITATS

Prepared by:
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Nevada Environmental Consulting, LLC
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EXHIBIT D

Thomas Creek / Soule Property Vegetation Restoration Plan for Riparian Floodplain and Upland Habitats

Introduction

Land disturbance on Washoe County assessor parcels 049-165-06 and 049-165-07 resulting from vegetation removal and debris clearing work conducted during the summer of 2018 has impacted approximately 1.3 acres of upland and riparian zone land disturbance requiring revegetation. This restoration plan was prepared on behalf of the property owner to meet the obligations for permit compliance and requests for information presented by Washoe County, the U.S. Corps of Engineers, and the Nevada Division of Environmental Protection. This restoration plan, once enacted, will result in the restoration of native vegetation to stabilize exposed soils, prevent erosion, enhance habitat, and the protect sensitive aquatic resources of Thomas Creek, and the associated riparian corridor and adjacent upland areas. All proposed work will be implemented on private property owned by the applicant using private funding.

The project site is located in T18N., R. 19E., NW ¼ of the NE ¼ of Section 24, M.D.B.&M. and is accessed from the cul-de-sac at the north end of Welcome Way, 13390 Welcome Way, Reno, NV 89511. The geographic centerpoint of the project is located at latitude at 39.418126 north, longitude 119.8100 east decimal degrees.

Purpose and Need

This plan shall meet the regulatory requirements of multiple agencies while providing clear guidance on the restoration of the project site. The impacts to the riparian and stream corridor of Thomas Creek as a result of vegetation thinning, and debris removal require soil stabilization with native vegetation, protection of in-channel aquatic habitat from impacts of sediment for the duration the restoration period. This plan is needed to comply with the Clean Water Act administer both at the Federal and State levels and Washoe County Stream Protection Ordinance 418, and conditions of WCSUP 18-007.

Historical Conditions

The riparian vegetation along Thomas Creek in the project reach is characterized by mature Yellow Willow, Mountain Alder, and riparian and upland shrubs. Clusters of Quaking Aspen, and Jeffrey Pine, and Black Cottonwoods are common but generally widely spaced. The riparian understory near the creek is dominated by native sedge and juncus riparian vegetation with a mix of native bunch and rhizomatous grasses and multiple introduced species. The shrub understory is mainly Wood's Rose, with less common woody shrubs like golden current (*ribes* spp.). The entire reach of Thomas Creek is challenged by invasive and noxious weeds present along the trail systems and frequently well-established along the riparian-upland ecotone were moisture conditions are favorable.

Due to the proximity of homes along Thomas Creek, wildfire suppression has been implemented for many years. This has led to a riparian overstory that is very mature with dead and decadent vegetation abundant across the floodplain. The dense canopy has limited the growth and diversity of groundcover throughout the system, leading to a reduction in biodiversity, when compared to the more variable areas of Thomas Creek located above the urban interface, on National Forest land.

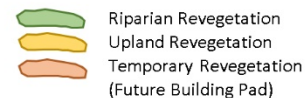
The waters of Thomas Creek are appropriated for irrigation under the Orr Ditch Decree. A point of diversion for these water rights (Claim 718) is located within the project reach and will continue to divert water irrigation water for use on the project parcels.

Existing Conditions

The current conditions (existing condition) of the parcel is reflected in Figure 1, This aerial photo shows the project site with the majority of the riparian canopy removed and land clearing impacts along much of the creek. The stream banks were left unaffected over most of the reach, but several areas totaling approximately 120 linear feet of bank was cleared of vegetation, and one area was reconfigured into an in-channel pool structure with an area of approximately 100 square-feet. Although the surface of the soil was disturbed extensively within the riparian floodplain, much of the root masses of the sedges and bunch grasses remain and showing signs of regrowth. There is evidence of regrowth along the stream corridor from willow and alder that were cut off at ground level, rather than removed with the roots. It is anticipated that preservation of these areas of regrowth will expedite the restoration of the riparian groundcover and canopy. Disturbance in the upland areas resulted in the removal of most of the native vegetation in the effected areas. These areas are currently bare earth and will require restoration with the appropriate upland vegetation palette.



Figure 1.



Regulatory Setting

The project site is current under several local, State, and Federal regulatory process. This Plan will address restoration requirements of the US Army Corps of Engineers (USACE) Reno Regulatory Office, Nevada Division of Environmental Protection (NDEP), and Washoe County Special Use Permit.

The USACE Request for Information letter dated September 5, 2018, (SPK 20018-00705) requires a plan for Restoration for impacts to jurisdictional waters of the United States (WOUS). Portions of Thomas Creek within the project site were graded. These areas are subject to Section 404 regulation for Dredge and Fill within a WOUS. Impacts to lands below the Ordinary High-Water Mark (OHWM) are jurisdictional waters regulated by the USACE.

The Nevada Division of Environmental Protection (NDEP) administers Water of the State, including Thomas Creek for impacts to water quality using the Clean Water Act Section 401 process, which require certification that the proposal actions will be conducted in compliance with Water Quality Standards (Water Quality Certification). NDEP also regulates the encroachment into or alternation of a stream bed using the Working in Waterway Permit. NDEP also issues Construction Stormwater Permits under the Nevada General Construction Stormwater Permit (NVR100000). Stormwater best management practices (BMP's) have been installed and are managed through the Stormwater Pollution Prevention Plan (SWPPP). Compliance with Stormwater Regulations was established with the implementation of the project SWPPP (CSW-45222, NOI filed September 18, 2018).

Washoe County has issued a Special Use Permit (WCSUP 18-0017) for grading at the project site. This after the fact permit was issued to condition the restoration of the site. The conditions established in Special Use Permit, see Attachment C, require site restoration in accordance with County Planning Code and requires the County to consulting with agencies during the review of this Plan.

This plan seeks to meet the requirements of multiple agency requirements and jurisdictions.

The applicable regulatory actions have established different regulatory oversight timelines. These range in duration from initial vegetation coverage attainment required to retire the SWPPP, typically about six months. Report and presentation to the County Board of Adjustment on October 4, 2018 shall be provided in accordance with WCSUP 18-0017. NDEP and USACE regulatory over site has not been established but may extend three to five years depending on the restoration success and agency/permitting reporting requirements.

The project site is appurtenant to two type of water rights. Groundwater rights with a point of diversion on an adjacent parcel also owned by the Soule's can be used for irrigation year-around. Surface water rights are available for direct diversion from Thomas Creek, as decreed in the Orr Ditch Decree administered by the U.S. District Court Water Master and the Nevada State Engineers office.

The target restoration community or reference reach is reflected in the immediately upstream and downstream reaches of Thomas Creek. The concept of a reference reach is often discussed in the context of in-channel alteration. Few areas of the channel within the project reach were affected and the overall morphology, profile and cross-section were generally unaffected in a manner that would cause an alteration in the stability or inhibit the recover potential. Therefore, reference reach in this context is better used to describe the stability, vegetative cover, habitat quality and overall characteristics of the associated upstream and downstream riparian corridor (floodplain).

Restoration Plan

Introduction

This Restoration Plan (Plan) defines a program to meet the regulatory objectives of the USCAE, NDEP and Washoe County. This plan is presented in narrative and design sheet forms to best describe the intent of the restored riparian conditions and demonstrate the method for attaining the desired results. The landowner desires to create a native riparian floodplain environment on his property.

The vegetated floodplain will be irrigated to ensure the desired vegetation and species composition is maintained. Irrigation within Thomas Creek water rights will support riparian vegetation and select upland vegetation using both flood/sprinkler irrigation and drip irrigation during the initial plant establishment period and annually in compliance with the provisions of the available surface and/or groundwater rights. Groundwater rights may be used to supplement surface water irrigation.

Revegetation Strategies and Techniques

The land disturbance that prompted the restoration efforts did not totally devoid the area of existing vegetation. To the degree possible, existing vegetation will be preserved and promoted to expedite site stabilization. The dominate existing vegetation is *Carex nebraskensis*, a native sedge. This strongly rooted plant had the potential to both reseed and spread through rhizomatous root growth. Areas where the surface vegetation was removed currently show signs of regrowth. To the maximum extent practice, considering the final grading plan, this vegetation should be preserved.

Several “islands” of upland vegetation occur within the riparian floodplain. The largest and most mature area is in the center of the north side of the floodplain, approximately twenty-five feet from the stream. This area has upland grasses, sage and rabbit brush, and immature bitterbrush. Although dominated by cheatgrass, Crested Wheatgrass, a common perennial bunchgrass does occur and will be supported with additional seeding of the upland areas and temporary irrigation.

Cheatgrass, *Bromus tectorum*, is ubiquitous throughout the area and is likely to be an ongoing occurrence, as the seed source is uncontrollable. The upland seed mix planted and irrigated in the upland disturbed areas promote perennial bunchgrasses to compete with the cheatgrass, however it should be noted the nature of cheatgrass establishment in disturbed areas is such that it may take several years of establishment of desirable grasses before a competitive effect of native and perennial grasses can compete with the occurrence of cheatgrass.

The upland-riparian buffer areas will serve as transition zones for irrigation dependent plant communities. This area is intentionally narrow to provide a relative narrow transition between the upland, dry, planting areas and the water-obligate riparian community that will require establishment and ongoing irrigation for establishment. This narrow transition zones serves to limit the area with variable soil moisture exploited by noxious weeds. Additionally, a clearly defined riparian to upland boundary promotes a more precisely maintained revegetation areas through clear limits on irrigation and weed control.

The restoration plan illustrates several clusters of native tree species. These large caliper (>2” DBH) trees are to be planted at a depth that allows root access to the existing groundwater in the riparian floodplain, Jeffrey Pine, and Curl-leaf Mountain Mahogany will received temporary irrigation until they are sustainable with natural hydrology.

All tree species planted in the riparian zone will be in direct access to available groundwater. The placement of these trees is outside the OHWM of Thomas Creek to limit near channel disturbance. The canopy at maturity will shade the channel but be not so dense that it inhibits other riparian plants, as currently occurs above and below the restoration site. The goal of increasing vegetation biodiversity in this reach of Thomas Creek requires the canopy to be open enough to promote a diversity of riparian groundcover of grasses, forbes and shrubs.

Revegetation Strategies by Plant Community

There are three plant communities that are being promoted in this restoration plan. The first is the upland soils stabilization community. This plant and seed mix is intended to meet regulatory criteria for soil stabilization using a fast growing upland seed mix. These application areas are scheduled for further development in the near future; therefore, this “temporary” plant community is anticipated to be disturbed and replaced by a permanent landscaping plan within these next few yew years. The second community is a permanent upland community consisting of native uplands species and will resemble the adjacent upland grass-bitterbrush-sage habitat present in nearby upland environments. This community also has upland tree and shrub species that will require temporary irrigation. The third and largest restoration plant community is the riparian floodplain community. This is a combination of facultative wetland species, riparian shrubs, forbes and grasses, and riparian tree species.

Within the riparian plant community existing clusters of upland plants occur (remain). These will likely thrive during the temporary irrigation phase of the restoration and are proposed to be left alone and protected in place during restoration.

Planting Plan

The order of events for revegetation is for live planting to be installed first, then any required irrigation infrastructure, then broadcast seed mix followed by wood/paper mulch and hydromulch.

Seed Mix

The prescribed seed mix shall be hand sown and raked to ensure seed-soil contact is established. Hand or mechanical broadcast seeder shall be used to evenly distribute the prescribed mix within the proper plant community zone. The best practice is to broadcast over the entire seeding area until the required seed quantity is sown. Immediately after seeding the surface soils shall be raked with a metal tined rake to a depth of no less than 1.5-inches. Different species will thrive at different depths, most of the described seed types require a raked depth of 1-2 inches. Raking of the seed will also decrease seed predation by birds and rodents. The seeded areas shall be mulched immediately upon completion of the seeding.

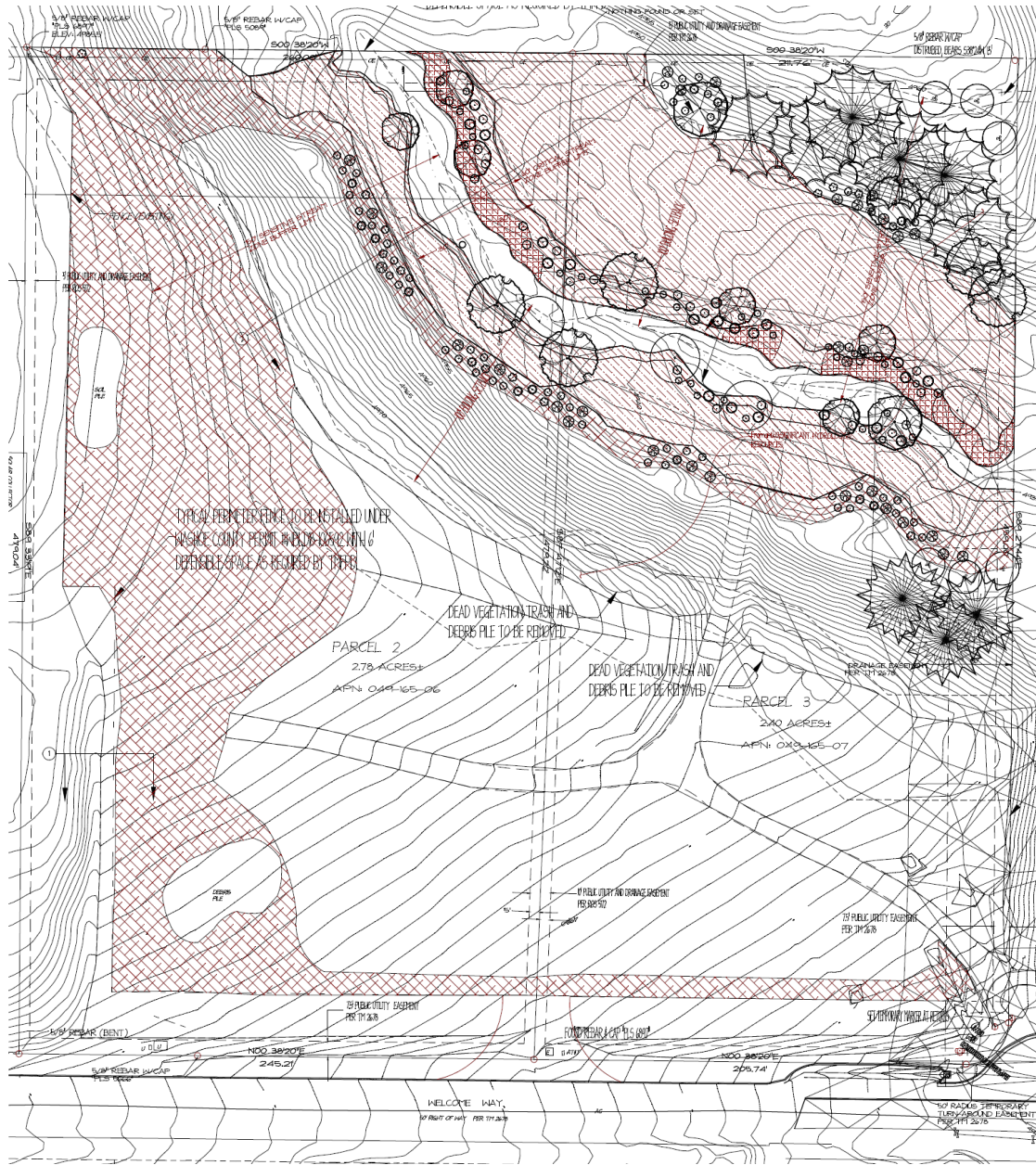
The following riparian and upland seed mixes have been developed in coordination with Comstock Seed to ensure the recommended mix shown below is available for immediate application in the species and quantities desired.

AREA: Thomas Creek riparian	Total Area: 1.00 Acres	MIXED: Yes
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SPECIES	LBS/ACRE	TTL LBS	
WILDRIE BASIN Sierra front source	2.00	2.00	FOB Gardnerville
WILDRIE CREEPING	2.00	2.00	\$/LBS \$25.87
WHEATGRASS STREAMBANK SO	4.00	4.00	\$/ACRE \$468.25
FESCUE SHEEP COVAR	3.00	3.00	Seed Rate
BLUEGRASS SANDBERG COMME	2.00	2.00	LBS/ACRE 18.10
HAIRGRASS TUFTED	0.25	0.25	
CURRENT WAX	0.25	0.25	
SAGEBRUSH LOUISIANA	0.10	0.10	
RABBITBRUSH RUBBER	0.25	0.25	
SAGEBRUSH BIG MOUNTAIN	0.25	0.25	
WOODS ROSE	0.25	0.25	
SEDGE NEBRASKENSIS	0.25	0.25	
WILDFLOWER CUSTOM BLEND	0.50	0.50	
RYEGRASS ANNUAL GULF	3.00	3.00	
AREA TOTALS	18.10	18.10	

AREA: Thomas Creek upland	Total Area: 0.50 Acres	MIXED: Yes
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SPECIES	LBS/ACRE	TTL LBS	
SAGEBRUSH BIG MOUNTAIN	0.50	0.25	FOB Gardnerville
BITTERBRUSH	2.00	1.00	\$/LBS \$14.62
SPINY HOPSAGE	1.00	0.50	\$/ACRE \$376.50
MORMON TEA NEVADA	1.00	0.50	Seed Rate
WHEATGRASS BLUEBUNCH	4.00	2.00	LBS/ACRE 25.75
WHEATGRASS SIBERIAN STABIL	4.00	2.00	
WILDRIE BASIN Sierra front source	2.00	1.00	
FESCUE SHEEP COVAR	2.00	1.00	
INDIAN RICEGRASS RIMROCK	2.00	1.00	
SQUIRRELTAIL PUEBLO	2.00	1.00	
SALTBUSH FOURWING	1.00	0.50	
BLUEGRASS SANDBERG COMME	1.00	0.50	
WILDFLOWER MIX DRYLAND nat.	0.25	0.13	
RYEGRASS ANNUAL GULF	3.00	1.50	
AREA TOTALS	25.75	12.88	




Live Planting

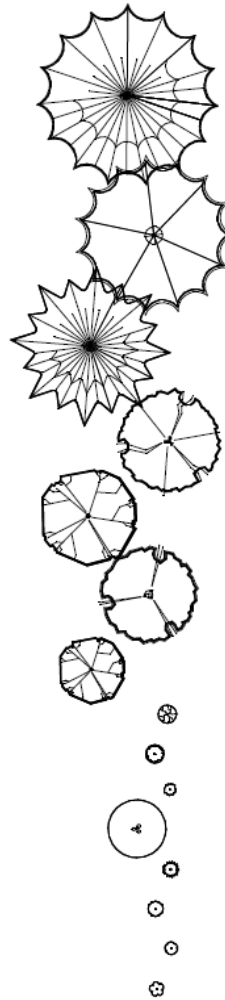
Live plantings shall be planted in a hole with dimensions one and a half times (x1.5) the diameter of the installed plant. So, a two-foot diameter plant shall be placed in a hole at least three-foot diameter. The depth of the hole shall be a minimum of 12-inches greater than the depth of the plan. The base of the plant (top of root ball) shall be at least 4-inches below the finish grade of the ground surface. This ensures that frost heaving does not reject (push-up) the plants. Each live planting (potted plant) shall be removed from its container and the root ball pulled apart to encourage root growth and integration with native soils.

Live riparian trees shall be planted in holes excavated to the depth of the static water table. This requires the holes farther from the stream to be slightly deeper than the holes closer to the stream as the shallow groundwater in this reach of stream is supported by infiltration from the stream into the adjacent floodplain.

 EROSION CONTROL BLANKET (APPROX. 2,700 SF)
APPLICATION:
SCARIFY SOIL, BROADCAST SEED,
RAKE INTO TOP 1/4" OF SOIL, AND
INSTALL (BURLAP) BLANKET STAKED WITH
TRIANGULAR PATTERN EVERY 24" (SEE REVEG. SPECS)

 RIPARIAN SEED MIX (APPROX. 38,000 SF)
APPLICATION:
SCARIFY SOIL, BROADCAST SEED,
RAKE INTO TOP 1/4" OF SOIL, AND
HYDRO MULCH 500 LBS. WOOD FIBER,
500 LBS. WOOD CELLULOSE, 100 LBS TRIPLE TAC (SEE REVEG. SPECS)

 UPLAND SEED MIX (APPROX. 51,000 SF)
APPLICATION:
SCARIFY SOIL, BROADCAST SEED,
RAKE INTO TOP 1/4" OF SOIL, AND
HYDRO MULCH 500 LBS. WOOD FIBER,
500 LBS. WOOD CELLULOSE, 100 LBS TRIPLE TAC (SEE REVEG. SPECS)



PLANT LEGEND

COMMON NAME	BOTANICAL NAME	SIZE	QTY
JEFFREY PINE	<i>Pinus jeffreyi</i>	6'-8' HT	3
LIMBER PINE	<i>Pinus flexilis</i>	6'-8' HT	3
SINGLELEAF PIÑON	<i>Pinus monophylla</i>	6'-8' HT	3
FREMONT COTTONWOOD	<i>Populus deltoides</i> var. <i>fremontii</i>	2' CALIPER	3
RIVER BIRCH	<i>Betula occidentalis</i>	2' CALIPER	2
SERVICEBERRY	<i>Amelanchier</i> spp.	2' CALIPER	3
QUAKING ASPEN	<i>Populus tremuloides</i>	2' CALIPER	6
BITTERBRUSH	<i>Furcraea tridentata</i>	5 GAL	30
CHOCHECHERRY	<i>Prunus virginiana</i>	5 GAL	21
ELDERBERRY	<i>Sambucus</i> spp.	5 GAL	26
MT. MAHOGANY, CURLEAF	<i>Cercocarpus ledifolius</i>	5 GAL	6
MORMON TEA	<i>Ippedia</i> spp.	5 GAL	8
SERRA CURRANT	<i>Ribes nevadense</i>	5 GAL	26
SNOWBERRY	<i>Symphoricarpos</i> spp.	5 GAL	48
GUALUBUSH	<i>Atriplex Lentiformis</i>	5 GAL	10

Soil Stabilization

Small Woody Debris (wood mulch)

Wood mulch is available from material generated on-site and may be used throughout the project area to aid in soil stabilization. The wood mulch generated from mastication of the woody debris removed from the project areas should be adequately mulched/shredded and dried to avoid reestablishment of willows present in the mulch. All noxious and invasive weeds should be removed from the mulch generated on-site, and any imported mulch must be weed-free.

Hydromulch

Multiple types of hydromulch are acceptable from a regulatory perspective. The requirement for mulch is to address exposed soil stabilizations. Due to the proximity of the stream corridor, and the expressed desire of the client to generate a native restoration of the area. A wood-fiber mulch or a 50:50 mix of wood and paper fiber, should be used and applied at rate of approximately 1,500 pounds per acre. Hydromulch shall be applied after the reseeding and used as a protective cover for applied seed.

Tackifier

A polymer tackifier shall be applied in combination with the hydromulch per manufacturer's specification. During temporary stabilization a tackifier may be applied without a mulch additive to meet the regulatory timeline for stabilization of disturbed soils. Tackifier use is effective for short-term stabilization, however in areas where frequent pedestrian use or other disturbance occur its effectiveness is limited.

Permanent BMP's

Several of the BMP's installed to address the temporary stabilization needs described in the project's Stormwater Protection Plan (SWPPP) may be left in place to aid in the long-term vegetation and stability along the creek. The 8" weed-free straw wattle placed along the OHWM shall be left in place and allowed to degrade naturally. This will prevent sediment loss to the stream that may occur if the wattle were to be removed. Other permanent BMP's consist of grading of the floodplain to capture stormwater and pond it on-site. Upon establishment of the vegetation at a density of 70% vegetative cover, all silt fences may be removed.

SWPPP/ Temporary BMP's

A project SWPPP (CSW 45222) has been implemented and maintained for the project area. The SWPPP NOI was initiated on September 18, 2018 and has been maintained in good standing since that time. Project consultants and NDEP have conducted weekly inspections of the site and have notified the property owner of recommended improvements and required maintenance.

Weed Management

Management of noxious weeds is required for the duration of the restoration period on into the future to establish and maintain a native riparian vegetation along Thomas Creek. Noxious weed identification and management practices are well documented in many publications focused on local noxious weed management practices.

Project Phasing

The restoration of the disturbed areas was delayed while county permitting associated with the grading permits and landscape architecture work was being completed. Because this is an after-the-fact restoration plan, the typical pre-disturbance/pre-project project planning and plant salvage was not a part of this plan. The following project phases are discussed below.

Phase 1 – Initial Site Stabilization. Site stabilization work was completed in September 2018 and on-going application of tackifier and hydromulch has been reapplied periodically to comply with time requirements of disturbed areas and stockpiles. Since that time no further ground disturbance has occurred near the stream. The initial site stabilization consisted of silt fence and weed-free straw wattle installation, application of tackifier, and general site cleanup.

Phase 2 – Site Grading and Replanting. In compliance with the Washoe County Grading Permit (reference TBD), the project site will be reseeded and replanted pursuant to the planting palettes presented above and per the location shown on restoration plan figures.

Phase 3 – Monitoring. Project monitoring is required to inform the owner of maintenance needs, replacing of failed seeding, and/or die-offs of planted live materials in order to achieve the restoration goals. Existing weekly, pre-storm, and post-storm SWPPP maintenance is required until the closure of the SWPPP at 70% vegetation cover (estimated to be 6-12 months). To monitor the success of new vegetation establishment, monthly inspections shall be conducted during the winter months and bi-weekly monitoring is needed during the irrigation season to ensure that the restoration plantings and seeded areas are adequately irrigated. Revegetation monitoring may be combined with the ongoing SWPPP monitoring to achieve the most efficient plan implementation.

Monitoring data collected during field visits shall include plant health/survivorship of live-plantings, establishment and growth stage of reseeded areas. Identification of erosion induced revegetation impacts, and the impact of pedestrian induced impacts associated with ongoing trespass issues.

Phase 4 – Reporting. Multi-agency compliance monitoring shall be conducted as specified in the Washoe County Special Use Permit, and anticipated USACE and NDEP orders.

A monthly inspection report shall be made available to County or State/Fed agency personnel upon requirement.

Monitoring

Monitoring of revegetation planting shall occur periodically to ensure the desired growth is becoming established and the temporary and long-term irrigation is correctly applied. The initial goal of the monitoring is to determine if the site achieved a 70% vegetative cover in order to close out the SWPPP and the site is adequately stabilized to prevent sediment transport to the stream system.

Monitoring shall consist of survivorship assessment of all installed plants. Calculation of the vegetative cover using a line-intercept method will determine plant establishment success. If a line-intercept is used to calculate percent coverage, multiple transects shall be located in both the riparian and upland planting areas.

The Washoe County Special Use Permit requires an annual report on the vegetation establishment to be submitted in October 2019. It is recommended that annual reporting be submitted to the USACE until a 70% vegetative cover is maintained for a period of two years post-installation (2019, 2020 and 2021). This will be provided assurance to the Corps that the site is adequately stabilized, and the normal practice of irrigation is established. Because this site is planned for irrigation of existing water rights, the typical USACE condition that the site should perform without assistance of human caused irrigation should be waived, recognizing this site is a private parcel utilizing native landscaping, but has historically been irrigated with Thomas Creek water to some extent.

Adaptive Management

Periodic inspection of the installed planting shall be conducted by the owner and restoration team. Based upon this inspection replanting and/or reseeded may be required. Species selection shall generally conform to this plan, however if other seed stock or plant stock is used it shall be documented as an adaptive management action. Some species will be more successful than others based on site specific conditions. To the extent possible species diversity should be considered when selecting adaptive management actions. The objective of the adaptive management actions should be to enhance plant establishments and site stability, while also ensuring a high degree of biodiversity and resist the restoration site from reverting to the limited diversity of the adjacent stream sections.

Vegetation Maintenance

The proposed live planting shall be maintained in the prescribed numbers for a period five years. This ensures that the plants become established for long-term viability and are drought resistant.

Irrigation

Irrigation water will be supplied as required from one of two sources. Surface water rights (permit 72166, Certificate 18258) during the decreed irrigation season of use extending April 1st through October 15, Thomas Creek rights (Orr Ditch Decree Claim 719), and/or permitted groundwater rights (Temporary Change Application No. 88419) which are available anytime during the year. The total of the two rights may not exceed the permitted duty described in the permit and/or Decree of 5.00 acre-feet per acre.

Upland Vegetation

Sprinkler and drip irrigation of upland vegetation shall be provided to ensure initial plan establishment. The period of irrigation of upland native bunch grass and shrubs shall be limited to approximately 18 months, precipitation dependent. It is the objective of the plan to discontinue regular irrigation of upland habits to discourage unwanted weeds and encroachment of non-upland vegetation into upland environments.

Drip irrigation of trees and large shrub areas in the upland may be required for several years and shall be provided at a minimum of three years from the time of planting. This establishment irrigation is provided to allow time for tree roots to fully develop and access the natural hydrology along the riparian corridor.

Riparian Floodplain

Irrigation of the riparian floodplain will utilize two sources of water rights. The applicable water rights consist of surface water rights decreed in the federally administered Orr Ditch Decree and will be diverted from Thomas Creek at the upper (south) end of the property and applied through a combination of sprinkler and flood irrigation. Supplemental rights available for use throughout the project parcels are codified in permit #88419 administered by the Nevada State Engineers office. Both water rights require annual reporting to the appropriate agency to maintain good standing. Groundwater rights are available for application anytime during the year, whereas the surface water rights from Thomas Creek are only available during the decreed irrigation season extending from April 1 through October 15th of each year, subject to restriction issued by the U.S. Federal Court Water Master's Office.

U.S. Army Corps of Engineers
South Pacific Division



Nationwide Permit Pre-Construction Notification (PCN)

O. To be filled by the Corps		
Application Number:	Date Received:	Date Complete:

1. Prospective Permittee and Agent Name and Addresses (see Instructions)

a. Prospective Permittee

First: Randy Soule
Private landowner Email: Randy@encorenv.com
 Company:
 Address: 13390 Welcome Way
State - NV Zip 89511 State: NV Zip: 89511
 Phone (Residence/Mobile) - (775) 762-2797 Phone (Business) -

b. Agent (if applicable)

First Matthew Middle: M. Last: Setty
 Company Nevada Environmental Consulting, LLC. Email Address: matt@nvenv.net
 Address: 216 California Ave. #763 City- Reno State- NV Zip 89509
 Phone (Residence/Mobile) (775) 544-1149 Phone (Business) (775) 335-9305

c. Statement of Authorization: I hereby authorize Matthew Setty, to act in my behalf as my agent for the proposed activity. (Optional, see instructions)

10/03/2018

 Signature of Applicant

 Date

This form integrates requirements of the U.S. Army Corps of Engineers (Corps) Nationwide Permit Program within the South Pacific Division (SPD). Boxes 1-10 must be completed to include all information required by General Condition 32. Box II (or other sufficient information to show compliance with all General Conditions) must be completed for activities in Arizona, California, Nevada, and Utah, and is recommended for activities in Colorado and New Mexico. If additional space is needed, please provide as a separate attachment. Please refer to the Instructions for the South Pacific Division Nationwide Permit PreConstruction Notification (PCN) (Instructions) for instructions for completing the PCN, as well as additional information on the attachments and tables included with this PCN that may be used.

2. Name and Location of the Proposed Activity (see Instructions)

The proposed work would involve multiple-single and complete projects. See attachment for the information required in Boxes 2 through 10, and 1 1, if applicable.

a. Project Name or Title:

Thomas Creek Floodplain Restoration - (After-the-Fact)

b. County, State:

Washoe, Nevada

c. Name of Waterbody: Thomas Creek, Truckee River Watershed

d. Coordinates:

Unknown (please provide other location descriptions below)

Latitude - 39.418200

Longitude - -119.79800

e. Other Location Description (optional, see instructions):

T18N, R19E, Section 24 NW1/4, NE1/4.

APN 049-165-06, 13430 Welcome way

APN 049-165-07, 13410 Welcome way

f. Driving Directions to the site (optional, see instructions):

Access site from west side of the cul-de-sac at the north end of Welcome Way.

3. Specific NWP(s) you want to use to authorize the proposed activity (see Instructions)

4. Description of the Proposed Activity (see Instructions)

a. Complete description of the Proposed Activity:

After-the-fact request - Landowner removed vegetation within the stream corridor and reconstructed portions of the creek that were impacted by flood debris (winter of 2018 flooding events). Removal of vegetation and debris impacted stream bank below OHWM in several areas along the 400' project length. System is currently stabilized with appropriate sediment control BMP's. Restoration including native riparian seed, mulch and live plantings, temporary and permanent irrigation and recontouring of the floodplain outside of the OHWM, pursuant to Washoe County Special Use and Gradient Permits. A SWPPP has been filed with NDEP and site inspections by NDEP have occurred.

b. Purpose of the Proposed Activity:

Remove flood debris and trash deposited due to flood water backup at downstream culvert, reduce fire risk association with debris and dead vegetation and weeds. Restore riparian corridor impacted by flood debris, homeless camps, and lack of maintenance.

c. Direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands and other waters of the U.S. expected to result from the NWP(s) activity:

Removal of vegetation has created temporary impacts to the riparian corridor. No loss of waters of the US have resulted from the land and channel disturbance. Approximately 1.4 acres of land was cleared of vegetation within the riparian floodplain. Riparian canopy of approximately 60' in total width has been removed, (yellow willow and mountain alder were removed, pile, aspen cottonwood and pine trees remain, much of the native understory consisting of woods rose and riparian grasses remain on the stream banks. Approximately, 380-feet of riparian coordinator was impacted by the project. No wetlands are present within the riparian zone of this reach of Thomas Creek. The applicant has relocated rocks to provided erosion protection, altered the stream bed over an area of approximately 700 ft² (0.016ac). This area includes a portion of the stream that was diverted back into its pre-flood alignment.

d. Description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity:

A Stormwater Pollution Protection Plan (SWPPP) in full compliance with eh State of Nevada General Construction Stormwater Permit has been obtained and all appropriate BMP's have been installed. A restoration plan that includes native riparian and upland seed mixes, live planting of native plants is proposed, all disturbed areas will be mulched with 1 ,500 lbs/ac wood mulch to stabilize disturbed soils. Weekly BMP monitoring will be conducted until vegetation establishments meets NDEP stabilization standards of 70% vegetative cover. landowner will utilize Orr Ditch Decree - Thomas Creek Water Rights for plant establishment irrigation.

e. Any other NWP(s), Regional/Programmatic General Permit(s) or Individual Permit(s) used or intended to be used to authorize any part of the proposed activity or any related activity:

Landowner is in the process of obtaining a Special Use Permit from Washoe County related to Grading, Fence Construction and impacts within the Sensitive (150') and Critical (30') of the stream centerline. SWPPP # CSW-45222 is issued and is implemented (SWPPP). A temporary Change in Place-of-Use of Claim 718 (Thomas Creek water right) is in-process to allow irrigation of APN 049-165-07.

f. Have sketches been provided containing sufficient detail to provide an illustrative description of the proposed activity? Yes, Attached

- N/A; The activity is located in the Los Angeles District boundaries of Arizona and California, See Attachment 1
- N/A, The activity is located in the San Francisco District boundaries of California, See Attachment 2
- N/A, The activity is located in the Sacramento District boundaries of California, Nevada, or IJtah, See Attachment 3

5. Aquatic Resource Delineation (see Instructions)

a. Has a delineation of aquatic resources been conducted in accordance with the current method required by the Corps? Yes @ No

If yes, please attach a copy of the delineation

Note: If no, your PCN is not complete. In accordance with General Condition 32, you may request the Corps delineate the special aquatic sites and other waters on the project site, but there may be a delay. In addition, the PCN will not be considered complete until the delineation has either been submitted to or completed by the Corps, as appropriate.

b. If a delineation has been submitted, would you like the Corps to conduct a jurisdictional determination (preliminary or approved)? Yes NO

If yes, please complete, sign and return the attached Appendix 1 — Request for Corps Jurisdictional Determination (JD) sheet or provide a separate attachment with the information identified in Appendix 1 .

6. Compensatory Mitigation (see Instructions)

a. Will the proposed activity result in the loss of greater than 1/10-acre of wetlands? Yes

If yes, describe how you propose to compensate for the loss of each type of wetland:
No wetlands were lost as a result of this activity. All impacts to Waters of the US are temporary impacts, with no net loss.

Note: for the loss of less than 1/10 acre of wetlands, or if no compensatory mitigation is proposed, the Corps may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

b. Will the proposed activity result in the loss of streams or other open waters of the U.S.? Yes @ No

If yes, provide a description of any proposed compensatory mitigation for the loss of each type of stream or other open water: No loss of stream or open water resulted from project activities. This project resulted in the restoration of stream and open water habitat adversely impacted by flood debris and sedimentation. Impacts to upland and riparian vegetation are temporary and restoration of native riparian vegetation is planned. Work plan for restoration has been approved by Washoe County pursuant to Grading Permit and Special Use Permit.

No work below OHWM is planned during the restoration phase. Impacts related to vegetation removal below the OHWM have been stabilized by existing native vegetation and will be further augmented by riparian seed application.

Note: if no compensatory mitigation is proposed, the Corps may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in no more than minimal adverse environmental effects.

7. Endangered Species Act (ESA) Compliance (see Instructions)

a. For non-Federal permittees (if Federal permittee, check N/A and skip to 7(d)): N/A

(1) Is there any Federally listed endangered or threatened species or critical habitat that might be affected or is in the vicinity of the activity? **NO** (Closest spp. is Lahontan Cutthroat Trout in the Truckee River)

(2) Is the activity located in designated critical habitat for Federally listed endangered or threatened species? **NO**

If yes to either (1) or (2), include the name(s) of those endangered or threatened species that might be affected by the proposed activity or might utilize the designated critical habitat that might be affected by the proposed activity:

1 .

2.

3.

4.

5.

6.

If no to both (1) and (2), proceed to Box 8.

Note: If yes to either (1) or (2), note per General Condition 18(c), you shall not begin work on the activity until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.

b. Has information sufficient to initiate consultation with the U.S. Fish and Wildlife Service/National Marine Fisheries Service for compliance with Section 7 of the ESA been prepared? O Yes @ No

If yes, please attach a copy of the information.

c. Additional information you wish to provide regarding compliance with the ESA, if applicable:
In-stream conditions were temporarily impacted by the initial vegetation disturbance. Portions of stream alteration (<300 sq.ft) and approximately 125-feet of stream bank were disturbed of vegetation. Channel substrate materials and bank materials remain consistent with pre-impact conditions. All impacts to aquatic habitat and water quality were limited to the period of disturbance. This reach of Thomas Creek does not contain in-channel vegetation that supports any ESA species.

d. For Federal permittees, you must provide documentation demonstrating compliance with ESA as a separate attachment.

8. Historic Properties (see Instructions)

a. For non-Federal permittees (if Federal permittee, check N/A and skip to 7(d)):N/A

(1) Is there a known historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places that the NWP may have the potential to affect? **NO**

If yes to (1), state which historic property may have the potential to be affected by the proposed activity:

- | | |
|----|----|
| 1. | 2. |
| 3. | 4. |
| 5. | 6. |

OR

A vicinity map indicating the location of the historic property is enclosed

(2) If no to (1), describe the potential for the proposed work to affect a previously unidentified historic property:
A site survey was conducted by qualified Archaeologist from Kautz Environmental and a negative findings report was prepared and submitted tot he USACE.

Note: If yes to (1), note per General Condition 20(c), you shall not begin the activity until notified by the Corps that the activity has no potential to cause effects or that consultation under Section 106 of the National Historic Preservation Act NHPA has been com leted_

b. Has information sufficient to initiate consultation with the State Historic Preservation Officer/Tribal Preservation Officer for compliance with Section 106 of the National Historic Preservation Act (NHPA) been prepared?

Yes, See Cultural Resource Letter attached.

If yes, lease attach a copy of the information.

c. Additional information you wish to provide regarding compliance with the NHPA, if applicable:
A cultural resource Survey has been conducted by Kautz Environmental Consultation. A letter stating negative finding is attached.

d. For Federal permittees, you must provide documentation demonstrating compliance with NHPA in a separate attachment.

1 1

9. National Wild and Scenic Rivers (see Instructions)

a. Will the proposed activity(s) occur in a component of the National Wild and Scenic River System or 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?

Yes, in a component of a National Wild and Scenic River System; **NO**

Yes, in a "study" river **NO** If yes, identify the Wild and Scenic River or the "study river"

Note- per General Condition 16(b), you shall not begin the NWP activity until notified by the Corps that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status. If you have received written notification from the Federal agency, please attach the correspondence.

10. Section 408 Permissions (see Instructions)

a. Will the NWP also require permissions from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project? **NO**

If yes, have you received Section 408 permission to alter, occupy, or use the Corps project? __Yes __No

If yes, please attach the Section 408 permission

If yes, note per General Condition 31, an activity that requires Section 408 permission is not authorized by NWP until the Corps issues the Section 408 permission to alter, occupy, or use the Corps project, and the Corps issues a written NWP verification.

1 1 . Compliance with NWP General Conditions (see Instructions)

Check	General Condition	Rationale for Compliance with General Condition
	1. Navigation	Not a navigable waterbody
	2. Aquatic Life Movements	Removal of debris and restoration of channelized flow has improved/restored aquatic life movement. Thomas Creek contains geomorphic and anthropogenic fish barriers below and above this location.
	3. Spawning Areas	No affected, NDOW stocks fish above the project site.
	4. Migratory Bird Breeding Areas	
	5. Shellfish Beds	

x	6. Suitable Material	Native materials, no import of fill below OHWM was conducted. Fill in the north areas were channel routing occurred was from on-site sources.
	7. Water Supply Intakes	Landowner has a permitted Point of Diversion in the stream channel associated with decreed water rights. Project restored access to the Point of Diversion by removing vegetation to allow access.
	8. Adverse Effects from Impoundments	No impoundments of water, Temporary loss of canopy will likely result in temperature impacts to stream corridor. High gradient fast moving stream flow will be minimally affected.
	9. Management of Water Flows	No change in water flow. Removal of flood debris has restored flood-flow capacity to this reach of Thomas Creek.
	10. Fills Within 100-Year Floodplains	project resulted in no fill being placed within the 100-year floodplain.
x	11. Equipment	No further mechanized equipment is proposed within the riparian area. Equipment used during construction has been subject to a Working in water way permit issued by NDEP.

	12. Soil Erosion and Sediment Controls	Sediment control and site stabilization has been implemented pursuant to the project SWPPP. A weekly inspection has been conducted as required by the Washoe County SUP. Reports have been provided to Applicant and NDEP.
	13. Removal of Temporary Fills	N/A
	14. Proper Maintenance	Future maintenance will be conducted pursuant to Federal, State and County regulations. Other permits require maintenance of site restoration until stabilization is achieved.
	15. Single and Complete Project	After-the-Fact NWP Application for actions conducted in June-July 2018.
	16. Wild and Scenic Rivers	N/A
x	17. Tribal Rights	Private land
	18. Endangered Species	See Box 7 above.

	19. Migratory Bird and Bald and Golden Eagle Permits	N/A - project impacts were conducted outside fo the nesting seasons and no nesting habitat was identified on/near the project site.
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	20. Historic Properties	See Box 8 above.
	21. Discovery of Previously Unknown Remains and Artifacts	Cultural Resource Survey completed by Kautz Environmental
	22. Designated Critical Resource Waters	No
	23. Mitigation	See Boxes 4(d) and 6 above.
	24. Safety of Impoundment Structures	

	25. Water Quality, including status of Section 401 Water Quality Certification	No further in-channel activities are proposed. Therefore a 401 may not be required to assure water quality is maintained during construction. Weekly BMP compliance inspections have assessed site impact on erosions and water quality.
	26. Coastal Zone Management, including status of CZM Consistency Certification from the State of California (for projects in or affecting the Coastal Zone)	N/A
	27. Regional and Case-by-Case Conditions	After the fact request - Landowner was unaware of regulations requiring permit approval of activities.
	28. Use of Multiple Nationwide Permits	N/A
	29. Transfer of Nationwide Permit Verifications	N/A
	30. Compliance Certification	N/A

	31. Activities Affecting Structures or Works Built by the United States	See Box 10 above.
	32. Pre-Construction Notification	No notification was provided to local, State or Federal agencies. This is an after-the-Fact notice for work done in violation of the applicable permitting process and County Special Use Permit requirements.



Please reference each section accordingly.

1. Form of PCN (Regional Condition B(I))

Have you submitted a completed South Pacific Division PCN Checklist or an application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions?

Yes, see attached No

Note: If you check no, your PCN will be considered incomplete.

2. Avoidance and Minimization (Regional Condition B(I)(a))

Written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S.:

The majority of the work conducted was outside of the OHWM. The direct impacts to the stream channel resulting from vegetation removal was conducted with minimal water quality BMP's. Post-disturbance site BMPS have been implemented and maintained in compliance with State BMP/SWPPP requirements and regular inspections have been conducted.

3. Drawings (Regional Condition B(I)(b))

The following drawings are enclosed:

[3 Plan-View drawing clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the U.S. on the site

[3 Cross-Section view drawings clearly depicting the location, size and dimensions of the proposed activity, as well as the location of delineated waters of the U.S. on the Site

The plan-view and cross-section view drawings contain the following

Title block:No

Legend and scale: Yes No

Amount (in cubic yards) of fill in Corps jurisdiction (including permanent and temporary fills/structures): Yes No

Area (in acres) of fill in Corps jurisdiction (including permanent and temporary fill structures):No

The ordinary high water mark (non-tidal waters) or mean high water mark and high tide line (tidal waters) shown in feet based on National Geodetic Vertical Datum (NGVD) or other appropriate reference elevation: C] Yes C] No

Do all drawings follow the South Pacific Division February 2016, Updated Map and Drawing Standards for the South Pacific Division Regulatory Program, or most recent update? C] Yes @ No

If no, describe why this requirement is proposed to be waived):

Site map prepared by the project engineer for the purposes of obtaining a Washoe County Grading Plan has been attached. These plans illustrate the stream channel and the associated floodplain restoration plan.

Attachment 3: Additional PCN Requirements for Sacramento District Boundaries of California, Nevada, and Utah

This attachment contains additional information required to be submitted with the PCN for proposed activities within the Sacramento District Boundaries of California, Nevada, and Utah. You must submit the completed attachment, or other attachment containing the required information, for a complete PCN per Sacramento District Regional Condition B(1). For multiple single and complete projects, provide the information identified below for each single and complete project. If additional space is needed, provide as an attachment to the form, and

4. Photographs (Regional Condition B(l)(c))

Have you enclosed numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the site, and all waters of the U.S. proposed to be avoided on and immediately adjacent to the project site?

Yes No N/A (describe why):

Is the compass angle and position of each photograph identified on the plan-view drawing(s) identified in Box 3?

Yes No N/A (describe why):

5. Delineation of Aquatic Resource (Regional Condition B(l)(d))

Have you enclosed a delineation of aquatic resources completed in accordance with the Sacramento District's Minimum Standards for Acceptance of Aquatic Resources Delineation Reports, or updated standards adopted by the Sacramento District?

Yes No N/A

If no, describe why this requirement is proposed to be waived:

This project resulted in the bank disturbance along the creek. No pre-disturbance information exists for this project. The site condition at the time the after-the-fact permitting effort was initiated showed not difference between upstream and downstream aquatic conditions.

6. Best Management Practices (BMPs) (Regional Condition B(l)(e))

Describe all proposed BMPs and highly visible markers proposed to be used during construction of the proposed activity, as required by Regional Conditions C(3) and C(4). If no BMPs and/or highly visible markers are proposed, describe why their use is not practicable or necessary:

See Attached: Project SWPPP #CSW-45222. All BMP illustrated in the SWPPP document have been implemented and are being maintained on the project site.

7. Temporary Access and Construction (Regional Condition B(l)(f))

The proposed activity would not result in the placement of dredged or fill material into waters of the U.S. for temporary access and construction. (Skip to Box 8)

a. The reasons why avoidance of temporary fill in waters of the U.S. is not practicable:

N/A

b. Description of the proposed temporary fill, including the type and amount (in cubic yards) of material to be placed and length of time temporary fill is estimated to remain in place):

c. The area (in acres) of waters of the U.S. and for drainages (e.g. natural or relocated streams, creeks, rivers), the length (in linear feet) where the temporary fill is proposed to be placed:

N/A

d. Proposed plan for restoration of the temporary fill area to pre-project contours and conditions, including a plan for the re-vegetation of the temporary fill area, if vegetation would be removed or destroyed by the proposed temporary fill (If a separate plan has been developed, reference and attach):

8. Dewatering Activities (Regional Condition B(l)(g))

@ The proposed activity would not result in dewatering activities that propose structures or fill in waters of the U.S. that require authorization from the Corps. (skip to Box 9)

Note that any temporary fills in waters of the IJS_ associated with dewatering activities must be discussed in Box 7.

a. The proposed method for dewatering (If a separate plan has been developed, reference and attach):

b. The equipment that would be used to conduct dewatering activities (If a separate plan has been developed, reference and attach):

c. The length of time the area is proposed to be dewatered (If a separate plan has been developed, reference and attach):

N/A

d. The area (in acres) and length (in linear feet) in waters of the U.S. of the structure and/or fill (If a separate plan has been developed, reference and attach):

N/A

e. The method for removal of the structures and/or fill (If a separate plan has been developed, reference and attach):

N/A

f. The method for restoration of the waters of the U.S. affected by the structure or fill following construction (If a separate plan has been developed, reference and attach):

N/A

9. New or Replacement Linear Transportation Crossings (Regional Condition B(l)(h))

The proposed activity would not result in the construction of a linear transportation crossing. (skip to Box 11)

[3 The proposed linear transportation crossing would not alter the pre-construction course, condition, capacity and location of open waters. Information to support this can be found in the South Pacific Division PCN form, attachments, and drawings. (Skip to Box 10)

Justification that the proposed activity would result in a net increase in aquatic resource functions and services:

N/A

10. Replacement Linear Transportation Crossings (Regional Condition B(l)(i))

@ The proposed activity would not result in the construction of a replacement linear transportation crossing. (skip to Box 11)

The proposed replacement linear transportation crossing would not result in a reduction in the pre-construction bankfull width and depth of open waters of the U.S. at the crossing, as compared to the upstream and downstream open waters. Information to support this can be found in the South Pacific Division PCN form, attachments, and drawings. (Skip to Box 11)

a. Information on why it is not practicable to approximate the pre-construction bankfull width of the upstream and downstream open waters:

N/A

b. Justification that the proposed reduction in the pre-construction bankfull width would result in a net increase in aquatic resource functions and services:

11. Waiver of linear foot limitations (Regional Condition B(l)(j))

(for NWP 13, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, and 54)

C] The proposed activity would not require a waiver of the linear foot limitations for NWP 13, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, or 54. (skip to Box 12)

a. A narrative description of the stream (including known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characteristics observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line or scour marks); a description of the adjacent vegetation community and a statement regarding the wetland status of the adjacent areas (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information):

The unauthorized disturbance of the Thomas Creek Channel resulted in vegetation removal along 125 LF of the bank and the expansion of the aquatic habitat (pool) of approximately 200 square-feet. The bank disturbance resulted from soil disturbance associated with the removal of willow and alder located near the stream bank. The channel substrate was altered in the area of the pool structure (200 SF). No fill was placed within the OHWM.

b. Analysis of the proposed impacts to the waterbody, in accordance with General Condition 32 and Regional Condition B(l):

Impact to the channel were temporary in nature and resulted in the likely discharge of sediment and turbidity associated with the vegetation removal. Due to the soil characteristics along this reach of the channel the turbidity impacts were short-lived as the local soil has a low fine-particle yield.

Pre-disturbance ground vegetation (carex, grasses and sedges) have regrown during the summer of 2018 and stabilized the disturbed areas below OHWM. The attached restoration plan emphasis on the restoration of native vegetation throughout the floodplain is designed to stabilize floodplain sediment.

c. Measures taken to avoid and minimize losses to waters of the U.S., including other methods of constructing the proposed activity(s):

Project was the removal of vegetation for fire-fuel and flood debris maintenance only. Project did not result in a loss of stream or wetland habitats. All impact of the Stream channel are/were temporary.

d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be offset, in accordance with 33 CFR 332:

As a response to violation of Washoe County Stream ordinance, a Special Use Permit has been issued and requires native plant restoration and on-going reporting to Washoe County.

12. NWP 23 Activities (Regional Condition B(l)(k))

@ The activity is not proposed under NWP 23. (skip to Box 13)

[3 The following are enclosed:

A copy of the signed Categorical Exclusion Document.

A copy of the final agency determination for compliance with Section 7 of the Endangered Species Act, in accordance with General Condition 18.

A copy of the final agency determination for compliance with Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, in accordance with Regional Condition B(12)

A copy of the final agency determination for compliance with Section 106 of the National Historic Preservation Act, in accordance with General Condition 20.

13. NWP 27 Activities (Regional Condition

@ The activity is not proposed under NWP 27. (skip to Box 14)

Justification that the proposed activity would result in a net increase in aquatic resource functions and services:

14. NWP 29 or 39 Activities (Regional Condition B(l)(m))

@ The activity is not proposed under NWP 29 or 39. (skip to Box 15)

@ The activity is proposed under NWP 29 or 39, but does not propose channelization or relocation of perennial or intermittent drainages. (skip to Box 15)

Justification that the proposed activity would result in a net increase in aquatic resource functions and services:

15. Construction Activities in Standing or Flowing Waters (Regional Condition B(l)(n))

@ The activity does not propose construction in standing or flowing waters, as construction would occur when the area is naturally dewatered. (skip to Box 16)

The activity does not propose construction in standing or flowing waters, as the area would be dewatered as identified in Box 8. (skip to Box 16)

Information on why it is not practicable to conduct construction activities when the area is dewatered naturally or through an approved dewatering plan:

16. New Bank Stabilization Activities (Regional Condition B(l)(o))

[3 The activity does not propose the construction of new bank stabilization. (Skip to Box 17)

@ The proposed new bank stabilization would involve the sole use of native vegetation or other bioengineered design techniques. Information to support this can be found in the South Pacific Division PCN form, attachments, and drawings. (Skip to Box 17)

Information on why the sole use of vegetated techniques to accomplish the bank stabilization activity is not practicable:

All bank stabilization will be completed with local, native vegetation.

17. Critical Habitat for Federally-listed Threatened and/or Endangered Fish Species (Regional Condition B(l)(p))

@ N/A. The proposed activity is located in Nevada (including the Lake Tahoe Basin in California) or Utah. (skip to Regional Condition list for the appropriate state)

@ The proposed activity is located in California (excluding the Lake Tahoe Basin), but is not located in critical habitat for Federally-listed threatened and/or endangered fish species. Information to support this can be found in the South Pacific Division PCN form, attachments, and drawings. (skip to Regional Condition list for California)

The proposed activity is located in critical habitat for Federally-listed threatened and/or endangered fish species, but would not result in a reduction or alteration in the quality and availability of the Physical and Biological Features (also known as Essential Features or Primary Constituent Elements) because:

The proposed activity is located in critical habitat for Federally-listed threatened and/or endangered fish species, and would result in a reduction or alteration in the quality and availability of the Physical and Biological Features (also known as Essential Features or Primary Constituent Elements). See Boxes 17(a) and (b).

a. The reasons why it is not practicable to avoid the reduction or alteration in the quality and availability of the Physical and Biological Features of the designated critical habitat:

N/A

b. Information demonstrating that the reduction or alteration in the quality and availability of the Physical and Biological Features of the designated critical habitat will have no more than minimal individual or cumulative adverse effects:

18. Essential Fish Habitat (EFH) (Regional Condition B(2)(e))

@ N/A. The proposed activity will not occur in areas designated as EFH located in Nevada (including the Lake Tahoe Basin in California) or Utah. (skip to Regional Condition list for the appropriate state)

[3 The proposed activity will occur in areas designated as EFH and an EFH assessment and extent of proposed impacts to EFH is enclosed.

Compliance with Sacramento District Regional Conditions for Nevada and the Lake Tahoe Basin in California

This checklist is intended to assist prospective permittees with documenting compliance with all Sacramento District Regional Conditions, as required by Regional Condition B(I). This checklist does not include the full text of each regional condition.

Please refer to the Final Sacramento District Nationwide Permit Regional Conditions for Nevada and the Lake Tahoe Basin in California (<http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/>) when completing this checklist.

Please check the box to indicate you have read and have/will comply with the Regional Condition and provide a rationale on how you have/will comply with the Regional Condition.

Check	Regional Condition	Rationale for Compliance
X	A(I). <u>All NWP's except 3. 6. 20. 27. 32. and 38:</u> Revoked for activities in histosols, fens, bogs, peatlands, and in wetlands contiguous with fens.	non of the listed environs are effected
8]	A(2). <u>Lake Tahoe:</u> All NWP's revoked in Lake Tahoe upon issuance of Regional General Permit	Not located in Lake Tahoe basin
	B(I). <u>Additional PCN Requirements:</u>	See Boxes 1 through 1 (p)
	B(2). <u>PCN Requirements:</u> PCN must be submitted for: CI New or replacement linear transportation crossings where the pre-construction bankfull width of waters of the U.S. at the crossing would be reduced. <input type="checkbox"/> Activities within 100 feet of a known natural spring. <input type="checkbox"/> Activities in waters of the U.S. on Tribal <input type="checkbox"/> lands. Activities proposing in-stream grouted outfall structures or grouting of stream bottoms..	
	B(3). <u>Utility Line Activities:</u> PCN shall be submitted when a utility line: C] Results in a loss of greater than 100 linear feet of perennial, intermittent, or ephemeral drainages/open waters of the U.S. C] Includes construction of a temporary or permanent access road, substation, or foundation within waters of the U.S. Does not involve restoration of trenches to pre-project contours and conditions within 20 days. Involves discharge of excess material from trench into waters of the U.S.	

	<p>B(4). <u>New Bank Stabilization</u>. New bank stabilization activities shall:</p> <p>Use native vegetation, bioengineering design techniques, or a combination, unless specifically determined to be not practicable by the Corps.</p> <p>PCN will be submitted when new bank stabilization:</p> <p>Involves any hard-armoring or the placement of any non-vegetated or non-bioengineered technique in waters of the U.S.</p>	<p>project used on-site existing information in areas where banks were stabilized. All planting presented in restoration plan are compliance with County stream restoration criteria and are native species.</p>
--	--	--

Check	Regional Condition	Rationale for Compliance
	<p>B(5). <u>NWP 3 6 20 and 27</u>: A PCN shall be submitted for activities in histosols, fens, bogs, peatlands, and in wetlands contiguous with fens.</p>	
	<p>B(6). <u>NWP 23</u>: A PCN shall be submitted for all activities.</p>	
	<p>B(7). <u>NWP 27</u>: PCN shall be submitted for all activities.</p> <p>The following applies:</p> <p>[3 Facilities for controlling stormwater runoff, construction of water parks, and the use of grout or concrete for in-stream structures are not authorized.</p> <p>@ For stream restoration, post-project stream sinuosity shall be appropriate and equal to or greater than preproject sinuosity.</p> <p>[3 Structures shall allow the passage of aquatic organisms, recreational water craft, or other navigational structures, unless waived.</p>	<p>Channel sinuosity was unaffected by project.</p>
	<p>B(8). <u>NWP 29 and 39</u>. Channelization or relocation of perennial or intermittent drainages is not authorized unless the Corps determines the channelization or relocation would result in a net increase in aquatic resource functions and services. This Regional Condition does not apply to certain ditches.</p>	
	<p>B(9). <u>NWP 46</u>. Discharge shall not cause the loss of greater than 0.5 acre or 300 linear feet of waters of the U.S., unless specifically waived in writing by the Corps.</p>	

	<p>B(10). <u>Linear Transportation Crossings</u>. The following criteria apply:</p> <p>[3 For Federally-listed fish species, span the stream or river or use bottomless arch culvert.</p> <p>[3 Shall be constructed to maintain pre-construction course, condition, capacity and location of open waters unless the activity would result in a net increase in aquatic resource functions and services.</p> <p>[3 Replacement linear transportation crossings shall be designed to approximate the bankfull width and depth of upstream and downstream open waters, unless determined to be not practicable by the Corps.</p>	
	<p>B(11). <u>Standing or Flowing Water</u>: Unless determined to be not practicable by the Corps, no construction activities shall occur within standing or flowing waters. Must allow inspection of activity(s).</p>	
	<p>B(12). <u>Lead Federal Agency</u>: Must submit documentation for compliance with Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, and National Historic Preservation Act.</p>	<p>Compliance with the NHPA attached.</p>

Check	Regional Condition	Rationale for Compliance
	<p>C(1). <u>Recordation</u>. Permittee will record NWP verification for areas required to be preserved as a special condition or where boat ramps, docks, marinas, piers, or permanently moored vessels will be constructed or placed in or adjacent to navigable waters.</p>	
	<p>C(2). <u>Compensatory Mitigation</u>: For permittee responsible compensatory mitigation, develop and submit a final comprehensive mitigation and monitoring plan for approval prior to commencement of construction activities in waters of the U.S.</p> <p>C] Complete the construction of compensatory mitigation before or concurrent with construction of authorized activity and submit proof of purchase of mitigation bank or in-lieu fee program credits prior to commencement of construction of the authorized activity.</p>	
	<p>C(3). <u>Best Management Practices (BMPs)</u>: Unless determined to be not practicable or appropriate by Corps, permittee shall employ and maintain construction BMPs.</p>	<p>See project SWPPP.</p>

	C(4). <u>Highly Visible Markers</u> : Unless determined to be not practicable or appropriate by Corps, permittee shall clearly identify the limits of the authorized activity with highly visible markers. The permittee is prohibited from any activity that impacts waters of the U.S. outside of the permit limits.	No further work is proposed
X	C(5). <u>Temporary Access and Construction</u> : For temporary fill within waters of the U.S., the permittee shall: Use spawning quality gravel where appropriate, as determined by the Corps. Install a horizontal marker to delineate the existing bottom elevation of waters of the U.S. Remove all temporary fill and restore the area to preproject contours and conditions within 30 days following completion of construction activities in waters of the U.S.	Applicant has used an existing gravel road that crosses Thomas Creek to access that portion of the property on the north/west side of channel. road crossing consist of gravel bottom
	C(6). <u>Utility Line Activities</u> : CI Permittee shall ensure utility line does not result in draining waters of the U.S. Unless determined not practicable or appropriate by the Corps, permittee shall dispose of excess material from utility line trench in an upland location.	
	C(7). <u>Contractor Compliance</u> : Permittee is responsible for all work and ensuring contractors and workers are aware of and adhere to terms and conditions of the authorization. The permittee shall ensure a copy of the authorization and drawings are available at the site.	landowner was unaware of requirements and has hired a contractor to assist with compliance.

Check	Regional Condition	Rationale for Compliance
X	C(8). <u>Site Inspection</u> : Permittee shall allow Corps representatives to inspect authorized activity and any avoidance, preservation, and/or compensatory mitigation areas at any time deemed necessary.	Site inspections have been conducted by Washoe County, and NDEP
	C(9). <u>Compliance Certification</u> : Permittee shall submit: @ As-built drawings; CI Numbered and dated post-construction photographs; Description and photo-documentation of all BMPs; For temporary fills in waters of the U.S., a description and photo-documentation of all restored waters of the U.S.	See Restoration Plan

From: [West, Walt](#)
To: [Olander, Julee](#)
Cc: [Heeran, Jennifer](#)
Subject: RE: WSUP18-0017(Soule grading)
Date: Friday, January 24, 2020 2:28:24 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

See below for updated responses. Generally, Engineering conditions have been satisfied, but I am still waiting for final permits to be provided from USACE and NDEP. Also, there is an open enforcement action through NDEP for the grading/clearing work performed along the creek.



Walter West, P.E.

Licensed Engineer | Community Services Department

wwest@washoecounty.us | Office: 775.328-2310 | Fax: 775.328.3699

1001 E. Ninth Street, Reno, NV 89512



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From: West, Walt
Sent: Tuesday, November 12, 2019 3:16 PM
To: Olander, Julee
Cc: Klein, Kris; Heeran, Jennifer
Subject: RE: WSUP18-0017(Soule grading)

Please find attached status of condition of approval for the above referenced case. Your email dated July 19, 2019 included a word document which contained the consultant's (Matt Setty) response as to how each of the conditions had been satisfied. I have extracted Engineering's conditions and have included them in the below section w/ Mr. Setty's response in blue, and Engineering's response in red.

Conditions 2b, 2c, 2d, and 2g do not appear to be satisfied or appropriate documentation has not been provided demonstrating the condition has been satisfied.



Walter West, P.E.

Licensed Engineer | Community Services Department

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2. Washoe County Engineering and Capital Projects Division

The following conditions are requirements of the Engineering Program of the

Engineering and Capital Projects Division, which shall be responsible for determining compliance with these conditions.

Contact Name: Walt West, (775)328-2310, wwest@washoecounty.us

a. A complete set of construction improvement drawings, including an on-site grading plan illustrating both completed and proposed grading, shall be submitted when applying for a building/grading permit. Grading shall comply with best management practices (BMP's) and shall include detailed plans for grading, site drainage, erosion control (including BMP locations and installation details), slope stabilization, and mosquito abatement. Placement or removal of any excavated materials shall be indicated on the grading plan. Silts shall be controlled on-site and not allowed onto adjacent properties or into Thomas Creek.

a. Property has been managed under a SWPPP since September 2018. A project SWPPP and BMP and permit compliance program has been maintained and the owner has remained informed of SWPPP maintenance needs and compliance issues. Weekly BMP inspections have been performed by NVENV. NDEP and USACE has been party to multiple inspections/on-site meetings. Weekly reports have been maintained and available to Owner and NDEP.

b. NVENV understand that the house site grading permit (east half of the property) is being managed by the owner's engineer. However, the SWPPP and BMP program does include this area.

1/24/20 Engineering Comment: This is a general condition generally satisfied with the submittal of engineered plans meeting the requirements of the Conditions of Approval and County Code. I believe this condition has been satisfied with the submittal of each grading permit.

b. Prior to final approval of a grading permit, the applicant shall obtain all required state and federal permits. The permits may include, but are not limited to, Nevada Division of Environmental Protection's Working in Waterways Permit, Construction Stormwater Permit, 401 Water Quality Certification (or waiver), and U.S. Army Corps of Engineers 404 permit. Copies of all permits shall be provided to Washoe County Engineering Program.

The applicant has a Working-in-waterway permit issued by NDEP, The USACE after-the-fact Nationwide Permit has been submitted and in currenting being amended to reflect additional channel disturbance. A final USACE action (permit) has not yet been issues.

1/24/20 Engineering Comment: To date, I am not aware we have received copies of permits from the USACE/NDEP to verify that condition has been met. Provide Engineering with copies of permit documents obtained from other agencies, per last sentence of the condition.

c. Prior to final approval of the grading permit, the applicant shall demonstrate that the Cease and Desist order or enforcement cases initiated by Nevada Division of Environmental Protection and the U.S. Army Corps of Engineers (SPK-2018-00705) have been or will be satisfied with the scope of work identified in the grading permit application and plans.

Applicant has ongoing interactions with the NDEP and USACE related to

additional work done (rock placement and channel modification) within the active channel (Below Ordinary High-Water Line). These are being permitted and may be viewed by the State and Federal agencies as additional violation. Currently the USACE is reviewing the revised site report and application.

1/24/20 Engineering Comment: To date, I am not aware we have received any documentation from the COE/NDEP to verify that condition has been met. Provide copies of any correspondence from the cited agencies that confirms that the proposed restoration work is in conformance with their requirements

- d. The Truckee Meadows Regional Stormwater Quality Management Program Construction Permit Submittal Checklists and Inspection Fee shall be submitted with the grading permit application. See engineer's submittal package. (I'll have Kristin check when the renewal is due).

1/24/20 Engineering Comment: completed

- e. A construction estimate shall be prepared by a licensed engineer for the work required to restore the disturbed areas and a financial assurance in the amount 120% of the estimated assessment, as approved by the Washoe County Engineering Program, shall be submitted as part of the grading permit application. The financial assurance shall be returned upon establishment of vegetation to the satisfaction of Washoe County Planning and Building Division. See engineer's submittal package. (I/NVENV do not know the status of this).

1/24/20 Engineering Comment: A faithful Performance Bond for Grading in the amount of \$5,200 has been provided.

- f. Cross-sections indicating cuts and fills shall be submitted when applying for a grading permit. Estimated total volumes shall be indicated on submitted plans. See engineer's submittal package.

1/24/20 Engineering Comment: It is unclear if cross sections were ever provided as part of the Grading Permit. Since the permit has been approved, this condition is deemed satisfied.

- g. All disturbed areas left undeveloped for more than 30 days shall be treated with a dust palliative. Disturbed areas left undeveloped for more than 45 days shall be revegetated. Specifications for revegetation procedure and seed mix shall be prepared by a licensed landscape architect.

This applicant has not complied with this condition. He did apply tackifier, mulch, and erosion control BMP, however the long duration of the grading and restoration work has left the majority of the site non-vegetated for more than 45-days. Final seeding and hydromulch was applied in September and October and vegetation appears to be well established.

1/24/20 Engineering Comment: Based on engineer's response, this condition is deemed satisfied. Also applicant is currently processing a revision to permit No. 19-101472 to include landscaping

- h. No fencing is allowed across the drainage easement maintained by Washoe County. Grading permit plan submittal shall accurately reflect the alignment of fencing approved under the previously issued fence permit for the property(s).

Applicant has a Fencing permit. Obtained by Engineer and intends on installing the fence per that permit.

1/24/20 Engineering Comment: The grading plan shows fencing that was not approved on the fence permit. Approval of the grading permit will not constitute approval of fencing beyond that which was approved on the fence permit.

- i. There are two areas of proposed grading along the west property line on steep sloping terrain. The application showing the grading of these areas will provide sufficient detail as to finished grades/slope of land proposed. All proposed grading shall comply with Washoe County Code Chapter 110, Article 438.

All landscaping is complete on the west side of Thomas Creek, per the submitted plan. Slope areas covered in native rock across much of the disturbed hillside area on the north side. Areas that are determined by Washoe County to be considered riprap will be overcast with topsoil and planted with a native upland grass mix.

1/24/20 Engineering Comment: As the permit has been approved it is presumed that grading met the requirements of code.

- j. The FEMA 100-year floodplain, floodway, and/or shaded X boundaries with associated flood elevations shall appear on the site plan to the satisfaction of the County Engineer. Building permits for structures and fill in these areas shall be in conformance with the Washoe County Code Article 416.

See engineer's submittal package.

1/24/20 Engineering comment: Each permit is evaluated to determine compliance with Article 416.



Walter West, P.E.

Licensed Engineer | Community Services Department

wwest@washoecounty.us | Office: 775.328-2310 | Fax: 775.328.3699

1001 E. Ninth Street, Reno, NV 89512



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From: Klein, Kris
Sent: Tuesday, October 15, 2019 9:44 AM
To: West, Walt; Heeran, Jennifer
Subject: FW: WSUP18-0017(Soule grading)
Importance: High

Walt and Jen,

Note that our comments are due to Julee tomorrow. This got lost in my email; hopefully Walt has started his review. I will forward any other related items, including Julee's invite to the Nov 7 BOA meeting.

Kristine R. Klein, P.E. Sr Licensed Engineer

EXHIBIT E

From: [Mark Freese](#)
To: [Olander, Julee](#)
Subject: RE: WSUP18-0017 (Soule Garding)
Date: Wednesday, November 06, 2019 1:24:44 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

Julie,

We are good with this project and don't have any additional input at this time.

Thank you,
Mark

From: Olander, Julee <JOlander@washoecounty.us>
Sent: Thursday, September 26, 2019 10:54 AM
To: Mark Freese <markfreese@ndow.org>
Subject: RE: WSUP18-0017 (Soule Garding)

Mark,

You had the following condition for the permit. Have the conditions been completed?

2. Nevada Division of Wildlife (NDOW)

The following conditions are requirements of the NDOW, which shall be responsible for determining compliance with these conditions.

Contact Name: Mark Freese, (775)688-1145, markfreese@ndow.org

- a. The applicant shall use Best Management Practices for any dirt work (e.g. sediment control devices).
- b. The applicant shall reseed to minimize erosion issues and install sediment control devices on the exposed banks at water line to help vegetation establish.

Thank you,



Julee Olander

Planner | Community Services Department- Planning & Building Division
jolander@washoecounty.us | Office: 775.328.3627 | Fax: 775.328.6133
1001 E. Ninth St., Bldg A., Reno, NV 89512



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From: Mark Freese [<mailto:markfreese@ndow.org>]

EXHIBIT E

Sent: Thursday, September 26, 2019 10:43 AM
To: Olander, Julee
Subject: RE: WSUP18-0017 (Soule Garding)

[**NOTICE:** This message originated outside of Washoe County -- **DO NOT CLICK** on **links** or **open attachments** unless you are sure the content is safe.]

Julee,
I won't be attending and have no additional input.

Thank you,
Mark

From: Olander, Julee <JOlander@washoecounty.us>
Sent: Monday, September 23, 2019 9:35 AM
To: Randy Soule <Randy@encorenv.com>; Matt Setty <matt@nvenv.net>; Thomason, Jennifer C CIV USARMY CESPK (USA) <Jennifer.C.Thomason@usace.army.mil>; Kristie Black <kblack@ndep.nv.gov>; Lowden, Joanne <JLowden@washoecounty.us>; kpascule@ndep.nv.gov; Anna Higgins <ahiggins@forestry.nv.gov>; Mark Freese <markfreese@ndow.org>; West, Walt <WWest@washoecounty.us>
Cc: Lloyd, Trevor <TLloyd@washoecounty.us>; Fagan, Donna <DFagan@washoecounty.us>; Hauenstein, Mojra <MHauenstein@washoecounty.us>
Subject: WSUP18-0017 (Soule Garding)

Wanted to let you know the report to the Board of Adjustment on the status of the Soule grading along Thomas Creek is scheduled for November 7th a 1:30. I will send an invite to this meeting and please let me know if you or a representative will be attending. Also, if you are not able to attend the meeting and have information of the status of the conditions of approval, which I have attached, please send me your comments. If you have any questions please contact me.
Thank you



Julee Olander
Planner | Community Services Department- Planning & Building Division
jolander@washoecounty.us | Office: 775.328.3627 | Fax: 775.328.6133
1001 E. Ninth St., Bldg A., Reno, NV 89512



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NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources

Steve Sisolak, *Governor*
Bradley Crowell, *Director*
Greg Lovato, *Administrator*

December 17, 2019

Mr. Randy Soule
13390 Welcome Way
Reno, NV 89511
Email: Randy@encorenv.com

Certified Mail No.
9171 9690 0935 0218 7416 48
RETURN RECEIPT REQUESTED

**RE: Thomas Creek, Reno (Washoe County Assessor Parcels 049-165-06 and 049-165-07)
Permits: Temporary Working in Waterways Permit NVW-45965
Construction Stormwater Permit CSW-45222**

Dear Mr. Soule,

The enclosed Finding of Alleged Violation and Order issued by the Administrator of the Division of Environmental Protection, pursuant to Nevada Revised Statutes (NRS) 445A.675 and 445A.690, requires compliance by Randy Soule, with the terms of the Order, by the dates specified therein.

The Finding of Alleged Violation and Order were developed as a result of the failure of the property owner to apply for and obtain a Temporary Authorization to Work in Waters Permit (NVW) and a Construction Stormwater Permit (CSW) prior to commencing construction at the site (Washoe County Assessor Parcels 049-165-06 and 049-165-07). A CSW Permit was obtained on September 27, 2018 by Randy Soule after the construction activities were observed by the Nevada Division of Environmental Protection (NDEP) as detailed in the attached Finding of Alleged Violation. A NVW Permit was obtained on April 22, 2019 by Randy Soule after the construction activities were observed by the Division as detailed in the attached Finding of Alleged Violation.

Pursuant to NRS 445A.690, the enclosed Finding of Alleged Violation and Order are final and not subject to review unless, within thirty (30) days after the date the Order is received, a request by written petition for a hearing (Form # 3 for an appeal hearing) is received by the State Environmental Commission (Valerie King), 901 South Stewart Street, Carson City, Nevada 89701 or by telefax (775) 687-4684. Please provide me with a copy of any correspondence you have with the Commission.

If you have any questions concerning this matter, please contact me at (775) 687-9422.

Sincerely,

Andrew Dixon, Stormwater Branch Supervisor
Bureau of Water Pollution Control
Nevada Division of Environmental Protection

Enclosures: Finding of Alleged Violation and Order
Appeal Form # 3

ecc: Greg Lovato, P.E., Administrator, NDEP
Jennifer Carr, P.E., C.P.M., CEM, Deputy Administrator, NDEP
Rick Perdomo, Esq., Deputy Administrator, NDEP
Samantha Thompson, Public Information Manager, DCNR
Elizabeth Kingsland, Chief, NDEP-BWPC
Katrina Pascual, P.E., Technical Compliance and Enforcement Branch Supervisor, NDEP-BWPC
Valerie King, State Environmental Commission
Katie Armstrong, Deputy Attorney General
David Wampler, US EPA-Region IX
Jennifer C. Thomason, Senior Project Manager, USACE
Walt West, Washoe County
Julee Olander, Washoe County

FINDING OF ALLEGED VIOLATION

I. INTRODUCTION

1. This Finding of Alleged Violation was developed as a result of the failure of the property owner to apply for and obtain a Temporary Authorization for Working in Waters Permit and a Construction Stormwater Permit from the Nevada Division of Environmental Protection prior to commencing construction in and around a portion of Thomas Creek within Washoe County Assessor Parcels 049-165-06 and 049-165-07. Subsequent violations of the conditions of the Working in Waters Permit and the Construction Stormwater Permit are also included in this Finding of Alleged Violation.

II. STATEMENT OF LAW

2. The State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection (Division), under the authority of Nevada Revised Statute (NRS) 445A.445 (1), has the power and duty to administer and enforce the provisions of NRS 445A.300 to 445A.730, inclusive, and all rules, regulations and standards promulgated by the State Environmental Commission and all orders and permits promulgated by the Department.
3. Under NRS 445A.465, discharge of pollutant without a permit is prohibited. That statute states, in relevant part, as follows: “[e]xcept as authorized by a permit issued by the Division under the provisions of NRS 445A.300 to 445A.730, inclusive, and regulations promulgated under such sections by the Commission, it is unlawful for any person to discharge from any point source any pollutant into any waters of the State . . . and discharge from a point source a pollutant that could be carried into the waters of the State by any means.
4. NRS 445A.475 authorizes the Division to issue a general permit “for a category of discharges . . . which: 1. [c]orresponds with an existing geographical or political boundary; 2. [i]nvolves the same or similar types of discharge or injection; 3. [r]equires the same limitations or conditions in a permit; 4. [r]equires the same or similar monitoring; or 5. [i]n the opinion of the Department, is more appropriately regulated by a general permit rather than an individual permit.”
5. NRS 445A.515 requires compliance with conditions of a permit issued by the Division. Two of such permits are a Construction Stormwater Permit and a Working in Waters Permit. “If any discharge does not comply with the provision of NRS 445A.500 and 445A.505, the Department shall require the permit holder to take specific steps to comply therewith.”
6. NRS 445A.690 grants the Division authority to issue compliance orders for statutory, regulatory and permit violations. That statute states, in relevant part, that “if the Director finds that any person is engaged or is about to engage in any act or practice which

constitutes or will constitute a violation of any provision of NRS 445A.300 to 445A.730, inclusive, or of any rule, regulation or standard promulgated by the Commission, or of any permit or order issued by the Department pursuant to NRS 445A.300 to 445A.730, inclusive, the Director may issue an order:

- a. Specifying the provision or provisions of NRS 445A.300 to 445A.730, inclusive, or the regulation or order alleged to be violated or about to be violated;
- b. Indicating the facts alleged which constitute a violation thereof; and
- c. Prescribing the necessary corrective action to be taken and a reasonable period for completing that corrective action.

Any compliance order is final and is not subject to review unless the person against whom the order is issued, within 30 days after the date on which the order is served, requests by written petition a hearing before the Commission.”

7. Pursuant to NRS 445A.695, the Division may apply to the district court to enjoin the continuance or occurrence of any act or practice which violates the provisions of NRS 445A.300 to 445A.730, inclusive, or of any regulation adopted or order issued pursuant thereto.
8. Pursuant to NRS 445A.700, a person who violates any provision of NRS 445A.300 to 445A.730, inclusive, shall pay a civil penalty of not more than \$25,000 for each day of the violation.
9. The objectives of the Working in Waters Permit are to control and reduce pollution to Waters of the State to comply with the provisions of Chapter 445A of the Nevada Revised Statutes. The Division requires owner/operators to obtain a Working in Waters Permit before operating earthmoving equipment in any body of water in the State of Nevada.

Note: A copy of the Working in Waters Permit NVW-45965 is attached and highlighted to reference the applicable permit sections. See Exhibit A.

10. The objectives of the Construction Stormwater General Permit NVR100000 are to control and reduce pollution to Waters of the United States (WOTUS) to comply with the provisions of the federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq: the “Act”) and Chapter 445A of the Nevada Revised Statutes. The Division requires owner/operators to obtain a Construction Stormwater Permit if the project will discharge to a WOTUS and meets the following conditions:
 - a. Project will disturb one (1) or more acres , or
 - b. Project will disturb less than one (1) acre but is part of a larger common plan for development or sale that will ultimately disturb one (1) acre or more.
 - c. If The Division determines that a project less than one (1) acre in size will impact receiving waters or its tributaries within a 1/4-mile radius of the project, the

owner/operator of the project will also be required to obtain a construction stormwater permit.

Note: A copy of the Construction Stormwater General Permit NVR100000 is attached and highlighted to reference the applicable permit sections. See Exhibit B.

III. STATEMENT OF FACTS

11. The site is located off of Welcome Way in Reno, NV. The work in question at this site was conducted within Washoe County Assessor Parcels 049-165-06 and 049-165-07. Thomas Creek runs northeasterly through the northwest corner of the parcel 049-165-06 and continues through the west half of parcel 049-165-07. See Exhibit C pages NDEP 0064 through NDEP 0066 for photos showing the progression of work at the site.
12. In June of 2018, Randy Soule (Property Owner) began work on the site to clear native vegetation along the banks of Thomas Creek.
13. Based on complaints received from the public, the Division visited the site on June 14, 2018, and found evidence that the Property Owner had commenced construction work in and around Thomas Creek and within the site. See Exhibit C page NDEP 0067.
14. The Property owner had not applied for or otherwise received a Construction Stormwater General Permit or a Working in Waters permit from the Division prior to the start of work.
15. Based on additional complaints received from the public, the Division visited the site again on August 14, 2018 and found that work continued to progress without appropriate coverage under the Working in Waters permit and the Construction Stormwater Permit. See Exhibit C page NDEP 0068.
16. On August 28, 2018, the Division issued a Cease and Desist order to the Property Owner for construction work without a permit. The Order required that all construction activities in and around Thomas Creek stop until such time when all required permits were obtained. The required permits outlined by the Order included the need for a Construction Stormwater Permit, Working in Waters Permit, and a 401 Water Quality Certification or waiver. The Order required that the Property Owner submit applications for these permits by September 14, 2018. See Exhibit D page NDEP 0082 through NDEP 0083.
17. On September 10, 2018, the Property Owner received the Cease and Desist order. See Exhibit D page NDEP 0084 through NDEP 0085.
18. On September 13, 2018, the Property Owner's environmental consultant, NV Environmental (NVEnv), attended a meeting at the Division to discuss permit coverage. The Division was informed that work within Thomas Creek had been completed and that construction activities would cease until the proper permits were obtained. NVEnv was informed that if any additional work within Thomas Creek was planned or if additional

work would be required by the Army Corps, a Working in Waters Permit must be obtained prior to the start of any work. The Division was informed that the Property Owner would obtain coverage under the Construction Stormwater Permit.

19. The Property Owner failed to submit the applications required under the Cease and Desist Order by September 14, 2018.
20. On September 20, 2018, the Division visited the site and found that work continued to progress without coverage under the Construction Stormwater Permit. See Exhibit C page NDEP 0069.
21. On September 25, 2018, the Division visited the site to verify compliance with the Cease and Desist order. A Construction Stormwater Permit and a Working in Waters permit had not been obtained; however, no additional construction activity was observed at the time of the site visit. Written instruction was given to improve Best Management Practices (BMPs) at the site in order to comply with the Construction Stormwater permit once obtained. See Exhibit E page NDEP 0086.
22. On September 27, 2018, the Division issued the Construction Stormwater Permit NVR100000 with Site ID CSW-45222 to the Property Owner covering future construction work at this site.
23. On October 4, 2018, the Division conducted a compliance inspection and issued the Property Owner a verbal notification for alleged violations of the Construction Stormwater General Permit NVR100000. See Exhibit C page NDEP 0070 for pictures. Based on the inspection the Division concluded there were violations in the following sections of the permit:
 - a. The straw wattles along Thomas Creek were not properly installed as required by Sections 3.3.1 and 3.4.4.3. See Exhibit B pages NDEP 0026 and NDEP 0028.
 - b. Temporary stabilization was needed in areas that were inactive as detailed in the Construction Stormwater Permit as required by Section 3.6.2. See Exhibit B page NDEP 0032.
24. On November 19, 2018, the Division conducted a compliance inspection and issued the Property Owner a verbal notification for alleged violations of Construction Stormwater General Permit NVR100000. See Exhibit C pages NDEP 0071 and NDEP 0072 for pictures and Exhibit E page NDEP 0087 for the inspection instructions. Based on the inspection the Division concluded there were violations in the following sections of the permit:
 - a. Temporary stabilization was needed near the house pad once drainage work was complete as required by Section 3.6.2. See Exhibit B page NDEP 0032.
 - b. BMPs around the soil piles were needed around the entire pile and the wattle on one side of the soil pile was not properly installed as required by Sections 3.3.1,

- 3.4.4.3, and 3.5.4.3. See Exhibit B pages NDEP 0026, NDEP 0028, and NDEP 0031.
- c. Wattles on the northeast corner were not properly installed as required by Sections 3.3.1 and 3.4.4.3. See Exhibit B pages NDEP 0026 and NDEP 0028.
25. Based on complaints received from the public, the Division conducted a compliance inspection on April 9, 2019 and issued the Property Owner a verbal notification for alleged violations of Construction Stormwater General Permit NVR100000. See Exhibit C page NDEP 0073 for pictures. Based on the inspection the Division concluded there were violations in the following sections of the permit:
- a. The damaged BMPs must be repaired as required by Sections 3.3.1 and 3.7.1.2. See Exhibit B pages NDEP 0026 and NDEP 0033.
- b. Proper signage must be re-installed as required by Sections 2.7.1 and 2.7.2. See Exhibit B page NDEP 0024.
26. On April 22, 2019, the Division issued the Working in Waters Permit NVW-45965 to the Property Owner. The coverage under this permit is only valid for work done from April 22, 2019 to October 19, 2019. See Exhibit A.
27. On June 13, 2019, the Division conducted a compliance inspection and issued the Property Owner a written notification for alleged violations of Construction Stormwater General Permit NVR100000. See Exhibit C page NDEP 0074 through NDEP 0076 for pictures and Exhibit E page NDEP 0088 for the inspection instructions. Based on the inspection the Division concluded there were violations in the following sections of the permit:
- a. The straw wattles along Thomas Creek were not properly installed as required by Sections 3.3.1 and 3.4.4.3. See Exhibit B pages NDEP 0026 and NDEP 0028
- b. There were damaged straw wattles along Thomas Creek that needed repair as required by Sections 3.3.1 and 3.7.1.2. See Exhibit B pages NDEP 0026 and NDEP 0033
- c. The property along the east side (along Welcome Way) lacked a BMP. It was indicated that there was a curb cutback; however, the curb cutback was not maintained as required by Sections 3.3.1, 3.5.2.1, and 3.7.1.2. See Exhibit B pages NDEP 0026, NDEP 0030, and NDEP 0033.
- d. There were not appropriate control measures at the entrance on the southeast side of the site on Welcome Way as required by Section 3.5.3 and 3.5.3.2. See Exhibit B page NDEP 0030.
28. On July 5, 2019, the Division received a Discharge Monitoring Report (DMR) for Working in Waters Permit NVW-45965. The DMR narrative stated that on June 14, 2019 and June 26, 2019 Thomas Creek was crossed with equipment. The DMR narrative also stated that during this time work also occurred within Thomas Creek, which included placement of cobbles and boulders and forcing the creek back into its original alignment. Turbidity sampling per event is required by Section I.A.2 of the Working in Waters Permit (see

Exhibit A page NDEP 0002), but the DMR reported that no samples were taken during this monitoring period. See Exhibit F for the DMR.

29. On July 11, 2019, the Division conducted a compliance inspection and issued the Property Owner a written notification for alleged violations of Construction Stormwater General Permit NVR100000. See Exhibit C pages NDEP 0077 through NDEP 0081 for pictures and Exhibit E page NDEP 0089 for the inspection instructions. Based on the inspection the Division concluded there were violations in the following sections of the permit:

- a. The wattles were not properly installed and the damaged wattles must be repaired as required by Sections 3.3.1, 3.4.4.3, and 3.7.1.2. See Exhibit B pages NDEP 0026, NDEP 0028 and NDEP 0033.
- b. The track out pad must be refreshed and the sediment removed from the street as required by Sections 3.3.1, 3.5.3.4, and 3.7.1.2. See Exhibit B pages NDEP 0026, NDEP 0030, and NDEP 0033.
- c. The curb cutback along the NE corner was not maintained/installed as required by Sections 3.3.1 and 3.7.1.2. See Exhibit B pages NDEP 0026 and NDEP 033.

IV. CONCLUSION Based upon the foregoing statutory and regulatory authority and the factual allegations set forth herein, the Division finds and alleges as follows:

30. Between June 2018 to April 22, 2019, the Property Owner commenced construction and conducted work within Thomas Creek, which is a Water of the State, without applying for and obtaining a Working in Waters Permit in violation of NRS 445A.465, 445A.485, and 445A.515.
31. Between June 2018 to September 27, 2018, the Property Owner commenced construction on the banks and benches surrounding Thomas Creek which are susceptible to discharges to the creek without applying for and obtaining a Construction Stormwater permit in violation of NRS 445A.465, 445A.475, and 445A.515.
32. The Property Owner failed to properly install and maintain BMPs to treat stormwater and prevent erosion and sediment transport per Section 3.3, Section 3.4, and Section 3.7 of Construction Stormwater General Permit NVR100000 in violation of NRS 445A.515.
33. The Property Owner failed to implement BMPs to treat stormwater and prevent erosion and sediment transport per Section 3.5 of Construction Stormwater General Permit NVR100000 and in violation of NRS 445A.515.
34. The Property Owner failed to sample for turbidity per Section I.A.2 of Working in Waters Permit NVW-45965 in violation of NRS 445A.515.



12/17/19

Andrew Dixon, Stormwater Branch Supervisor
Bureau of Water Pollution Control
Nevada Division of Environmental Protection

Date

ORDER


This Order is issued under NRS 445A.660, NRS 445A.675, and NRS 445A.690 and based on the attached Finding of Alleged Violation (FOAV), which is incorporated in and made part of this Order by reference, the Administrator of the Nevada Division of Environmental Protection has determined that Randy Soule is in alleged violation of NRS 445A.465, NRS 445A.475, NRS 445A.485, and NRS 445A.515.

IT IS HEREBY ORDERED:

That Randy Soule complete the following acts by the dates specified below:

1. By the close of business on January 16, 2020, explain why the property owner failed to apply for and obtain a temporary authorization to discharge for Working in Waters and a Construction Stormwater Permit prior to beginning construction activities.
2. By the close of business on January 16, 2020 provide the economic benefit, if any, realized for the property owner by not complying with NRS 445A.465 and NRS 445A.485.
3. By the close of business on January 16, 2020, provide the environmental impact(s) resulting from the property owner failing to apply for and obtain the appropriate permits.
4. By the close of business on January 16, 2020, provide a plan detailing how the property owner will prevent regulatory non-compliance on future projects.
5. By the close of business on January 16, 2020, coordinate an informal administrative meeting at the Division of Environmental Protection Carson City office to show cause why the Division should not seek civil penalties for the violation cited in the Findings. Please contact Andrew Dixon at (775) 687-9422 to schedule this meeting.

Failure to fully comply with this Order will subject you to injunctive relief, additional civil penalties, and damages as provided for under NRS 445A.695 and NRS 445A.700. Compliance with this Order does not relieve or release you from environmental liability for past violations.


Elizabeth Kingsland, Chief
Bureau of Water Pollution Control
Nevada Division of Environmental Protection

12/17/19

Date



1. Name, address, telephone number, and signature of appellant:

Name: _____

Physical Address: _____

E-mail Address: _____

Telephone Number: _____

Signature: _____

Representative capacity (if applicable): _____

2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.

3. Specify grounds of appeal: (check all that apply)

- Final decision in violation of constitutional or statutory provision;
- Final decision made upon unlawful procedure;
- Final decision was affected by other error of law;
- Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- Final decision was arbitrary or capricious or characterized by abuse of discretion;

4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or or regulations that give the State Environmental Commission jurisdiction to hear the appeal.

5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.

Date of Request: _____.

Supporting Documents



After signing and submitting this form (below), attach the permit or notice of alleged violation that you are appealing directly to your email message. Include other supporting documents as needed.

Send form to: Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701

Exhibit A

Working in Waters Permit NVW-45695

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
TEMPORARY
AUTHORIZATION TO DISCHARGE

In compliance with the provisions Chapter 445A of the Nevada Revised Statutes (NRS), the Permittee,

Randy Soule
13390 Welcome Way
Reno, Nevada 89511

is authorized to operate heavy equipment and to work in waters of the State, in Thomas Creek, for the purpose of completing riparian floodplain restoration, located approximately at:

Welcome Way
Reno, Nevada 89511
Latitude 39.418240, Longitude -119.797745
Township 18N, Range 19E, Section 24
Washoe County, Nevada

in receiving waters named:

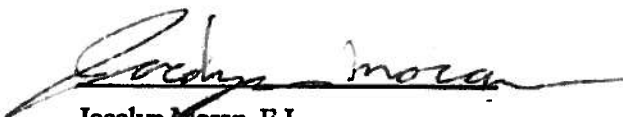
Thomas Creek
Tributary to Truckee River

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on April 22, 2019.

This permit shall expire at midnight, October 19, 2019.

Signed this 22nd day of April, 2019.



Jocelyn Moran, E.I.
Bureau of Water Pollution Control

Part I

I.A. DISCHARGE LIMITATIONS, MONITORING, AND CONDITIONS

I.A.1 Introduction: The Permittee, Randy Soule, plans to complete riparian floodplain restoration along Thomas Creek. Thomas Creek crosses approximately 700 linear feet of the Soule property. A single historic dirt road crosses the creek in this reach and is used to access the north/west side of Thomas Creek to implement the restoration. This reach of Thomas Creek is a high gradient channel less than 8 feet in width at the road crossing. Normal channel is approximately 2 to 3 feet in total width between Ordinary High Water Mark (OHWM).

No fill will be placed in the channel. Impacts to the stream channel is limited to use of the existing dirt access road crossing. Total project duration is two weeks. Final grading and native plant seeding and mulch is being applied to areas on the far (north/west) side of Thomas Creek.

Best Management Practice (BMPs) will be used for all work activities to prevent erosion, sediment transport, and water quality degradation at the project site. This project site also obtained the Stormwater Construction General Permit, CSW-45222.

I.A.2 Effluent Limitations: During the period beginning on the effective date of this permit and lasting until the permit expires, the Permittee is authorized to work in waters of the State in the subject areas of the project. Water quality Best Management Practices (BMPs) shall be implemented to prevent water quality degradation and erosion as much as is practicable, in accordance with plans and information submitted to NDEP. Water quality shall be limited and monitored by the Permittee as specified below:

Table I.A.2 Water Quality Sampling and Monitoring Requirements

Effluent Parameters and Units		Discharge Limits	Monitoring Requirements		
			Location	Frequency	Sample Type
Turbidity ¹	NTU	M&R	001, 002	Event ¹	Discrete
ΔTurbidity ¹	NTU	50	001, 002	Event ¹	Calculation from Discrete Sample (Value at 002-Value at 001)
TPH	mg/L	1.0	002	Event ²	Discrete

1. If a visual turbidity plume, which is caused by the work, lasts for more than 15 minutes, sample outfalls 001 and 002. If change in turbidity between 001 and 002 exceeds 50 NTU, cease work activities and increase BMPs until monitored change is less than 10 NTU. Record all values in logbook and report maximum daily deltas and all exceedances monthly on DMRs

2. Monitor in the event of a fuel leak/visible sheen, or equipment failure in or near the active project work areas in or near the washes.

- Δ: Creek symbol for change
- mg/L: milligrams per liter
- TPH: Total Petroleum Hydrocarbons, full range C6-C40, purgeable and extractable
- 001: Outfall 001, approximately 100 feet upstream from active work area.
- 002: Outfall 002, approximately 200 feet downstream from active work area.
- NTU: Nephelometric Turbidity Units
- M&R: Monitor and Report

I.A.3 Monitoring Requirements: Project monitoring shall be conducted in two ways: 1) by water quality monitoring and reporting, and 2) by means of a concise narrative report describing the project and a series of photos documenting the project activities as presented to NDEP, including the implementation of BMPs. The "before, during and after" photos, shall document the installation and removal of BMPs, and all other project activities occurring within Thomas Creek. The photos shall be taken from established photo points. The photos, along with the narrative report of the project activities shall be submitted at the end of the project.

Visual turbidity monitoring is required daily during active project work in the Thomas Creek. All water quality monitoring results shall be recorded in a water quality logbook, and maintained onsite for the duration of the project. The logbook shall include monitoring results, time and date, pertinent notes on specific project activity, and what was done to address any turbidity exceedances. A copy of the logbook shall accompany the final report. Any event-required water quality analytical data shall be reported on the Discharge Monitoring Report (DMR) Forms, and shall be submitted to the Division by the 28th day of each month of the permit life. The first DMR is due May 28, 2019.

**Nevada Division of Environmental Protection
Bureau of Water Pollution Control
901 S. Stewart Street, Suite 4001
Carson City, NV 89701**

- I.A.4 Specific Conditions:** For any project activity in the waterbody authorized by this permit, the operations shall be conducted in accordance with the plans and information submitted to the Division, and the following terms and conditions:
- a. If a sediment plume is generated in the waterbody, resulting from working in the waterbody, and lasts for more than 15 minutes, all work shall cease and BMPs increased to stabilize the situation prior to active work re-starting.
 - b. No fueling shall occur within 200' of the waterbody. No fuel shall be stored within 200' of the waterbody. Spill containment equipment shall be readily available for use as needed.
 - c. Best Management Practices shall be applied and precautions shall be taken to prevent and control releases of debris, sediment, any transport of sediments, and to prevent and control turbidity in the waterbody during construction activities.
 - d. A record shall be kept of each day's use of heavy equipment in the project areas.
 - e. Vehicle use in unpaved areas shall be conducted in such a way as to minimize soil disturbance.

- f. Precautions must be taken to minimize damage to any aquatic habitat in the project area during operation of equipment on the project. Disturbed areas shall be restored as much as practicable.
 - g. Care shall be taken when removing turbidity curtains, protective fencing, and other BMPs from the waterbody work areas to remove the captured material safely and effectively.
 - h. The Permittee, **Randy Soule**, bears the responsibility to ensure that the requirements of this temporary permit are fully satisfied.
- I.A.5 Final Report:** The final narrative report with photos describing and documenting the results of the project's activities shall be submitted after the end of the permit. Water quality monitoring results shall also be received with the other documentation at the end of the permit. The final report shall be received, at the address given below, by the 28th day of the month following project completion or the month following project completion, whichever occurs first, at the latest by **November 28, 2019**.

**Nevada Division of Environmental Protection
Bureau of Water Pollution Control
901 S. Stewart Street, Suite 4001
Carson City, NV 89701**

- I.A.6 **Documentation:** Documentation, in addition to sampling, must be submitted as specified in Part I.A.3.
- I.A.7 **Odors:** There shall be no objectionable odors generated in the conduct of this project.
- I.A.8 **Water Quality Standards:** There shall be no discharge of substances that would cause a violation of water quality standards of the State of Nevada.
- I.A.9 **Work Activities Limits:** There shall be no other project activities undertaken in the waterbody except those as authorized by this permit.
- I.A.10 **Project Plans Approval:** The project elements/components/activities shall be constructed and or conducted in accordance with the plans submitted to and approved by the Division. The plans must be approved by the Division prior to the start of construction. All changes to the approved plans must be approved by the Division.
- I.A.11 **Presumption of Possession and Compliance:** Copies of this permit, any subsequent modifications shall be maintained at the permitted project site at all times.

I.B. MONITORING AND REPORTING

I.B.1 Monitoring

- a. **Representative Samples:** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. Additional samples and measurements collected at the non-discharge monitoring locations shall also be representative of the media and conditions being evaluated/monitored.
- b. **Test Procedures:** Analyses shall be conducted by a "certified laboratory" using an "approved method of testing", as defined in NAC 445A.0564 and NAC 445A.0562, respectively.
- c. **Recording the Results:** For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:
 - i. The exact place, date, and time of sampling or measurement;
 - ii. The dates the analyses were performed;
 - iii. The person(s) who performed the analyses;
 - iv. The analytical techniques or methods used; and
 - v. The results of all required analyses, including reporting limits.
- d. **Additional Monitoring by Permittee:** If the Permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in any calculation and/or reported value required by this permit. Such increased frequency shall also be indicated in required reports.
- e. **Records Retention:** All records and information resulting from monitoring activities; the permit application; reporting required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation shall be retained for a minimum of five (5) years or longer if required by the Administrator.
- f. **Reporting Limits:** Unless otherwise allowed by the Division, the approved method of testing selected for analyses shall have a reporting limit which is:
 - i. Half or less of the discharge limit; or, if there is no discharge limit,
 - ii. Half of less of the applicable water quality criteria; or, if there is no limit or criteria,
 - iii. The lowest reasonably obtainable limit using an approved test method.
- g. **Modification of Monitoring Frequency and Sample Type:** After considering monitoring data, discharge flow, discharge frequency, and receiving water conditions, the Division and/or Administrator may, for just cause, modify the monitoring frequency and/or sample type by issuing an order to the Permittee.

h. Definitions

- i. **30-day average discharge**: means the total discharge during a month divided by the number of samples in the period that the facility was discharging. Where less than daily sampling is required by this permit, the 30-day average discharge shall be determined by the summation of all the measured discharges divided by the number of samples during the period when the measurements were made.
- ii. **Daily maximum**: is the highest measurement obtained during the monitoring period.
- iii. **30-day average concentration**: means the arithmetic mean of measurements made during a month.
- iv. **"Discrete" sample**: means any individual sample collected in less than 15 minutes.
- v. **Composite sample**: flow rate composite means the arithmetic mean of no fewer than six individual measurements taken at equal time intervals for 24 hours, or for the duration of discharge, whichever is shorter. For other than flow rate a composite sample means a combination of no fewer than six individual flow-weighted samples obtained at equal time intervals for 24 hours, or for the duration of the discharge, whichever is shorter. Flow-weighted sample means that the volume of each individual sample shall be proportional to the discharge flow rate at the time of sampling.

I.B.2 Reporting: Analytical data and monitoring results shall be summarized and/or tabulated for presentation in standardized Discharge Monitoring Reports (DMRs). Laboratory reports for quantitative analyses conducted by State of Nevada certified laboratories must accompany DMRs and other submittals.

DMRs shall be received by the 28th day of the month following the effective date of the permit and the 28th day of each month for the duration of the permit. If no discharge occurs during the reporting period, summarize the project status and report "no discharge" on the submitted DMR.

DMRs must be signed by the authorized representative that is responsible for the facility. The first DMR submitted under this permit must include the written designation of the authorized representative elected to sign DMRs. The designated representative responsible for facility operations must sign each subsequent DMR submitted to the Division. If the authorized representative changes, a new designation letter must be submitted.

- a. **Monthly Reporting:** Monitoring results for the dewatering discharge monitoring requirements required in Part I.A.2. and Part I.A.3. shall be summarized and tabulated for each month. The Permittee is considered in compliance if the reported results are less than the established permit limits.

- b. **Other Information:** Where the Permittee becomes aware of failure to submit any relevant facts in a permit application or has submitted incorrect information in a permit application or in any report to the Division, the Permittee shall promptly submit such facts or information.
- c. **Planned Changes:** The Permittee shall give notice to the Division as soon as possible of any planned physical alterations or additions to the permitted facility or operations. Notice is required only when the alteration or addition to a permitted facility:
 - i. Could significantly change the nature or increase the quantity of pollutants discharged; or
 - ii. Results in a significant change to the Permittee's sludge or water management practices or disposal or discharge sites.
- d. **Anticipated Noncompliance:** The Permittee shall give advance notice to the Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- e. **Submittal:** An original signed copy of these, and all other reports required herein, shall be submitted to the Division at the following addresses:

**Nevada Division of Environmental Protection
Bureau of Water Pollution Control
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701-5249**

I.B.3 Signatory Certification Required on Application and Reporting Forms:

- a. All applications, reports, or information submitted to the Administrator shall be signed and certified by making the following certification:

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- b. All applications, reports, or other information submitted to the Division shall be signed by one of the following:

- i. A principal executive officer of the corporation (of at least the level of vice president) or his authorized representative who is responsible for the overall operation of the facility from which the discharge described in the application or reporting form originates;
- ii. A general partner of the partnership;
- iii. The proprietor of the sole proprietorship; or
- iv. A principal executive officer, ranking elected official, or other authorized employee of the municipal, state, or other public facility.

I.B.4 Changes to Authorization: If an authorization under Part I.B.3. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part I.B.3. must be submitted to the Administrator prior to or together with any reports, information, or applications to be signed by an authorized representative.

Part II

II.A. MANAGEMENT REQUIREMENTS

II.A.1 Change in Discharge: All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than, or at a level in excess of, that authorized shall constitute a violation of the permit.

Any anticipated facility expansions that will result in new, different, or increased discharges of pollutants must be reported by submission of a new application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the permit issuing authority of such changes. Any changes to the permitted facility must comply with NAC 445A.283 to 445A.285. Pursuant to NAC 445A.263, the permit may be modified to specify and limit any pollutants not previously limited.

II.A.2 Facilities Operation-Proper Operation and Maintenance: The Permittee shall, at all times, maintain in good working order and operate as efficiently as possible all control facilities, collection systems, or pump stations installed or used by the Permittee to achieve compliance with the terms and conditions of this permit.

II.A.3 Adverse Impact-Duty to Mitigate: The Permittee shall take all reasonable steps to minimize releases to the environment resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. The Permittee shall carry out such measures, as reasonable, to prevent significant adverse impacts on human health or the environment.

II.A.4 Noncompliance, Unauthorized Discharge, Bypassing, and Upset:

- a. Any diversion, bypass, spill, overflow, or discharge of wastewater from evaporation or conveyance facilities under the control of the Permittee is prohibited except as authorized by this permit. In the event the Permittee has knowledge that a diversion, bypass, spill, overflow, or discharge not authorized by this permit is probable, the Permittee shall immediately notify the NDEP Spill Hotline at 1-888-331-6337.
- b. The Permittee shall notify the Administrator by calling the NDEP Spill Hotline at 1-888-331-6337 within twenty-four (24) hours of any diversion, bypass, spill, upset, overflow, or release of discharge other than that which is authorized by the permit. The following shall be included as information which must be reported within 24 hours:
 - i. Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - ii. Any upset which exceeds any effluent limitation in the permit; and
 - iii. Any violation of a limitation for any toxic pollutant or any pollutant identified as the method to control a toxic pollutant.
- c. A written report shall be submitted to the Division within five (5) days of diversion, bypass, spill, overflow, upset, or discharge detailing the entire incident including:
 - i. Time and date of discharge;
 - ii. Exact location and estimated amount of discharge;
 - iii. Flow path and any bodies of water which the discharge contacts;
 - iv. The specific cause of the discharge; and
 - v. The preventive and/or corrective actions taken.
- d. The Permittee shall report all instances of noncompliance not reported under Part II.A.4.c. at the time monitoring reports (DMRs) are submitted. The reports shall contain the information listed in Part II.A.4.c.
- e. A "bypass" means the intentional diversion of waste streams from any portion of a facility.
 - i. **Bypass not exceeding limitations:** The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II.A.4.a. and II.A.4.b.
 - ii. **Anticipated bypass:** If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten (10) days before the date of bypass.

- f. Bypass is prohibited, and the Division may take enforcement action against a Permittee for bypass, unless:
- i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary evaporation facilities or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurs during normal periods of equipment downtime or preventative maintenance; and
 - iii. The Permittee submitted notices as required under Part II.A.4.e.
- g. The Division may approve an anticipated bypass, after considering its adverse effects, if the Division determines that it will meet the three conditions listed in Part II.A.4.f.
- h. An "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed facilities, lack of preventive maintenance, or careless or improper operation.
- i. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- i. An upset occurred and the Permittee can identify the cause(s) of the upset;
 - ii. The permitted facility was at the time being properly operated;
 - iii. The Permittee submitted notice of the upset as required under Part II.A.4.e.; and
 - iv. The Permittee complied with any remedial measures required under Part II.A.3.
- j. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part II.A.4.i. are met.
- k. In selecting the appropriate enforcement option, the Administrator shall consider whether or not the noncompliance was the result of an upset. The burden of proof is on the Permittee to establish that an upset occurred.

II.A.5 Removed Substances: Solids, sludges, filter backwash, or other pollutants removed in the course of control of process wastewaters or other permitted activities shall be disposed of in a manner such as to prevent any pollution from such materials or activities from entering any navigable waters.

II.B. RESPONSIBILITIES

- II.B.1 Right of Entry and Inspection:** The Permittee shall allow the Administrator and/or his authorized representatives, upon the presentation of credentials, to:
- a. Enter, at reasonable times, upon the Permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit;
 - b. Have access to and copy any records required to be kept under the terms and conditions of this permit;
 - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations required in this permit; and
 - d. Perform any necessary sampling or monitoring to determine compliance with this permit at any location for any parameter.
- II.B.2 Transfer of Ownership or Control:** In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the Permittee shall notify the succeeding owner or controller of the existence of this permit, by letter, a copy of which shall be forwarded to the Administrator. The Administrator may require modification or revocation and re-issuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary. The Division shall approve all transfer of permits.
- II.B.3 Availability of Reports:** Except for data determined to be confidential under NRS 445A.665, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of the Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NRS 445A.710.
- II.B.4 Furnishing False Information and Tampering with Monitoring Devices:** Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the provisions of NRS 445A.300 to 445A.730, inclusive, or by any permit, rule, regulation, or order issued pursuant thereto or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of NRS 445A.300 to 445A.730, inclusive or by any permit, rule, regulation, or order issued pursuant thereto is guilty of a gross misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment. This penalty is in addition to any other penalties, civil or criminal, provided pursuant to NRS 445A.300 to 445A.730, inclusive.
- II.B.5 Penalty for Violation of Permit Conditions:** NRS 445A.675 provides that any person who violates a permit condition is subject to administrative and judicial sanctions as outlined in NRS 445A.690 through 445A.705.

- II.B.6 Permit Modification, Suspension, or Revocation:** After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:
- a. Violation of any terms or conditions of this permit;
 - b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
 - c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- II.B.7 Toxic Pollutants:** Notwithstanding Part II.B.6., if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the Permittee so notified.
- II.B.8 Liability:** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal, State, or local laws, regulations, or ordinances.
- II.B.9 Property Rights:** The issuance of this permit does not convey any property rights, in either real or personal property, or any exclusive privileges, rights, or rights of access or easement; nor does it authorize any injury to private property, any invasion of personal rights, or any infringement of Federal, State, or local laws or regulations.
- II.B.10 Severability:** The provisions of this permit are severable, and if any provision of this permit or the application of any provisions of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.
- II.B.11 Need to Halt or Reduce Activity Not a Defense:** The need to halt or reduce permitted activities in order to maintain compliance with the conditions of this permit shall not be a defense for a Permittee in an enforcement action.
- II.B.12 Duty to Provide Information:** The Permittee shall furnish to the Administrator, within a reasonable time, any relevant information which the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Administrator, upon request, copies of records required to be kept by this permit.

Part III**III.A. OTHER REQUIREMENTS****III.A.1 Signatures, certification required on application and reporting forms:**

- a. All applications, reports, or information submitted to the Administrator shall be signed and certified by making the following certification:

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- b. All applications, reports or other information submitted to the Administrator shall be signed by one of the following:
- i. A principal executive officer of the corporation (of at least the level of vice president) or his authorized representative who is responsible for the overall operation of the facility from which the discharge described in the application or reporting form originates; or
 - ii. A general partner of the partnership; or
 - iii. The proprietor of the sole proprietorship; or
 - iv. A principal executive officer, ranking elected official or other authorized employee of the municipal, state or other public facility.
- c. **Duly Authorized Representative:** All Discharge Monitoring Reports and any other information required by this permit or requested by the Administrator shall be signed by a person described in paragraph b. of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- i. The authorization is made in writing by a person described in paragraph b. of this section
 - ii. The authorization specifies either an individual or a position having responsibility for environmental matters for the company, and
 - iii. The authorization is submitted to the Division.
- d. **Changes to Authorization:** If an authorization under paragraph c. of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph b. of this section must be submitted to the Administrator prior to or together with any reports, information, or applications to be signed by an authorized representative.

Exhibit B

Construction Stormwater Permit NVR100000

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1.0 Coverage under this General Permit

1.1 Eligibility

- 1.1.1 The objective of this permit is to control and reduce pollution to Waters of the State of Nevada that meet the definition of Waters of the United States from: Stormwater Discharges Associated with Construction Activity and Stormwater Discharges Associated with Industrial Activity from temporary plants or operations set up to produce concrete, asphalt or other materials exclusively for the permitted construction project, through the use of Best Management Practices (BMPs).
- 1.1.2 This General Permit authorizes stormwater discharges associated with large construction activity, small construction activity and associated industrial activity, provided the operator complies with all the requirements of this general permit and submits a Notice of Intent (NOI) in accordance with Part 2.3 of this general permit. A waiver from coverage under this permit is not offered.
- 1.1.3 This permit is not authorized for use by operators with stormwater discharges associated with construction activities on any Tribal Lands in Nevada. USEPA Region 9 is the permitting authority for Tribal Lands in Nevada.
- 1.1.4 Any discharges that do not comply with the eligibility conditions of this permit are not authorized by the permit. A person shall either apply for a separate National Pollutant Discharge Elimination System (NPDES) permit to cover the ineligible discharge(s), cease the discharge(s), or take necessary steps to make the discharge(s) eligible for coverage under this permit.

1.2 Authorized Discharges

- 1.2.1 Allowable Stormwater Discharges. Subject to compliance with the terms and conditions of this permit, the following is a list of discharges that are allowed under the permit provided that appropriate stormwater controls are designed, installed and maintained:
- 1.2.1.1 Stormwater runoff associated with construction activities;
- 1.2.1.2 Stormwater discharges from construction support activities (e.g. concrete or asphalt batch plants, equipment staging yards, material storage yards, excavated material disposal areas, borrow areas) provided:
- 1.2.1.2.1 The support activity is directly related to a construction site that is required to have NPDES permit coverage for discharges of stormwater associated with construction activity;
- 1.2.1.2.2 The support activity is not a commercial operation (serving multiple unrelated construction projects by different operators) and does not operate beyond the completion of the construction activity at the last construction project it supports; and
- 1.2.1.2.3 Appropriate controls and measures covering the discharges from the support activity areas are identified in a stormwater pollution prevention plan (SWPPP).

1.2.2 Allowable Non-Stormwater Discharges. The operator shall reduce or eliminate discharges of non-stormwater from construction sites to the maximum extent practicable.

1.2.2.1 The following are non-stormwater discharges allowed under this permit, provided they are not a significant source of pollutants and appropriate control measures are in place to assure compliance with Parts 3.0 and 3.8 of this permit:

- 1.2.2.1.1** Discharges from emergency fire-fighting activities;
- 1.2.2.1.2** Water used to rinse/wash vehicles and equipment, provided that reclaimed water or other wastewater is not used and no soaps, solvents, detergents, oils, grease, or fuels are present in the rinse/wash water;
- 1.2.2.1.3** Water used to control dust, provided reclaimed water or other wastewaters are not used;
- 1.2.2.1.4** Routine external building wash-down where detergents are not used;
- 1.2.2.1.5** Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used. Directing pavement wash waters directly into any surface water, storm drain inlet, or stormwater conveyance without the appropriate pollution control measures in place is prohibited;
- 1.2.2.1.6** Uncontaminated air conditioning or compressor condensate;
- 1.2.2.1.7** Dewatering of accumulated stormwater where flows are not contaminated (see Part 3.8 Dewatering Practices); and
- 1.2.2.1.8** Water used for compacting soil, provided reclaimed water or other wastewaters are not used.

1.2.3 Allowable Non-Stormwater DeMinimis Discharges

1.2.3.1 The following are non-stormwater de minimis discharges allowed under this permit, provided they are not a significant source of pollutants and appropriate control measures are in place to assure compliance with Parts 3.0 and 3.8 of this permit:

- 1.2.3.1.1** Uncontaminated, non-turbid groundwater or spring water;
- 1.2.3.1.2** Foundation or footing drains where flows are not contaminated with process materials such as solvents or contaminated groundwater;
- 1.2.3.1.3** Potable water sources including uncontaminated water line flushing; and
- 1.2.3.1.4** Uncontaminated, non-turbid potable water well flushing where the receiving waters are ephemeral.

1.2.3.2 DeMinimis Discharges are limited to one discharge outfall per permitted site. The discharge flow is limited to 250 gallons per minute (gpm) or less for 30 days or less. DeMinimis discharges that exceed these conditions must apply for permit coverage under the General Permit for DeMinimis Discharges NVG201000 at <http://ndep.nv.gov/bwpc/diminimis.htm>

1.3 Prohibited Discharges

- 1.3.1 The operator shall not allow any non-stormwater discharges from the site except as provided in Part 1.2.2, 1.2.3 or Part 3.8 Dewatering Practices. All other non-stormwater discharges shall be eliminated or authorized under a separate permit as determined by NDEP. The prohibited discharges include but are not limited to:
- 1.3.1.1 Wastewater from washout of concrete, unless managed by an appropriate control described in Part 3.7.2.2;
 - 1.3.1.2 Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials. See Part 3.7.2.3;
 - 1.3.1.3 Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance. See Part 3.7.2.4;
 - 1.3.1.4 Soaps or solvents used in vehicle and equipment washing; and
 - 1.3.1.5 Toxic or hazardous substance from a spill or other release.
- 1.3.2 Stormwater discharges that are mixed with non-stormwater, other than the allowable non-stormwater discharges listed in Part 1.2.2, are not eligible for coverage under this permit.

1.4 Limitations of Coverage

- 1.4.1 Post Construction Discharges. This general permit does not authorize stormwater discharges that originate from the site after construction activities have been completed and the site, including any temporary support activity site, has achieved final stabilization and a Notice of Termination (NOT) has been filed. Post construction stormwater discharges from industrial sites may need to be covered by a separate NPDES permit.
- 1.4.2 Discharges Covered by Another NPDES Permit. This general permit does not authorize discharges associated with construction activities that have been covered under an individual permit or another applicable general permit. Construction discharges at mining operations are covered under the Mining General Permit NVR300000.
- 1.4.3 Discharges Threatening Water Quality. This general permit does not authorize discharges that will cause or contribute to non-attainment of water quality standards or the beneficial uses of receiving waters as defined in NAC 445A.121 and NAC 445A.122 respectively. The operator shall design and implement BMPs sufficient to meet these requirements.
- 1.4.4 Discharges to Water Quality Impaired Waters. A discharge to a surface water contained in the current 303(d) *Impaired Water Body* listing issued by NDEP Bureau of Water Quality Planning (BWQP), that is impaired for (1) sediment or a sediment-related parameter, such as total suspended solids (TSS) or turbidity, and/or (2) nutrients, including impairments for nitrogen and/or phosphorus shall make one of the following demonstrations and retain such data and technical information on site with the Stormwater Pollution Prevention Plan (SWPPP):
- 1.4.4.1 That the site will employ measures to prevent the discharge of stormwater pollutant(s) for which the waterbody is impaired; or

- 1.4.4.2 That the discharge from the site has no potential to contain the pollutants causing impairment; or
- 1.4.4.3 That the discharge is not expected to cause or contribute to an exceedence of an applicable water quality standard.
- 1.4.5 Discharges to Water Bodies with Established Total Maximum Daily Load (TMDL). The Permittee shall comply with all applicable TMDL requirements. TMDL information can be found on the NDEP website: <http://ndep.nv.gov/bwgp/303dlist2012.htm>
- 1.4.6 Exempt Discharges. Persons performing the following activities are not required to seek coverage under this permit:
- 1.4.6.1 Construction projects that disturb less than 1 acre, unless part of a larger common plan of development or sale (e.g., subdivisions or commercial development areas) or unless required as a condition of Part 1.6.1;
- 1.4.6.2 Routine maintenance that disturbs less than 5 acres that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility or structure; or
- 1.4.7 Use of Cationic Treatment Chemicals. The use of cationic treatment chemicals (as defined in Appendix A), are ineligible for coverage under this permit, unless the Permittee notifies NDEP in advance and the Administrator authorizes the coverage under this permit. The Permittee must include appropriate controls and implementation procedures designed to ensure that any approved use of cationic treatment chemicals will not lead to a violation of water quality standards.
- 1.4.8 Oil and Gas Operations. Construction activities associated with the oil and gas exploration, production, processing, or treatment operations or transmission facilities (e.g. drilling site preparation, crude oil pipelines, etc.) are addressed in NDEP's Stormwater General Permit NVR050000 for Stormwater Associated with Industrial Activity.
- 1.5 Requirement for Individual Permit**
- 1.5.1 NDEP may require the holder of a general stormwater permit to apply for and obtain an individual permit in accordance with NAC 445A.269.
- 1.6 Requirement for a Stormwater Permit for Projects Less Than 1 Acre**
- 1.6.1 If NDEP determines that a project less than 1 acre in size will impact receiving waters or their tributaries within a 1/4-mile radius of the project, the owner of the project may be required to obtain a stormwater permit and abide by the terms of this permit.

2.0 Authorization Under this General Permit

2.1 Owner/Operator Responsibility

- 2.1.1 All Operators. All operators are required to obtain coverage for stormwater discharges associated with construction activity under this permit. In some cases, an operator may be

the owner or the developer, in other cases the operator may be the general contractor. In the event of a default by the "Operator" submitted on the NOI, NDEP will consider the "Owner" submitted on the NOI as the responsible "Operator". For the purpose of this permit, an "Operator" is any person associated with the construction project who meets the following criteria:

- 2.1.1.1 The person has operational control over the construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- 2.1.1.2 The person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).
- 2.1.2 Multiple Operators. Where there are multiple operators associated with the same project, each operator is required to file an NOI for permit coverage. The following applies in these situations:
 - 2.1.2.1 If one operator has control over plans and specifications and a different operator has control over activities at the project site, they may divide responsibility for compliance with the terms of this permit and jointly develop a common SWPPP, which documents which operator has responsibility for each requirement of the permit.
 - 2.1.2.2 If an operator only has operational control over a portion of a larger project (e.g. one of the four homebuilders in a subdivision), the operator is responsible for compliance with applicable effluent limits, terms and conditions of this permit as it relates to their activities on their portion of the construction site, and implementation of control measures described in the SWPPP in the areas under their control.
 - 2.1.2.3 Operators shall ensure, either directly or through coordination with other operators, that their activities do not render another operator's pollutant discharge controls ineffective.

2.2 Application for Coverage

- 2.2.1 Prior to submission of a Notice of Intent (NOI), an applicant seeking authorization to discharge under this general permit shall:
 - 2.2.1.1 Ensure that the facility is not located on Tribal lands;
 - 2.2.1.2 Ensure the facility meets the eligibility requirements under Part 1.1; and
 - 2.2.1.3 Develop and implement a SWPPP that meets the requirements of Part 6.0 of this permit and that covers either the entire site or all portions of the site for which the Permittee is an operator.
 - 2.2.1.3.1 The SWPPP shall be prepared prior to submission of the NOI and shall be implemented prior to the start of construction.
 - 2.2.1.3.2 It is not necessary to submit a copy of the SWPPP to NDEP. The SWPPP, including any updates, shall be retained and made available in accordance with Part 6.7.1.

- 2.2.1.4 An operator shall submit separate NOIs to NDEP for each project that disturbs one or more acres of land. The operator of a common plan of development or sale that will ultimately disturb one or more acres shall also submit an NOI in accordance with Part 2.3.

2.3 NOI Electronic Application Requirements

- 2.3.1 NOIs must be submitted using NDEP's electronic NOI system. Submission of the NOI demonstrates the owner's/operator's intent to be covered by this permit; it is not a determination by NDEP that the owner/operator has met the eligibility requirements for the permit.
- 2.3.2 New Dischargers seeking authorization for stormwater discharges under this general permit shall submit a Notice of Intent (NOI) and filing fee with NDEP no later than 14 days prior to the start of the permitted activity. The NOI application may be accessed via the NDEP website at: <https://genpermits.ndep.nv.gov/>
- 2.3.3 Existing Dischargers seeking authorization for stormwater discharges under this general permit shall submit a RENEWAL Notice of Intent (NOI) within 60 days (**by March 6, 2015**) of the effective date of this permit. **NO FEE IS REQUIRED FOR A RENEWAL NOI.** The Renewal NOI application may be accessed via the NDEP website at: <https://genpermits.ndep.nv.gov/>
- 2.3.4 The minimum information required for an approved NOI consists of:
- 2.3.4.1 Project Owner and Operator (Applicant) Information – Name, Address, City, State, Zip Code, Phone Number(s) and Tax Identification Number for both the owner and operator;
- 2.3.4.2 Project/Site Information – Project Name, Project Address/Location, City, County, State, Zip Code, Latitude, Longitude, and at least one Assessor's Parcel Number (APN) associated with the project;
- 2.3.4.3 Name of the receiving water;
- 2.3.4.4 Whether any part of the site is located on Tribal lands;
- 2.3.4.5 Estimated start date;
- 2.3.4.6 Estimated completion date;
- 2.3.4.7 Estimate of area to be disturbed (to nearest acre);
- 2.3.4.8 Estimate for likelihood of discharge;
- 2.3.4.9 Address for location of SWPPP for viewing – City, State, Zip Code and Phone Number(s); and
- 2.3.4.10 NOI Certification page signed and dated by appropriate authority (see Part 7.23) and mailed with the application fee to NDEP at the address indicated on the form and in Part 7.26 of this permit.
- 2.3.5 If the contact information or addresses on the NOI filed for permit coverage change during

the permit coverage, the Permittee shall, within 15 days of the change, submit a letter on official letterhead indicating the updated information.

2.4 Effective Date of Permit Coverage

- 2.4.1 **New Discharger** – Following receipt of the NOI Certification Page and applicable Application Fee, NDEP will determine if the NOI is complete and confirm coverage by providing an Approval Letter with a site authorization number.
- 2.4.2 If NDEP determines the NOI is incomplete, coverage may not be "approved" until a completed NOI is submitted. NDEP will notify an applicant of an incomplete application within 7 days of receipt of the NOI Certification Page in the Bureau of Water Pollution Control.
- 2.4.2.1 In accordance with NAC 445A.268 (4), a discharger will not be covered under a general permit until the discharger has been notified by the Director.
- 2.4.3 **Existing Discharger** – For operators of construction projects ongoing as of the effective date of this permit who received authorization to discharge for these projects under the expired 2007 Construction General Permit (NVR100000), the Operator shall submit a Renewal NOI within 60 days of the effective date of this permit (**by March 6, 2015**). NDEP will determine if the NOI is complete and confirm coverage by providing a Renewal Approval Letter. Following receipt of the renewal approval letter the operator shall comply with the following terms:
- 2.4.3.1 Within 120 days of the effective date of this permit (**by May 5, 2015**), the Permittee shall update the SWPPP as necessary to comply with the requirements of Part 6.0 of this permit.
- 2.4.3.2 The Permittee shall continue to comply with the terms and conditions of the expired 2007 Construction General Permit NVR100000 until the SWPPP is updated.
- 2.4.4 **Change of Owner/Operator** – For construction projects where the owner/operator changes, including instances where an operator is added after an NOI has been submitted, the following shall apply:
- 2.4.4.1 **Current operator** shall notify the succeeding owner/operator of the existence of this permit by letter, a copy of which shall be forwarded to NDEP for file record;
- 2.4.4.2 **New operator** shall update SWPPP documents as needed or develop and implement a new SWPPP to comply with permit requirements in Part 6.0; and submit an NOI **within 14 calendar days** of taking over operational control of the site; and
- 2.4.4.3 **Current operator** shall submit a Notice of Termination (NOT) **within 30 calendar days** after the new owner/operator assumes responsibility for the site.

2.5 Authorization of Emergency-Related Construction Activities

- 2.5.1 Emergency-related construction activities are automatically authorized provided that;
- 2.5.1.1 An operator is conducting earth-disturbing activities in response to a public

emergency (e.g., natural disaster, widespread disruption in essential public services), and the related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services;

- 2.5.1.2 If the activity continues past 30 calendar days of commencing construction activities, the operator shall prepare a SWPPP and submit an NOI in accordance with Parts 2.2 and 2.3 of this permit;
 - 2.5.1.3 The operator provides documentation in the SWPPP to substantiate the occurrence of the public emergency; and
 - 2.5.1.4 The operator complies with all other applicable requirements in the permit regarding discharges associated with the construction activities.
- 2.5.2 Operators of emergency-related construction activities are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered within 14 calendar days after NDEP receives a complete NOI and application fee in accordance with Part 2.3 above.

2.6 Continuation of this Permit

- 2.6.1 If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued and remain in force and effect. If the operator is authorized to discharge under this permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this permit until:
- 2.6.1.1 The owner/operator submits an NOI requesting authorization to discharge under a renewal or revision of the permit and NDEP issues an Approval Letter; or
 - 2.6.1.2 The owner/operator submits a NOT; or
 - 2.6.1.3 A formal permit decision is made by NDEP not to reissue this general permit, at which time NDEP will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this permit will cease at the end of this time period.

2.7 Requirement to Post a Notice of Permit Coverage

- 2.7.1 The Permittee shall post a sign or other notice conspicuously at a safe, publicly accessible location in close proximity to the project site. At a minimum, the notice shall include the Permit site ID (CSW-xxxxx) and a contact name and telephone number.
- 2.7.2 The notice shall be located so that it is visible from the public road that is nearest to the active part of the construction site, and it shall use a font large enough to be readily viewed from a public right-of-way. For linear projects, the site authorization number(s) shall be posted near the entrance where most of the construction activity is occurring.

2.8 Terminating Coverage

- 2.8.1 To terminate coverage, the Permittee shall submit a completed hard-copy Notice of

Termination (NOT) form, available at <http://ndep.nv.gov/bwpc/forms.htm>, to the address listed on the form and in Part 7.26 of this permit. The submitted form shall include a wet signature; copies will not be accepted. The facility's authorization to discharge will expire at midnight of the day that a complete NOT form is received by NDEP. The permittee is responsible for meeting the terms and conditions of this permit until the facility's authorization to discharge are terminated.

- 2.8.1.1 Should an electronic NOT version become available during the term of this permit a link for this electronic reporting requirement will be provided on the NDEP Stormwater page at http://ndep.nv.gov/bwpc/storm_cont03.htm
- 2.8.2 All Notice of Termination (NOT) forms shall be signed in accordance with the signatory requirements of Part 7.23.
- 2.8.3 The Permittee may submit an NOT form to NDEP after any of the following conditions have been met:
 - 2.8.3.1 The Permittee has established final stabilization on all portions of the site for which the operator is responsible, in accordance with Part 3.6.3; or
 - 2.8.3.2 Another operator, who has a valid NOI and site number under this general permit or an individual NPDES permit, has assumed control over all areas of the site that have not been finally stabilized; or
 - 2.8.3.3 For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner in accordance with Part 3.6.3.2 of this permit; or
 - 2.8.3.4 The planned construction activity identified on the original NOI was never initiated (i.e., no grading or earthwork was ever started and plans for construction have been permanently abandoned or indefinitely postponed); or
 - 2.8.3.5 The operator has obtained coverage for the site under another NPDES permit.
- 2.8.4 The minimum information required on a NOT consists of:
 - 2.8.4.1 Site specific identification number (i.e., CSW-xxxxx);
 - 2.8.4.2 Owner/Operator (Applicant) Information – name, address, city, state, Zip Code and phone number(s);
 - 2.8.4.3 Project/Site Information – project name, project address/location, city, county, state, Zip Code, latitude, longitude or APN, and phone number(s); and
 - 2.8.4.4 Certification signed and dated by the appropriate authority (see Parts 8.23 and 8.25).

3.0 Effluent Limitations Applicable to All Discharges from Construction Sites

3.1 Provisions for Existing Construction Projects

3.1.1 If a project is an "existing project" as defined in Appendix A, or if a person is a new operator of an existing project, and it is infeasible for the operator to comply with a specific requirement in Part 3.0 because (1) the requirement was not part of the permit the project was previously covered under (i.e. the 2007 CGP NVR100000) and (2) the operator is prevented from compliance due to the nature or location of earth disturbances at the site, or the operator is unable to comply with the requirement due to the manner in which the stormwater controls have already been installed or were already designed prior to **January 5, 2015**, the project is waived from complying with that requirement as long as the operator documents this fact in the SWPPP. This provision only applies to those portions of a project that have already commenced earth-disturbing activities or where stormwater controls implemented in compliance with the previous permit have already been installed.

3.2 Non-numeric Effluent Limitations and Associated Control Measures

3.2.1 The stormwater control requirements in this Part are technology-based, effluent limitations that, where applicable, apply to all discharges from construction sites eligible for coverage under this permit. These requirements apply the national effluent limitations guidelines and new source performance standards found at 40 CFR Part 450. The Permittee shall comply with the stormwater control requirements included in Part 3.0 through site planning and through designing, installing, and maintaining stormwater controls.

3.2.2 Whenever applicable, the operator shall design, install and maintain the following control measures at construction sites:

3.2.2.1 Erosion and sediment control (Part 3.4 and Part 3.5);

3.2.2.2 Site Stabilization (Part 3.6); and

3.2.2.3 Pollution Prevention (Part 3.7);

3.3 General Maintenance Requirements

3.3.1 The operator shall ensure that all control measures required in this Part remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.

3.3.2 The operator shall inspect all control measures in accordance with the inspection requirements in Part 5.0. The operator shall document the findings in accordance with Part 5.4. When controls need to be replaced, repaired or maintained, the operator shall make the necessary repairs or modifications in compliance with the following schedule:

3.3.2.1 Initiate work to correct the problem immediately after discovery, and complete such work by the close of the next work day, if feasible and the problem does not require significant maintenance, repair or replacement.

3.3.2.2 If existing control measures need significant repair or modification, or if additional control measures are necessary, implementation shall be completed within 7 calendar days or before the next storm event (whichever is sooner). If implementation before the next storm event is impracticable, the reason(s) for the delay shall be documented in the SWPPP and alternative control measures shall be implemented as soon as possible. Additionally, the following maintenance activities

shall be implemented:

- 3.3.2.2.1 Remove accumulated sediment when it reaches a maximum of one-half the height of the silt fence or one-half the height of the fiber roll.
- 3.3.2.2.2 Sediment shall be removed from temporary and permanent sedimentation basins, ponds and traps when the depth of the sediment collected in the basin reaches 50% of the storage capacity.
- 3.2.2.2.3 Construction site egress location(s) shall be inspected for evidence of off-site tracking of sediment, debris, and other pollutants onto paved surfaces. Removal of sediment, debris, and other pollutants from all off-site paved areas shall be completed as soon as practicable, or as otherwise required by Federal, State, and local requirements.
- 3.2.2.2.4 Accumulations of sediment, debris, and other pollutants observed in off-site surface waters, drainage ways, catch basins, and other drainage features shall be removed in a manner and at a frequency sufficient to minimize impacts and to ensure no adverse effects on water quality.

3.4 Erosion and Sediment Controls

- 3.4.1 The Operator shall design, install, and maintain erosion and sediment controls that minimize the discharge of pollutants from earth-disturbing activities. The operator shall minimize the amount of soil exposed during construction activities and control stormwater volume and velocity to minimize soil erosion. The operator is also subject to the deadlines for temporarily and/or permanently stabilizing exposed portions of the site in accordance with Part 3.6.
- 3.4.2 Design Requirements – The operator shall account for the following factors in designing stormwater controls:
 - 3.4.2.1 The expected amount, frequency, intensity, and duration of a 2-year, 24-hour precipitation event;
 - 3.4.2.2 The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features. If any stormwater flow will be channelized at the site, stormwater control measures shall be designed to control both peak flow rates and total stormwater volume to minimize channel and stream bank erosion and scour in the immediate vicinity of discharge points;
 - 3.4.2.3 The range of soil particle sizes expected to be present on the site.
- 3.4.3 The operator shall direct discharges from stormwater controls to vegetated areas of the site to increase sediment removal and maximize stormwater infiltration, including any natural buffers established under Part 3.5.1, unless infeasible. Use velocity dissipation devices if necessary to prevent erosion when directing stormwater to vegetated areas.
- 3.4.4 Installation Requirements
 - 3.4.4.1 Complete installation of stormwater controls by the time each phase of the earth disturbance has begun. By the time construction activities in any given portion of the

site have begun, unless infeasible, the operator shall install and make operational any down-gradient sediment controls (e.g., buffers, or equivalent sediment controls, perimeter controls, exit point controls, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavating, and other land-disturbing activities.

- 3.4.4.2 Following the installation of these initial controls, all other stormwater controls planned for this portion of the site and described in the SWPPP shall be installed and made operational as soon as site conditions allow. The requirement to install stormwater controls prior to earth disturbance for each phase of the project does not apply to the earth disturbance associated with the actual installation of these controls.
- 3.4.4.3 The operator shall install all stormwater controls in accordance with good engineering practices, including applicable design specifications. Design specifications may be found in manufacturer specifications and/or in applicable erosion and sediment control manuals or local ordinances. Any departures from such specifications shall reflect good engineering practice and shall be explained in the SWPPP.
- 3.4.5 The operator shall control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize channel and stream bank erosion and scour in the immediate vicinity of the discharge points.
- 3.4.5.1 Culvert Stabilization – If culverts are present on the site, the SWPPP shall include measures to sufficiently minimize the threat of erosion at culvert location to prevent the formation of rills and gullies during construction; and
- 3.4.5.2 Velocity Dissipation Devices – The operator shall place velocity dissipation devices at locations where discharges leave the construction site as necessary to provide a non-erosive flow velocity.

3.5 Erosion and Sediment Controls Required by All Sites

- 3.5.1 **Maintain Natural Buffers** adjacent to surface waters of the State that meet the definition of Waters of the U.S., and direct stormwater to vegetated areas to maximize stormwater infiltration and reduce pollutant discharges, unless infeasible. The operator is not required to enhance the quality of the vegetation that already exists in the buffer, or provide vegetation if none exists. Areas not owned or that are otherwise outside the operational control of the Permittee may be considered areas of undisturbed natural buffer for purposes of compliance with this Part.
- 3.5.1.1 Provide Natural Buffers or Equivalent Sediment Controls – these requirements only apply when surface water is located within 50 feet of the project's earth disturbances.
- 3.5.1.1.1 The operator shall ensure that any discharges to surface waters through the area between the disturbed portions of the property and any surface waters located within 50 feet of the site are treated by an area of undisturbed natural buffer and/or additional erosion and sediment controls in order to achieve a reduction in sediment load estimated to be equivalent to that achieved by a 50-foot natural buffer. Appendix G of EPA's Construction General Permit may help in providing guidance in determine estimated equivalents.

http://water.epa.gov/polwaste/npdes/stormwater/upload/cgp2012_appendixg.pdf

- 3.5.1.2** **Alternatives to Natural Buffers** – In areas where it is infeasible to maintain the 50 foot buffer the operator shall:
- 3.5.1.2.1** Document in the SWPPP the reasons why the 50-foot buffer cannot be maintained, and identify the additional erosion and sediment controls selected;
- 3.5.1.2.2** Preserve as much buffer as possible and design, implement and maintain additional erosion and sediment controls (such as berms, diversion dikes, sediment basins, etc.);
- 3.5.1.2.3** Ensure that all discharges from the area of the earth disturbance to the natural buffer are first treated by the site's erosion and sediment controls, and use velocity dissipation devices if necessary to prevent erosion caused by stormwater within the buffer;
- 3.5.1.2.4** Document in the SWPPP the natural buffer width retained on the property, and show the buffer boundary on the site plan;
- 3.5.1.2.5** Delineate, and clearly mark off with flags, tape or other similar marking device, all natural buffer areas; and
- 3.5.1.2.6** Follow the additional stabilization requirements described in Part 3.6.2.
- 3.5.1.3** **Exceptions** –
- 3.5.1.3.1** If there is no discharge of stormwater to perennial waters through the area between the site and any perennial waters located within 50 feet of the site, the operator is not required to comply with the requirements of this Part. This includes situations where control measures, such as a berm or other barrier that will prevent such discharges, have been implemented.
- 3.5.1.3.2** Where no natural buffer exists due to pre-existing development disturbances (e.g., structures, impervious surfaces) that occurred prior to the initiation of planning for the current development of the site, operators are not required to comply with the requirements in this Part, unless portions of the pre-existing development are removed.
- 3.5.1.3.3** Where some natural buffer exists but portions of the area within 50 feet of the perennial water are occupied by preexisting development disturbances, operators are required to comply with the requirements in this Part. For the purposes of calculating the sediment load reduction, an operator is not expected to compensate for the reduction in buffer function from the area covered by these pre-existing disturbances.
- 3.5.1.3.4** If any portion of a pre-existing area will be disturbed during the project, the area disturbed will be deducted from the area treated as natural buffer.
- 3.5.1.3.5** Linear construction projects are not required to comply with the requirements in this Part if site constraints (e.g., limited right-of-way) prevent the operator

from meeting any of the compliance alternatives in Part 3.5.1.2, provided that, to the extent practicable, the operator limits disturbances within 50 feet of the surface water and/or provides supplemental erosion and sediment controls to treat stormwater discharges from earth disturbances within 50 feet of the surface water. The operator shall also document in the SWPPP the rationale for why it is infeasible to comply with the requirements in Part 3.5.1.2, and describe any buffer width retained and/or supplemental erosion and sediment controls installed.

- 3.5.1.3.6 "Small residential lot" construction (i.e., a lot being developed for residential purposes that will disturb less than 1 acre of land, but is part of a larger residential project that will ultimately disturb greater than or equal to 1 acre) is exempt from buffer requirements provided that the operator minimizes the discharge of pollutants and complies with the requirements of Part 3.4.
- 3.5.1.3.7 The following disturbances within 50 feet of surface water are exempt from the requirements in this Part but shall be documented in the SWPPP and on the site map:
- 3.5.1.3.7.1 Construction approved under a CWA Section 404 permit; or
- 3.5.1.3.7.2 Construction of a water-dependent structure or water access area (e.g., pier, boat ramp, trail).

3.5.2 **Install Perimeter Controls –**

- 3.5.2.1 The operator shall install appropriate control measures (e.g., fiber rolls, berms, silt fences, vegetative buffer strips, sediment traps, or equivalent approved sediment controls) along those perimeter areas of the site that will receive stormwater from earth-disturbing activities.
- 3.5.2.2 For linear projects with rights-of-way that restrict or prevent the use of such perimeter controls, the operator shall maximize the use of perimeter controls where practicable and document in the SWPPP why it is impracticable in other areas of the project.

3.5.3 **Minimize Sediment Track-Out –** The operator shall implement effective control measures (e.g., stone/rip rap pad, concrete or steel wash racks, or other NDEP approved systems) to minimize tracking of sediments, debris and other pollutants from vehicles and equipment leaving the site. To comply with this requirement the operator shall:

- 3.5.3.1 Restrict vehicle use to properly designated exit points;
- 3.5.3.2 Use appropriate stabilization techniques at all points that exit onto paved roads so that sediment removal occurs prior to vehicle exit;
- 3.5.3.3 Where necessary, use additional controls to remove sediment from vehicle tires prior to exit; and
- 3.5.3.4 Where sediment has been tracked-out from the site onto the surface of off-site streets, other paved areas, and sidewalks, the deposited sediment shall be removed by the end of the same work day in which the track-out occurs or by the end of the next work day if the track-out occurs on a non-work day. Track-out shall be removed by sweeping, shoveling, or vacuuming these surfaces, or by using other similarly

effective means of sediment removal. Hosing or sweeping tracked-out sediment into any stormwater conveyance, without appropriate control measures in place, is strictly prohibited.

- 3.5.3.5 If site conditions make it infeasible to install structural controls to prevent track-out (e.g., linear project along a paved right-of-way), the operator shall explain in the SWPPP why such controls cannot be installed and what alternative measures will be used to prevent, monitor and remove track-out sediment from paved roadways.
- 3.5.4 **Control Discharges from Stockpiled Sediment or Soil** – As necessary, implement the following measures for any stockpiled or land clearing debris composed, in whole or in part, of sediment or soil:
- 3.5.4.1 Place stockpiles away from stormwater conveyances, such as curb and gutter systems, and streets leading to such conveyances. If placement is infeasible, install appropriate sediment controls and document the reasons in the SWPPP;
- 3.5.4.2 Locate the piles outside of any buffers implemented in accordance with Part 3.5.1;
- 3.5.4.3 Protect piles from contact with stormwater (including run-on) using a temporary sediment barrier or other protective means;
- 3.5.4.4 Do not hose down or sweep soil or sediment accumulated on pavement or other impervious surfaces into any stormwater conveyance, storm drain inlet, or surface water leading to a Water of the State Nevada that meets the definition of Waters of the United States; and
- 3.5.4.5 Unless infeasible, contain and securely protect from wind.
- 3.5.5 **Discharge of Sediments during Dry Weather** – The operator shall implement effective control measures that minimize the discharge of sediment from construction activities to any water body, including dry washes, during dry weather.
- 3.5.6 **Minimize the Disturbance of Steep Slopes** – Where practicable, implement standard erosion and sediment control practices, such as phasing disturbances to these areas and using stabilization practices designed to be used on steep grades.
- 3.5.7 **Minimize Soil Compaction and Preserve Topsoil** – The operator shall minimize soil compaction and, unless infeasible, preserve topsoil for re-vegetation.
- 3.5.7.1 In areas of the site where final vegetative stabilization will occur or where infiltration practices will be installed, the operator shall either:
- 3.5.7.1.1 Restrict vehicle and equipment use in these locations to avoid soil compaction; or
- 3.5.7.1.2 Prior to seeding or planting areas of exposed soils that have been compacted, use techniques that condition the soils to support vegetative growth, if necessary and feasible.
- 3.5.7.2 Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted.
- 3.5.7.3 Preserving topsoil is not required where the intended function of a specific area of

the site dictates that the topsoil be disturbed or removed.

- 3.5.8 Storm Drain Inlet Protection** – For discharge to any storm drain inlet that carries stormwater flow from the site directly to surface water (and it is not first directed to a sediment basin, sediment trap, or similarly effective control), *where the operator has authority to access the storm drain inlet*, the operator shall:
- 3.5.8.1 Install inlet protection measures that remove sediment from the discharge prior to entry into the storm drain inlet; and
 - 3.5.8.2 Clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised.
 - 3.5.8.3 *Public Safety* – Inlet protection measures can be removed in the event of flooding conditions or to prevent erosion.
- 3.5.9 Preserve Natural Vegetation** – Where practicable, existing vegetation should be preserved. If natural vegetation can be preserved, the operator shall clearly mark vegetation before clearing activities begin. Locations of trees and boundaries of environmentally sensitive areas and buffer zones to be preserved shall be identified on the SWPPP site map.
- 3.6 Site Stabilization Requirements, Schedules and Deadlines**
- 3.6.1 The operator shall, at a minimum, initiate soil stabilization measures immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days.
 - 3.6.2 *Temporary Stabilization* – The operator shall provide temporary stabilization, or initiate permanent stabilization, of disturbed areas within 14 calendar days of the most recent land disturbance in areas where construction or support activities have been temporarily suspended or have permanently ceased, except as follows:
 - 3.6.2.1 Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable;
 - 3.6.2.2 Where disturbed areas are awaiting vegetative stabilization for periods greater than 14 calendar days, non-vegetative methods of stabilization shall be employed. These methods shall be described in the SWPPP.
 - 3.6.2.3 In arid areas (areas with an average annual precipitation of 0-10 inches), semi-arid areas (areas with an average annual precipitation of 10-20 inches), and areas experiencing drought, where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures shall be employed and vegetative or final stabilization measures shall be initiated as soon as practicable.
 - 3.6.3 *Final Stabilization* – Final stabilization means the operator has achieved one of the following conditions:
 - 3.6.3.1 All soil disturbing activities at the site have been completed; all construction materials, waste and temporary erosion and sediment control measures (including any sediment that was being retained by temporary erosion and sediment control

measures) have been removed and properly disposed of; and

3.6.3.1.1 A uniform (i.e., evenly distributed, without large bare areas) annual and/or perennial vegetative cover with a density of 70% of the native background vegetative cover for the area is in place on all unpaved areas and areas not covered by permanent structure, or

3.6.3.1.2 Equivalent permanent stabilization measures (such as the use of riprap, gabions, gravel, geotextiles, or other NDEP approved methods) have been employed.

Note: When preconstruction native background vegetation covered less than 100% of the ground (i.e., arid areas, beaches), the 70% coverage criteria is adjusted as follows: if the native vegetation covered 50% of the ground, 70% of 50% (.70 x .50 = .35) or 35% cover density would be required.

3.6.3.2 For individual lots in residential construction, final stabilization means that the homebuilder:

3.6.3.2.1 Has completed final stabilization as specified in Part 3.6.3 above; or

3.6.3.2.2 Has established temporary stabilization, including perimeter controls, for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the need for, and benefits of, final stabilization.

3.6.3.3 For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to waters of the U.S., and areas that are not being returned to their preconstruction agricultural use shall meet the final stabilization criteria in Part 3.6.3 above.

3.7 Pollution Prevention Requirements

3.7.1 These requirements apply to all areas of the construction site and any support activities covered by this permit. The operator shall design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. To meet this requirement, the operator shall comply with all of the following:

3.7.1.1 Eliminate certain pollutant discharges from the site (see Part 1.3 Prohibited Discharges);

3.7.1.2 Properly maintain all pollution prevention controls (see Part 3.3 General Maintenance Requirements); and

3.7.1.3 Comply with pollution prevention measures for pollutant generating activities that occur at the site (See Parts 3.7.2 and 3.7.3).

3.7.2 **Minimize the Discharge of Pollutants** – The operator shall minimize the discharge of pollutants from equipment and vehicle washing, wheel washing and other wash waters.

3.7.2.1 **Equipment/Vehicle Washing** – The operator shall minimize the discharge of

pollutants from equipment and vehicle washing and wheel wash water.

- 3.7.2.1.1 Wash waters shall be treated in a sediment basin or an alternative control that provides equivalent or better treatment prior to discharge.
- 3.7.2.2 *Concrete Washout* – The operator shall provide an effective means of eliminating the discharge of water from the washout of concrete.
- 3.7.2.2.1 Where possible, concrete suppliers should conduct washout activities at their own plants or dispatch facilities.
- 3.7.2.2.2 If washout is conducted at the construction site, the operator shall employ control measures (e.g., lined pits or portable washouts) to contain and manage on-site concrete washout to prevent discharge.
- 3.7.2.2.3 The pit or container shall be designed so that no overflows can occur due to inadequate sizing or precipitation.
- 3.7.2.2.4 Hardened concrete shall be removed and disposed of consistent with handling of other construction waste materials.
- 3.7.2.3 *Washing of Applicators and Containers used for paint or other materials* – The operator shall provide an effective means of eliminating the discharge of wash water from the washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials.
- 3.7.2.3.1 All wash water shall be directed into a leak-proof container or leak-proof pit. The container or pit shall be designed so that no overflows can occur due to inadequate sizing or precipitation.
- 3.7.2.3.2 Any washout or cleanout activities shall be located as far away as possible from surface water and stormwater inlets or conveyances, and, to the extent practicable, areas designated to be used for these activities.
- 3.7.2.3.3 Liquid waste shall be disposed of in accordance with local and state regulations.
- 3.7.2.4 *Fueling and Maintenance of Equipment or Vehicles* – An operator that conducts fueling and/or maintenance of equipment or vehicles at the site shall provide an effective means of eliminating the discharge of spilled or leaked chemicals, including fuel, from the area where these activities take place.
- 3.7.2.4.1 Adequate supplies shall be available at all times to handle spills, leaks and disposal of used liquids.
- 3.7.2.4.2 Drip pans, absorbents or other approved methods shall be used under or around leaky vehicles and equipment.
- 3.7.2.4.3 Oil and oily wastes shall be disposed of or recycled in accordance with other federal, state, or local requirements.
- 3.7.2.4.4 Spills shall be cleaned up immediately and the source of the spill eliminated to prevent further discharge.

- 3.7.2.4.5 If applicable, the Spill Prevention Control and Countermeasures (SPCC) requirements in 40 CFR 112 and Section 311 of the CWA shall be complied with.
- 3.7.3 **Building Materials, Chemicals, Products and Waste** – The operator shall minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).
- 3.7.3.1 **Storage, Handling, and Disposal of Construction Products, Wastes and Material** – The operator shall minimize the exposure to stormwater of any of the products, materials, or wastes specified below in this Part. These requirements do not apply to those products or materials that are designed to be exposed to precipitation and stormwater.
- 3.7.3.1.1 Building product storage areas shall provide either (1) cover (e.g., plastic sheeting or temporary roofs) to prevent products from coming in contact with rainwater, or (2) a similarly effective means designed to prevent the discharge of pollutants from these areas.
- 3.7.3.1.2 Pesticides, herbicides, insecticides, fertilizers, and landscape materials shall (1) be covered (i.e. plastic sheeting or temporary roofs) to prevent these chemicals from coming into contact with rainwater, or (2) be provided a similarly effective means to prevent discharge of pollutants from these areas. Application and disposal requirements shall be in accordance with the products registered label.
- 3.7.3.1.3 Diesel fuel, oil, hydraulic fluids and other petroleum products and chemicals shall be stored in water-tight containers and (1) provided cover (e.g. plastic sheeting or temporary roofs) to prevent containers from coming into contact with rainwater or (2) provide similarly effective means designed to prevent the discharge of pollutants from these areas (e.g. spill kits) or provide secondary containment (e.g., spill berms, decks, spill containment pallets).
- 3.7.3.1.4 Hazardous or toxic waste shall be kept separate from construction and domestic waste. Waste shall be stored in sealed containers constructed of suitable materials, and provided cover or secondary containment to prevent spills from being discharged. All containers shall be labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and other applicable federal, state and local requirements. Additionally, hazardous or toxic wastes shall be disposed of in accordance with the manufacturer's recommendations and federal, state and local requirements.
- 3.7.3.1.5 Waste containers (e.g. dumpsters or trash receptacles) of sufficient size and number shall be provided for construction and domestic waste.
- 3.7.3.1.6 Portable toilets for sanitary waste shall be positioned outside stormwater flow areas and secured to ensure they will not tip over.

3.8 Dewatering Practices

3.8.1 **Accumulated stormwater** to be removed from excavations, trenches, foundations, vaults or other similar spaces may be discharged if effectively managed by appropriate controls. Dewatering of accumulated stormwater shall meet the following requirements:

- 3.8.1.1 A flow of 250 gallons per minute (gpm) or less for no more than 30 days;
- 3.8.1.2 Only uncontaminated non-turbid waters may be discharged without being routed through a control;
- 3.8.1.3 An oil-water separator or other suitable filtration device that is designed to remove oil, grease or other products shall be used if dewatering water is found to contain these materials;
- 3.8.1.4 To the extent feasible, vegetated, upland areas of the site shall be utilized to infiltrate dewatering water before discharge. In no case will surface water be considered part of the treatment area; and
- 3.8.1.5 At all points where dewatering water is discharged, the velocity dissipation requirements of Part 3.4.5.2 shall be complied with.

3.8.2 **Allowable DeMinimis Discharges**, identified in Part 1.2.3, may be discharged if they are effectively managed by appropriate controls and meet the following requirements:

- 3.8.2.1 The discharge occurs only from a single outfall per permitted site;
- 3.8.2.2 A flow of 250 gallons per minute (gpm) or less for no more than 30 days;
- 3.8.2.3 Within 24 hours of commencement of the discharge a sample shall be taken, for the parameters listed in Appendix B of this permit, to ensure the discharge does not contribute to an exceedence of the discharge limits indicated in the table;
 - 3.8.2.4.1 The sample shall be collected after any control measures, including BMPs, and prior to discharge into the receiving water or MS4.
 - 3.8.2.4.1 If the sample analyses indicate an exceedence of the discharge limits indicated in the Appendix B table, the Permittee shall cease the discharge and contact NDEP for additional permitting options.
- 3.8.2.5 The following DeMinimis discharge information shall be recorded and maintained in the SWPPP to demonstrate compliance with this permit.
 - 3.8.2.5.1 A description of the discharge;
 - 3.8.2.5.2 The beginning and ending dates of the discharge, and
 - 3.8.2.5.3 A copy of the sampling results,

3.9 Water Quality Standards

3.9.1 The Permittee shall control discharges to surface waters, impaired for common construction

related pollutants such as sediment, sediment-related parameters and nutrients (including nitrogen and phosphorus), from the facility as necessary to not cause or contribute to an exceedance of an applicable water quality standard. If at any time the Permittee becomes aware, or NDEP determines, that the facility's discharge causes or contributes to an exceedance of an applicable water quality standard, the Permittee shall take corrective action and report to NDEP as required.

- 3.9.1.1 When discharges are proposed to water quality-impaired waters that are contained in the current 303(d) Impaired Water Body Listing issued by the NDEP Bureau of Water Quality Planning, the permittee shall investigate whether discharges from the Permittee's site will contribute to any 303(d) listing. Information for 303(d) listed waters can be found on the following NDEP website:
<http://ndep.nv.gov/bwqp/303dlist2012.htm>
- 3.9.1.2 If a site discharges into a waterbody with an established Total Maximum Daily Load (TMDL), the Permittee shall comply with all applicable TMDL requirements.
- 3.9.1.3 If a TMDL has not been established as described in Part 3.9.1.2 above, the Permittee shall include a section in the SWPPP describing the condition for which the water has been listed. The SWPPP shall also include a demonstration that the BMPs that are selected for implementation will be sufficient to ensure that the discharges will not cause or contribute to an exceedance of an applicable State water quality standard.

4.0 Effluent Limitations Applicable to Sites Using Constructed Stormwater Conveyance Channels or Sediment Basins.

4.1 Constructed Stormwater Conveyance Channels

- 4.1.1 Stormwater conveyance channels shall be designed to avoid un-stabilized areas on the site and to reduce erosion, unless infeasible. Operators shall minimize erosion of channels and their embankments, outlets, adjacent stream banks, slopes, and downstream waters during discharge conditions through the use of erosion controls and velocity dissipation devices within and along the length of any constructed stormwater conveyance channel, and at any outlet to provide a non-erosive flow velocity.

4.2 Sediment Basins

- 4.2.1 If sediment basins are installed the operator shall comply with the following design and maintenance requirements:
 - 4.2.1.1 Provide storage for either the calculated volume of runoff from a 2-year, 24-hour storm event for each disturbed acre drained, or 3600 cubic feet per acre drained;
 - 4.2.1.2 When discharging from the sediment basin, utilize outlet structures that withdraw water from the surface in order to minimize the discharge of pollutants, unless infeasible. If it is determined to be infeasible, support documentation shall be provided in the SWPPP.
 - 4.2.1.3 Prevent erosion of (1) the sediment basin using stabilization controls (e.g., rip-rap or

erosion control blankets), and (2) the inlet and outlet using erosion controls and velocity dissipation devices;

- 4.2.1.4 Sediment basins shall be situated outside of surface waters and any natural buffers established under Part 3.5.1; and
- 4.2.1.5 Basins shall be maintained in effective operating condition and removal of accumulated sediment shall be conducted when design capacity has been reduced by 50%.

5.0 Inspections

5.1 Inspector Qualifications

- 5.1.1 The operator shall provide qualified personnel to perform inspections according to the schedules outlined below. "Qualified Personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls and who possesses the skills to assess conditions at the site that could impact stormwater quality and effectiveness of the control measures selected to manage the quality of the stormwater discharges.

5.2 Routine Site Inspection Procedures

- 5.2.1 Implementation and functioning of the SWPPP shall be verified by inspections. If, during any routine site inspection or any other time, the facility's control measures are found to be inadequate or otherwise not properly operated and/or maintained, the Permittee shall review selection, design, installation, and implementation of the control measures to determine if maintenance and/or modifications are necessary. Modifications shall be documented in the SWPPP and implemented within 7 days following the inspection results or prior to the next storm event, whichever is sooner.
- 5.2.2 The Permittee shall conduct, at a minimum, a routine site inspection once every 7 days and within 24 hours of the end of a 0.5 inch or greater storm event, that includes all areas of the site where construction materials and/or activities are exposed to stormwater discharges authorized by this permit. Routine inspections shall incorporate the following:
 - 5.2.2.1 Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or potential for, pollutants entering the drainage system;
 - 5.2.2.2 Sediment and erosion control measures identified in the SWPPP shall be observed to ensure that they are operating correctly;
 - 5.2.2.3 Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters;
 - 5.2.2.4 Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable;
 - 5.2.2.5 Locations where vehicles enter or exit the site shall be inspected for evidence of

offsite sediment tracking;

- 5.2.2.6 The effectiveness of non-structural stormwater controls and practices (such as good housekeeping practices and pollution prevention measures) shall be evaluated;
- 5.2.2.7 Site conditions shall be inspected for evidence of, or the potential for, pollutants entering the municipal separate storm sewer; and
- 5.2.2.8 All locations where temporary stabilization measures have been implemented shall be inspected.

5.3 Reduced Inspection Schedule

- 5.3.1 The operator may reduce inspection frequency if the following conditions are met:
 - 5.3.1.1 Land disturbance activities have been suspended and discharges are unlikely based on seasonal rainfall patterns; and
 - 5.3.1.2 The disturbed areas of the site have been temporarily stabilized as described in Part 3.6.2; or
 - 5.3.1.3 Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice; or frozen ground exists).
- 5.3.2 During a reduced inspection schedule, the operator shall inspect the site at least once every 30 days and within 24 hours of the end of each storm event of 0.5 inch or greater during a 24 hour period. The reduced schedule shall be documented in the SWPPP and the beginning and ending dates of the period noted.
- 5.3.3 For sites where snow cover or frozen ground exists, the site shall be waived from inspection requirements until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met:
 - 5.3.3.1 The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., greater than 30 days);
 - 5.3.3.2 Land disturbance activities have been suspended; and
 - 5.3.3.3 The beginning and ending dates of the reduced inspection schedule are documented in the SWPPP.

5.4 Routine Facility Inspection Documentation

- 5.4.1 The Permittee shall document the findings of each routine site inspection performed and maintain this documentation onsite with the SWPPP. At a minimum, the documentation for each routine facility inspection shall include:
 - 5.4.1.1 The inspection date and time;
 - 5.4.1.2 The name(s) and signatures(s) of the inspector(s);
 - 5.4.1.3 Weather information for the period since the last inspection and a description of any

discharges occurring at the time of the inspection;

- 5.4.1.4 Location(s) of discharges of sediment or other pollutants from the site;
- 5.4.1.5 Any control measures needing maintenance or repairs;
- 5.4.1.6 Any control measures that failed to operate as designed or proved inadequate for a particular location;
- 5.4.1.7 Discussion describing the reason(s) for any failed control measure;
- 5.4.1.8 Any observations of deviations from the permit or SWPPP; and
- 5.4.1.9 Locations where additional control measures are needed to comply with the permit requirements;

5.5 Inspection Results

- 5.5.1 Actions taken based on inspection results shall be recorded and retained as part of the SWPPP. Such reports shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP. The report shall be signed in accordance with Part 7.23 of this permit.
- 5.5.2 Inspection reports shall be retained as part of the SWPPP for at least three years from the date that permit coverage is terminated or the site is finally stabilized.

5.6 Inspection Follow-up

- 5.6.1 Based on the findings and observations of the inspection, including the visual assessment, the operator shall implement the changes necessary to comply with the conditions of this permit. The SWPPP shall be updated and modified as needed in accordance with Part 6.4. The changes shall be implemented in accordance with the schedule described in Part 3.3 "General Maintenance Requirements".
- 5.6.2 Based on the scope of the inspection conducted in accordance with 5.0, the operator shall determine and implement appropriate corrective actions, and meet the applicable deadlines and in accordance with the permit.

6.0 Stormwater Pollution Prevention Plan (SWPPP)

6.1 General SWPPP Information

- 6.1.1 The Permittee shall prepare a SWPPP for the site before submitting a Notice of Intent (NOI) for permit coverage. If the Permittee prepared a SWPPP for coverage under the previous NPDES permit, they shall review and update the SWPPP to implement all provisions of this permit within 120 days of the General Permit NVR100000 issuance date. The SWPPP documentation requirements are intended to guide the identification of stormwater pollution sources and the reduction of their impacts, and otherwise lead to compliance with the

conditions of this permit.

- 6.1.2 The SWPPP shall be prepared and implemented in accordance with good engineering practices and shall:
- 6.1.2.1 Identify all potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the construction site;
 - 6.1.2.2 Identify, describe, and ensure implementation of control measures that will be used to reduce pollutants in stormwater discharges from the construction site;
 - 6.1.2.3 Ensure compliance with the terms and conditions of this permit; and
 - 6.1.2.4 Be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations to the extent these are located within the permitted area.
- 6.1.3 All operator(s) shall sign and certify the SWPPP in accordance with the signatory requirements Part 7.23.
- 6.1.4 The operator shall implement the SWPPP from initial commencement of the construction activity until final stabilization is complete and a Notice of Termination (NOT) is filed, or an NOT transferring the site to a new operator is received by NDEP.
- 6.1.5 SWPPPs that do not meet all the provisions of this permit are considered incomplete. Operating under an incomplete or inadequate SWPPP is a violation of this permit.
- 6.2 SWPPP Contents**
- 6.2.1 *Identification of Operator(s)* – The SWPPP shall identify (by name, title, and contact number) the operator(s) for the project site. If there is more than one operator the SWPPP shall identify the areas and phases over which each operator has control.
- 6.2.2 *Stormwater Team* – Each operator or group of operators shall assemble a “stormwater team”, which is responsible for overseeing the development of the SWPPP, any modifications to the SWPPP, and compliance with the requirements of this permit. The SWPPP shall identify the team members by name, title and individual responsibilities. The team may include members who are not employed by the operator (i.e., third party consultants)
- 6.2.3 *Nature of Construction Activities* – The SWPPP shall describe the nature of the construction activities, including the size of the property (in acres) and the total area expected to be disturbed by the construction activities (in acres), construction support activity areas covered by this permit (see Part 1.2.1.3), and the maximum area expected to be disturbed at any one time.
- 6.2.3.1 *Emergency Related Construction Activities* – For earth-disturbing activities in response to a public emergency (see Part 2.5), the Permittee must document the cause of the public emergency (e.g., natural disaster, extreme flooding conditions, etc.), information substantiating its occurrence (e.g., state disaster declaration or similar state or local declaration), and a description of the construction necessary to reestablish effected public services.
- 6.2.4 *Sequence and Estimated Dates of Construction Activities* – The SWPPP shall include a

description of the intended sequence of construction activities, including a schedule of the estimated start dates and the duration of the activity for the following activities:

- 6.2.4.1 Installation of stormwater control measures, and when they will be made operational, including an explanation of sequence and schedule for installation of stormwater control measures;
 - 6.2.4.2 Commencement and duration of construction activities, including clearing and grubbing, grading, site preparation (i.e., excavating, cutting, and filling), final grading, and creation of soil and vegetation stockpiles requiring stabilization;
 - 6.2.4.3 Cessation, temporarily or permanently, of construction activities on the site, or in designated portions of the site;
 - 6.2.4.4 Final or temporary stabilization of areas of exposed soil. The dates for stabilization shall reflect the applicable deadlines in Part 3.6; and
 - 6.2.4.6 When departures from initial projections are necessary, this shall be documented in the SWPPP itself or in associated records, as appropriate.
- 6.2.5 *Site Description* – The SWPPP shall describe the construction site, including:
- 6.2.5.1 The project name and location including address, city, county and at least one APN associated with the project;
 - 6.2.5.2 A description of the site and its intended use after the NOT is filed (e.g., low density residential, shopping mall, highway, etc.);
 - 6.2.5.3 The total area of the site, and estimate of the total area of the site expected to be disturbed by construction activities, including off-site supporting activities, borrow and fill areas, staging and equipment storage areas;
 - 6.2.5.4 The percentage of the site that is impervious before and after construction;
 - 6.2.5.5 A description of soils at the site including the potential for erosion;
 - 6.2.5.6 For areas where it is infeasible to maintain a 50-foot buffer in accordance with Part 3.5.1, a description of which alternative was selected for the site, and any additional required documentation;
 - 6.2.5.7 Identification and description of all material storage areas (on-site and off-site) including overburden, stockpiles of dirt, borrow areas, etc.; and
 - 6.2.5.8 A general location map (e.g., USGS quadrangle map, a portion of a city or county map or other map) with enough detail to identify the following:
 - 6.2.5.8.1 The location of the construction site and one-mile radius; and
 - 6.2.5.8.2 The waters of the State of Nevada including tributaries within a one-mile radius of the site.
- 6.2.6 *Site Map(s)* – The SWPPP shall contain a legible site map or series of maps completed to scale showing the entire site that identifies all of the following:

- 6.2.6.1 Topography of the site, existing types of cover (e.g., forest, pasture, pavement, structures), and drainage pattern(s) of flow onto, over, and from the site both before and after major grading activities;
- 6.2.6.2 Areas of soil disturbance and areas that will not be disturbed. Boundaries of the property and locations where construction activities will occur, including:
- 6.2.6.2.1 Locations where construction activities will occur, noting any phasing;
- 6.2.6.2.2 Locations where sediment or soil will be stockpiled;
- 6.2.6.2.3 Locations of any crossings of surface waters;
- 6.2.6.2.4 Designated points on the site where vehicles will exit onto paved road; and
- 6.2.6.2.5 Locations of construction support activity areas covered by this permit;
- 6.2.6.3 Locations of temporary and permanent stormwater control measures identified in the SWPPP;
- 6.2.6.4 Locations where stabilization control measures are expected to occur;
- 6.2.6.5 Areas protected by buffers (i.e., either the 50-foot buffer or other buffer areas retained on site when within 50 feet of perennial water) consistent with Part 3.5.1. The site map shall show the boundary line of all such buffers;
- 6.2.6.6 Locations of on-site material, waste, borrow areas or equipment storage areas, and other supporting activities (per Part 1.2.1.3);
- 6.2.6.7 Locations of all potential pollutant-generating activities identified in Part 6.2.9;
- 6.2.6.8 Locations of all surface waters and any impaired waters within ¼ mile of the site;
- 6.2.6.9 Stormwater discharge location(s), using arrows to indicate discharge direction(s) that include the following:
- 6.2.6.9.1 Location(s) where stormwater and/or allowable non-stormwater discharges are discharged to a Water of the U.S.; and
- 6.2.6.9.2 Location(s) of any discharges to municipal separate storm sewer systems (MS4s) from the construction site.
- 6.2.6.9.3 Areas where final stabilization has been accomplished and no further construction permit requirements apply; and
- 6.2.6.9.4 Location of trees and boundaries of environmentally sensitive areas and buffer zones to be preserved.
- 6.2.7 **Receiving Waters** – the SWPPP shall identify the name of the receiving water(s) and the areal extent and description of wetland or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the construction site.
- 6.2.7.1 If any discharge point from the construction site is within ¼ mile of impaired water,

the SWPPP shall identify any common construction related pollutants such as sediment, sediment-related parameters and nutrients (including nitrogen and phosphorus) listed on the 303(d) list that may potentially be discharged from the construction site and describe additional or enhanced control measures to minimize discharges of these pollutants.

- 6.2.8 Stormwater Control Measures to be used During Construction Activity** – The SWPPP shall describe all control measures as required in Part 3.0 that will be implemented and maintained as part of the construction project to control pollutants in discharges. The SWPPP shall clearly describe for each major activity identified:
- 6.2.8.1** The appropriate control measures and the general timing (or sequence) during the construction process that the measure will be implemented; and
- 6.2.8.2** Which operator is responsible for implementation of the control measures.
- 6.2.9 Summary of Potential Pollutant Sources** – The SWPPP shall identify the location of and describe any pollutant sources, including any non-stormwater discharges expected to be associated with the project, from areas other than construction (i.e., support activities including stormwater discharges from dedicated asphalt or concrete plants and any other non-construction pollutant sources such as fueling and maintenance operations, materials stored on-site, waste piles, equipment staging yards, etc.)
- 6.2.10 Spill Prevention and Response Procedures** – The SWPPP shall describe procedures to prevent and respond to spills, leaks, and other releases including:
- 6.2.10.1** Procedures for plainly labeling containers (e.g., “Used Oil”, “Pesticides”, etc.) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response as spills or leaks occur;
- 6.2.10.2** Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- 6.2.10.3** Procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Identify the name or position of the employee(s) responsible for detection and response of spills or leaks; and
- 6.2.10.4** Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period. Contact information shall be in locations that are readily accessible and available;
- 6.2.10.5** The operator may reference the existence of other plans, such as the Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by NDEP permits for the construction activity, provided that a copy of that other plan is kept with the SWPPP onsite. If an SPCC or other spill prevention plan already exists, the operator may use such plans and incorporate them by reference in the SWPPP.
- 6.2.11 Waste Management Procedures** – The SWPPP shall describe procedures for handling and

disposing of all wastes generated at the site, including, but not limited to, clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.

6.3 Documentation Requirements including Permit Related Records

6.3.1 The Permittee shall keep the following inspection, monitoring, and certification records complete and up-to-date. Retaining these records with the SWPPP (unless otherwise specified below) is necessary to demonstrate compliance with the conditions of this permit.

- 6.3.1.1** A copy of the signed electronic NOI certification page submitted to NDEP;
- 6.3.1.2** A copy of the approval letter received from NDEP;
- 6.3.1.3** A copy of this permit;
- 6.3.1.4** Descriptions and dates of any incidences of significant spills, leaks, or other releases that resulted in discharges of pollutants in stormwater to a regulated MS4 or waters of the State of Nevada that meet the definition of Waters of the U.S., the circumstances leading to the release and actions taken in response to the release and measures taken to prevent recurrence of such releases;
- 6.3.1.5** Documentation of repairs of structural control measures, including the date(s) of discovery of areas in need of repair/replacement, date(s) that the structural control measure(s) returned to full function, and the justification for any extended repair schedules;
- 6.3.1.6** All inspection reports including post storm event inspections;
- 6.3.1.7** Description of any corrective action taken at the site, including events and dates when problems were discovered and modification occurred;
- 6.3.1.8** Buffer documentation if the sites disturbance area is located within 50 feet of perennial water;
- 6.3.1.9** Records of employee training, including the date training was received; and
- 6.3.1.10** The SWPPP may incorporate by reference the appropriate elements of plans required by other agencies. A copy of the requirements incorporated by reference shall be included as an attachment to the SWPPP.
- 6.3.1.11** For DeMinimis discharges, a description of the discharge, the beginning and end dates of the discharge, and a copy of the sampling analyses report.

6.3.2 *Post Construction Stormwater Management* – The SWPPP shall include the following documentation:

- 6.3.2.1** A description of stormwater management control measures that will be installed during the construction process to control pollutants in stormwater discharges after construction has been completed.

6.4 SWPPP Updates and Modification Requirements

6.4.1 *Maintaining an Updated SWPPP* – The SWPPP shall be revised as necessary during permit coverage to reflect current conditions and to maintain accuracy. The operator shall make any required amendments to the SWPPP within 7 calendar days whenever:

6.4.1.1 There is a change in design, construction, operations, or maintenance at the construction site that may have a significant effect on the discharge of pollutants to the waters of the state of Nevada that meet the definition of waters of the U.S. that has not been previously addressed in the SWPPP; or

6.4.1.2 During inspections, monitoring if required, or investigations by the operator or by local, state, MS4 or federal officials, it is determined the discharges are causing or contributing to water quality exceedences or the SWPPP is ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the construction site; or

6.4.1.3 There is a change to the stormwater team.

6.4.2 *Conditions Requiring SWPPP Modification* – The operator shall complete required revisions to the SWPPP within 7 calendar days following the occurrence of any of the conditions listed below. The operator shall modify the SWPPP, including the site map(s), in response to any of the following conditions:

6.4.2.1 Whenever new operators become active in construction activities on the site, or changes are made to construction plans, stormwater control measures, pollution prevention measures, or other activities at the site that are no longer accurately reflected in the SWPPP. This includes changes made in response to corrective actions;

6.4.2.2 To reflect areas on the site map where operational control has been transferred (and the date of transfer) since initiating permit coverage;

6.4.2.3 If inspections or investigation by site staff, or by local, state or federal officials, determine that SWPPP modifications are necessary for compliance with this permit;

6.4.2.4 Where NDEP determines it is necessary to impose additional requirements on the discharge, the following shall be included in the SWPPP:

6.4.2.4.1 A copy of any correspondence describing such requirements; and

6.4.2.4.2 A description of the stormwater control measures that will be used to meet such requirements.

6.4.2.5 To reflect any revisions to applicable federal, state, tribal, or local requirements that affect the stormwater control measures implemented at the site.

6.5 Deficiencies in the SWPPP

6.5.1 NDEP may notify the permittee at any time that the SWPPP does not meet one or more requirements of this section. The notification shall identify the parts of this permit that are not being met and parts of the SWPPP that require modification. Within fifteen (15) calendar days of receipt of the written notification from NDEP, the operator shall make the

required changes to the SWPPP and submit to NDEP a written certification that the requested changes have been made. NDEP may request a copy of the SWPPP to confirm that all deficiencies have been adequately addressed. NDEP may also take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet minimum requirements of this permit.

6.6 Procedures for Inspection, Maintenance, and Corrective Action

6.6.1 The SWPPP shall describe the procedures operators will follow for maintaining their stormwater control measures, conducting site inspections, and, where necessary, taking corrective actions, in accordance with Parts 3.0, 4.0, and 5.0, of this permit. The following information shall also be included in the SWPPP:

- 6.6.1.1 Personnel responsible for conducting inspections;
- 6.6.1.2 The inspection schedule that will be followed based on whether the site is subject to Part 5.2 or whether the site qualifies for the reduced inspection frequency in Part 5.3;
- 6.6.1.3 If reducing the inspection frequency in accordance with Part 5.3, the beginning and ending dates of the reduced inspection period; and
- 6.6.1.4 Any inspection or maintenance checklists or other forms that will be used.
- 6.6.1.5 The operator shall ensure that all qualified personnel (see Appendix A) review the requirements of this permit. Qualified personnel are responsible for:
 - 6.6.1.5.1 The design, installation, maintenance, and/or repair of stormwater controls (including pollution prevention measures); and
 - 6.6.1.5.2 Conducting inspections as required in Part 5.0.

6.7 SWPPP Review and Making SWPPPS Available

6.7.1 The operator shall retain a copy of the current SWPPP at the site or at an easily accessible location so that it can be made available to NDEP, EPA, or another Federal, State or local agency having stormwater program authority, or the operator of a regulated MS4 receiving discharges from the facility (where applicable), at the time of an onsite inspection or upon request.

7.0 General Permit Conditions

7.1 Annual Fee

- 7.1.1 In accordance with NAC 445A.268, a discharger who is covered under a general permit shall pay to the Director the applicable nonrefundable annual fee not later than July 1 of each year that the discharger is covered under that permit.
- 7.1.2 If application/fee for the permit occurs prior to July 1, the permittee shall also submit the

annual renewal fee due on or before July 1 of the same year.

7.2 General Permit Re-issuance for Ongoing Projects

7.2.1 The Permittee will be included in the reissued general permit after this general permit expires, or will be informed of other permitting requirements. The Permittee will receive public notice if NDEP determines to reissue the general permit.

7.3 Facilities Operation

7.3.1 The Permittee shall at all times maintain in good working order and operate as efficiently as possible all equipment and ancillary BMPs used by the Permittee to achieve compliance with the terms and conditions of this general permit.

7.4 Need to Halt or Reduce Activity Not a Defense

7.4.1 It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity, under the Permittee's control, in order to maintain compliance with the conditions of this permit.

7.5 Noncompliance, Unauthorized Discharge, Bypass, and Upset

7.5.1 Any diversion, bypass, spill, overflow, upset or discharge of treated or untreated stormwater from stormwater treatment or conveyance facilities under the control of the Permittee is prohibited except as authorized by this permit. In the event the Permittee has knowledge that a diversion, bypass, spill, overflow, upset or discharge not authorized by this permit is imminent, the permittee shall notify NDEP immediately.

7.5.1.1 **Bypass**: means the intentional diversion of stormwater from any portion of a control measure.

7.5.1.1.1 Bypass is prohibited, and NDEP may take enforcement action against the Permittee for bypass, unless:

7.5.1.1.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

7.5.1.1.1.2 There were no feasible alternatives to the bypass. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

7.5.1.1.1.3 The Permittee submitted prior notice at least 10 days before the date of the bypass.

7.5.1.1.2 NDEP may approve an anticipated bypass, after considering its adverse effects, if NDEP determines that it will meet the three conditions listed in Part 7.5.1.1.1 above.

7.5.1.2 **Upset:** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed control measures, inadequate control measures, lack of preventive maintenance, or careless or improper operation.

7.5.1.2.1 An upset constitutes an affirmative defense to an action brought for non-compliance with such technology-based permit effluent limitations if the requirements of Part 7.5.1.2.2 below are met.

7.5.1.2.2 A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

7.5.1.2.2.1 An upset occurred and that the Permittee can identify the cause(s) of the upset;

7.5.1.2.2.2 The permitted site was at the time being properly operated;

7.5.1.2.2.3 The Permittee submitted notice of the upset as required under this section; and

7.5.1.2.2.4 The Permittee complied with any remedial measures required under Part 7.0.

7.5.1.2.3 In selecting the appropriate enforcement option, NDEP shall consider whether or not the noncompliance was the result of an upset. The burden of proof is on the Permittee to establish that an upset occurred.

7.5.1.3 There shall be no discharge of substances to Waters of the State that would cause a violation of water quality standards of the State of Nevada.

7.6 Sampling and Analysis

If any samples or measurements are taken pursuant to this permit they shall be representative of the volume and nature of the discharge. Laboratory analyses shall be performed by a State of Nevada certified lab. Results from this lab shall be provided to NDEP.

7.7 Test Procedures

Test procedures for analyses of pollutants shall conform to regulations (40 CFR § 136) published pursuant to Section 304(h) of the Act, under which such procedures may be required, unless other procedures are approved by NDEP.

7.8 Recording the Results

If any measurement or sample is taken pursuant to this permit, the permittee shall record the following information:

7.8.1 The exact place, date, and time of sampling;

7.8.2 The dates the analyses were performed;

- 7.8.3 The person(s) who performed the analyses;
- 7.8.4 The analytical techniques or methods used; and
- 7.8.5 The results of all required analyses.

7.9 Odors

- 7.9.1 There shall be no objectionable odors resulting from activities authorized by this general permit.

7.10 Removed Substances

- 7.10.1 Solids or other pollutants removed in the course of treatment or control of stormwater shall be disposed of in a manner such as to prevent pollution from such materials from entering any surface water.

7.11 Changes in Discharge

- 7.11.1 All discharges authorized herein shall be consistent with the terms and conditions of this general permit. Any anticipated new discharges at the site which will result in new, different, or increased discharges of pollutants shall be reported to NDEP. Pursuant to NAC 445A.263, the general permit may be modified to specify and limit any pollutants not previously limited.

7.12 Adverse Impact

- 7.12.1 The Permittee shall take all reasonable steps to minimize, to the extent practicable, any adverse impact to receiving waters resulting from noncompliance with this general permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge. The Permittee shall carry out such measures, as reasonable, to prevent significant adverse impacts on human health or the environment.

7.13 Right of Entry

- 7.13.1 The Permittee shall allow the Administrator and/or his authorized representatives, upon the presentation of credentials:
 - 7.13.1.1 To enter upon the Permittee's premises where a discharge is or could be located or in which any records are required to be kept under the terms and conditions of the general permit; and
 - 7.13.1.2 At reasonable times, to have access to and copy any records required to be kept under the terms and conditions of this general permit; to inspect any monitoring equipment or monitoring method required in this general permit; and to perform any necessary sampling to determine compliance with the general permit or to sample any discharge.

7.14 Transfer of Ownership or Control

7.14.1 In the event of any change in control or ownership of facilities from which the authorized discharge emanates, the Permittee shall notify the succeeding owner/operator of the existence of this permit by letter, a copy of which shall be forwarded to NDEP. Completion of transfer requires the following actions:

- 7.14.1.1 Transfer of coverage from one owner/operator to a different owner/operator (e.g., facility sold to a new company): the new owner/operator shall complete and file a Notice of Intent in accordance with Part 2.3, at least 14 days prior to taking over operational control of the facility. The current owner/operator shall file a Notice of Termination within thirty (30) days after the new owner/operator has assumed responsibility for the facility.
- 7.14.1.2 Name changes for the Permittee (e.g., Company "A" changes name to "BCD, Inc.") may be done by submitting to NDEP a request letter on company letterhead, indicating the facility's assigned permit number and requesting the name change.

7.15 Availability of Reports

7.15.1 Except for data determined to be confidential under NRS 445A.665, all reports prepared in accordance with the terms of this general permit shall be available for public inspection at the office of NDEP. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NRS 445A.710.

7.16 Furnishing False Information and Tampering with Monitoring Devices

7.16.1 Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained by the provisions of NRS 445A.300 to 445A.730, inclusive, or by any general permit, rule, regulation or order issued pursuant thereto, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under the provisions of NRS 445A.300 to 445A.730 inclusive, or by any general permit, rule, regulation or order issued pursuant thereto, is guilty of a gross misdemeanor and shall be punished by a fine of not more than \$10,000 or by imprisonment. This penalty is in addition to any other penalties, civil or criminal, provided pursuant to NRS 445A.300 to 445A.730 inclusive.

7.17 Penalty for Violation of General Permit Conditions

7.17.1 The Permittee shall comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the CWA and is grounds for enforcement action, permit termination, revocation and re-issuance, modification, or denial of a permit renewal application. NRS 445A.675 provides that any person who violates a general permit condition is subject to administrative and judicial sanctions as outlined in NRS 445A.690 through 445A.705.

7.18 General Permit Modification, Suspension or Revocation

7.18.1 After notice and opportunity for a hearing, this general permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

7.18.1.1 Violation of any terms or conditions of this general permit;

7.18.1.2 Obtaining this general permit by misrepresentation or failure to disclose fully all relevant facts; or

7.18.1.3 A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

7.19 Liability

7.19.1 Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal, State or local laws, regulations, or ordinances.

7.20 Property Rights

7.20.1 The issuance of this general permit does not convey any property rights, in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

7.21 Records Retention

7.21.1 All records and information resulting from activities performed pursuant to this permit shall be retained for a minimum of three years, or longer if required by NDEP.

7.22 Severability

7.22.1 The provisions of this general permit are severable, and if any provisions of this general permit, or the application of any provisions of this general permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of the general permit, shall not be affected thereby.

7.23 Signature Requirements

7.23.1 All Notices of Intent, Notices of Termination, SWPPPs, reporting forms and document submissions shall be signed by one of the following:

7.23.1.1 A principal executive officer of the corporation (of at least the level of vice president) or his authorized representative who is responsible for the overall operation of the facility for which the discharge described in the application or reporting form originates; or

7.23.1.2 A general partner of the partnership; or

- 7.23.1.3 The proprietor of the sole proprietorship; or
- 7.23.1.4 A principal executive officer, ranking elected official or other authorized employee of the municipal, state or other public facility.
- 7.23.1.5 A duly authorized representative only if:
 - 7.23.1.5.1 The authorization is made in writing by a person described above in Part 7.23.1.1;
 - 7.23.1.5.2 The authorization specifies either an individual or a position within the organization; and
 - 7.23.1.5.3 The written authorization is submitted to the Director.

7.24 Changes to Authorization

- 7.24.1 If an authorization under Part 7.23 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 7.23 shall be submitted to NDEP prior to or together with any reports, information, or application to be signed by an authorized representative.

7.25 Certification Requirements

- 7.25.1 Signatures, Certification Required on Application and Reporting Forms: All applications, reports, or information submitted to the Administrator shall be signed and certified by making the following certification. "I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

7.26 Address for Fee Payment, NOI Certification Page, and Notice of Termination Form

- 7.26.1 NOI Certification pages and NOT applications shall be signed and dated in accordance with Parts 2.3.3.10, 2.8.2, and 8.23 and submitted to NDEP at the address below. Application fees, Annual Fees, and any required reporting documentation shall likewise be sent to the address in Part 7.26.2.
- 7.26.2 **Nevada Division of Environmental Protection
Bureau of Water Pollution Control
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701**

Appendix A
Definitions, Abbreviations and Acronyms

A.1 Definitions

24-hour period – any consecutive 24-hour period

Administrator – means the executive head of the Division (NRS 445A.315).

Anticipated Storm Event – for the purpose of this permit, means any storm event with at least a 30% chance of precipitation as predicted by the National Weather Service for the area local to the construction site.

Best Management Practices (BMPs) – schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Waters of the State of Nevada that meet the definition of Waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. See 40 CFR 122.2. In addition, the term shall include erosion and sediment controls, conveyance, stormwater diversion and treatment structures, and any procedure or facility used to minimize, to the extent practicable, the exposure of pollutants to stormwater or remove pollutants from stormwater.

Borrow Areas – the areas where materials are dug or stored for use as fill, either onsite or off-site.

Cationic Treatment Chemical – polymers, flocculants, or other chemicals that contain an overall positive charge. Among other things they are used to reduce turbidity in stormwater discharges by chemically bonding to the overall negative charge of suspended silts and other soil materials and causing them to bind together and settle out. Common examples of cationic treatment chemicals are chitosan and cationic PAM.

Clean Water Act (CWA) – Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 92-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C.1251 et seq. CWA and regulations means the Clean Water Act (CWA) and applicable regulation promulgated thereunder. In the case of an approved State program, it includes State program requirements.

Commencement of construction activities – the initial disturbance of soils (or "breaking ground") associated with clearing, grading, excavating, or stockpiling of fill material activities or other construction related activities.

Common Plan of Development – a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one plan. A 'plan' is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

Construction Activity – includes clearing, grading excavating, stockpiling of fill material and other similar activities. This definition encompasses both large construction activities defined in 40 CFR 122.26(b)(14)(x) and small construction activities in 40 CFR 122.26(b)(15)(i) and include construction support activities.

Construction and Development Effluent Limitations and New Source Performance

Standards (C&D Rule) – as published in 40 CFR § 450 is the regulation requiring effluent limitations guidelines (ELGs) and new source performance standards (NSPS) for controlling the discharge of pollutants from construction sites.

Construction Site (or site) – means the land or water area where construction activities will occur, including construction support activities, and where stormwater controls will be installed and maintained. The construction support activities may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether.

Construction Support Activity – means a construction related activity that exclusively supports the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas.

Construction Waste – refers to discarded material (such as packaging materials, scrap construction materials, masonry products, timber, steel, pipe, and electrical cuttings, plastics and Styrofoam).

Control Measure – refers to any BMP or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to Waters of the State of Nevada that meet the definition of Waters of the United States.

Conveyance Channel – means a temporary or permanent waterway designed and installed to safely convey stormwater flow within and out of a construction site.

Corrective Action – for the purpose of this permit, any action taken to (1) modify or replace any stormwater control used at the site; (2) clean up and dispose of spills, releases, or other deposits found on the site; or (3) remedy a permit violation.

Department - means the State Department of Conservation and Natural Resources (NRS 445A.330).

Director – means the Director of the Nevada Division of Environmental Protection or an authorized representative (NRS 445A.340).

Discharge – means any addition of a pollutant or pollutants to Waters of the State of Nevada that meet the definition of Waters of the United States or to a MS4 from any point source.

Discharge of a pollutant – any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. This includes additions of pollutants into waters of the United States from surface runoff which is collected or channeled by man. See 40 CFR 122.2.

Discharge Point – is, for the purpose of this permit, the location where stormwater flows exit the construction site.

Discharge to an Impaired Water – for the purposes of this permit, a discharge to an impaired water occurs if the first water of the U.S. to which you discharge is identified by NDEP, pursuant to section 303(d) of the Clean Water Act, as not meeting an applicable water quality standard. For

discharges that enter a storm drain system prior to discharge, the first surface water to which you discharge is the water body that receives the stormwater discharge from the storm drain system.

Division – means the Division of Environmental Protection of the Department (NRS 445A.350)

Domestic Waste – for the purpose of this permit means typical household trash, garbage or rubbish items generated by construction activities.

Emergency-related Construction Activity – means an activity initiated in response to an emergency (e.g., natural disaster, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services.

Ephemeral Water – means a surface water that has a channel that is at all times above the water table, and that flows only in direct response to precipitation.

Erosion Control – means temporary or permanent measures to prevent soil particles from detaching and being transported in stormwater.

Existing Discharger – an operator applying for coverage under this permit for discharges authorized previously under an NPDES general or individual permit.

Existing Project – means a construction project that commenced construction activities prior to ADD DATE PERMIT BECOMES EFFECTIVE

Exit points – are any points of egress from the construction site to be used by vehicles and equipment during construction activities.

General Permit – means a permit issued by the Department pursuant to NRS 445A.475 (NRS445A.360).

Impaired Water – waters that have been assessed by NDEP, under the CWA, Section 303(d), as not attaining a water quality standard for at least one designated use, and are listed in Nevada's 2006 303(d) Impaired Waters List. <http://ndep.nv.gov/bwqp/303dlist2012.htm>

Industrial Activity – means temporary concrete, asphalt and material plants which are dedicated exclusively to the permitted construction activity.

Infeasible – means not technologically possible, or not economically practicable and achievable in light of best industry practices.

Large Construction Activity – includes clearing, grading and excavation that results in the disturbance of five acres or more of total land area.

Linear Project – includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area.

Minimize – to reduce and/or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable and achievable in light of best industry practices.

Municipal Separate Storm Sewer (MS4) – a conveyance or system of conveyances (including

roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains);

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
2. Designed or used for the collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR122.2. See 40 CFR 122.26(b)(4) and (b)(7).

Notice of Intent (NOI) – the application to operate under this general permit.

Notice of Termination (NOT) – the application to terminate coverage under this general permit.

Operator – any entity with a stormwater discharge associated with construction activity that meets either of the following two criteria:

1. The person has operational control over the construction plans and specifications, including the ability to make modifications to those plans and specifications; or
2. The person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).

Person – "Person" includes the United States, to the extent authorized by federal law, the State or any agency or institution thereof, any municipality or other political subdivision of this State or any interstate body (NRS 445A.390)

Pollutant – (NRS 445A.400)

1. Means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

2. Does not mean water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either for facilitating production or for disposal purposes and if the Department determines that such injection or disposal will not result in the degradation of ground or surface water resources.

3. Does not mean water, gas or other material injected into a well or used to stimulate a reservoir of geothermal resources if the Department determines that the injection or stimulation will not result in the degradation of ground or surface water resources.

Pollution Prevention Measures – refers to stormwater controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

Qualified Person or Qualified Personnel – Qualified personnel are those (either the Operator's employees or outside consultants) who are knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possess the skills to assess conditions at the

construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater controls selected to control the quality of stormwater discharges from the construction activity.

Point Source – means any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollution Prevention Measures – means stormwater controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

Run-on – means stormwater that drains from land located upslope or upstream from the regulated site in question.

Sediment Control – refers to measures designed to intercept and settle out soil particles that have become detached and transported by water.

Small Construction Activity – includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Stabilization – means covering or maintaining an existing cover over soil that reduces and minimizes erosion. The use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process.

Storm Event – as used in this permit is defined as a precipitation event that results in a measureable amount of precipitation.

Stormwater – means stormwater runoff, snow melt runoff, and surface runoff and drainage. See 40 CFR 122.26(b)(13).

Stormwater Discharges Associated with Construction Activity – refers to a discharge of pollutants in stormwater runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavating), construction materials or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located. See 40 CFR 122.26(b)(14)(x) and 40 CFR 122.26(b)(15).

Stormwater Pollution Prevention Plan (SWPPP) – a site-specific, written document that, among other things: (1) identifies potential sources of stormwater pollution at the construction site; (2) describes stormwater control measures to reduce or eliminate pollutants in stormwater discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of the general permit.

Stormwater Team – refers to an individual or group of individuals responsible for oversight of the development and modification of the SWPPP, and oversight of compliance with the permit requirements.

Temporary Stabilization – means a condition where exposed soils or disturbed areas are provided a temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, palliatives, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb the area. The application of water alone to control dust is not considered a form of temporary stabilization.

Waters of the United States or waters of the U.S. – is defined at 40 CFR §122.2. Discharges to storm drain systems that in turn discharge to Waters of the United States are considered to be discharges to Waters of the United States.

Water Quality Standards – A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. States and EPA adopt water quality standards to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act.

A.2 Abbreviations and Acronyms

BMP – Best Management Practice

BWPC – Bureau of Water Pollution Control

CFR – Code of Federal Regulations

CWA – Clean Water Act (or Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq)

EPA – Federal Environmental Protection Agency

MS4 – Municipal Separate Storm Sewer System

NDEP – Nevada Division of Environmental Protection

NOI – Notice of Intent

NOT – Notice of Termination

NPDES – National Pollutant Discharge Elimination System

SWPPP – Stormwater Pollution Prevention Plan

USGS – United States Geological Survey

WOUS – Waters of the United States

Appendix B
DeMinimis Discharge Sampling and Limitations

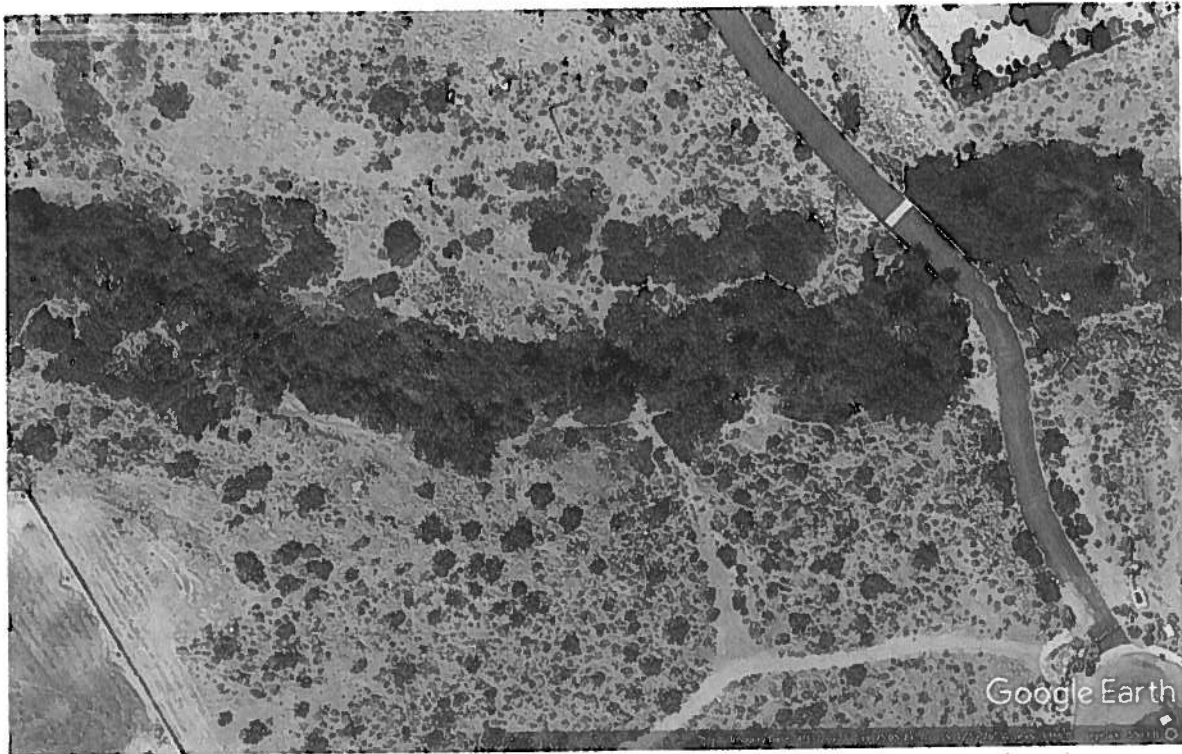
B.1 DeMinimis Discharge Sampling and Limitations Table

Parameters	Discharge Limit - Daily Max	Sample Type
Flow - gallons per minute (gpm)	250	Meter
Total Residual Chlorine - mg/L	0.10	Discrete
Total Dissolved Solids (TDS) - mg/L	Monitor & Record in SWPPP	Discrete
Total Suspended Solids (TSS) - mg/L	Monitor & Record in SWPPP	Discrete
Total Petroleum Hydrocarbon (TPH) (C6 - C40) mg/L ¹	1.0	Discrete
Methyl tert-Butyl Ether (MTBE) - µg/L	20.0	Discrete
Total Nitrogen as N - mg/L	10.0	Discrete
Total Phosphorus as P	Monitor & Record in SWPPP	Discrete
Trichloroethylene (TCE) - µg/L	5.0	Discrete
Tetrachloroethylene (PCE) - µg/L	5.0	Discrete
Benzene - µg/L	5.0	Discrete
Ethyl Benzene - µg/L	100.0	Discrete
Toluene - µg/L	100.0	Discrete
Xylene - µg/L	200.0	Discrete
pH - SU	6.5 - 9.0	Discrete
Turbidity - NTU ²	Monitor & Record in SWPPP	Discrete
Barium - mg/L	2.0	Discrete
Fluoride - mg/L	Monitor & Record in SWPPP	Discrete
Iron - mg/L	1.0	Discrete
Sulfate - mg/L	Monitor & Record in SWPPP	Discrete
Dissolved Oxygen	Monitor & Record in SWPPP	Discrete
Molybdenum - mg/L	6.16	Discrete
Antimony	Monitor & Record in SWPPP	Discrete
Arsenic	Monitor & Record in SWPPP	Discrete
Beryllium	Monitor & Record in SWPPP	Discrete
Boron	Monitor & Record in SWPPP	Discrete
Cadmium	Monitor & Record in SWPPP	Discrete
Calcium	Monitor & Record in SWPPP	Discrete
Copper	Monitor & Record in SWPPP	Discrete
Lead	Monitor & Record in SWPPP	Discrete
Magnesium	Monitor & Record in SWPPP	Discrete
Manganese	Monitor & Record in SWPPP	Discrete
Mercury	Monitor & Record in SWPPP	Discrete
Nickel	Monitor & Record in SWPPP	Discrete
Selenium	Monitor & Record in SWPPP	Discrete

Silver	Monitor & Record in SWPPP	Discrete
Sulfur	Monitor & Record in SWPPP	Discrete
Thallium	Monitor & Record in SWPPP	Discrete
Zinc – total recoverable	Monitor & Record in SWPPP	Discrete
Fecal Coliform - MPN/100 mL	Monitor & Record in SWPPP	Discrete
E Coli - MPN/100 mL	Monitor & Record in SWPPP	Discrete
Hardness (expressed as CaCO ₃) – mg/L	Monitor & Record in SWPPP	Discrete

1. EPA Method 8015B and EPA Method 8260B, extractable and purgeable, C6-C40. Summation must meet permit limit.
2. Turbidity shall be less than or equal to 10 Nephelometric Turbidity Units (NTUs) over the background value of the receiving water.

Exhibit C
Site Photos



August 2017 (prior to any know construction activity)



June 2018 (beginning of known construction activity)



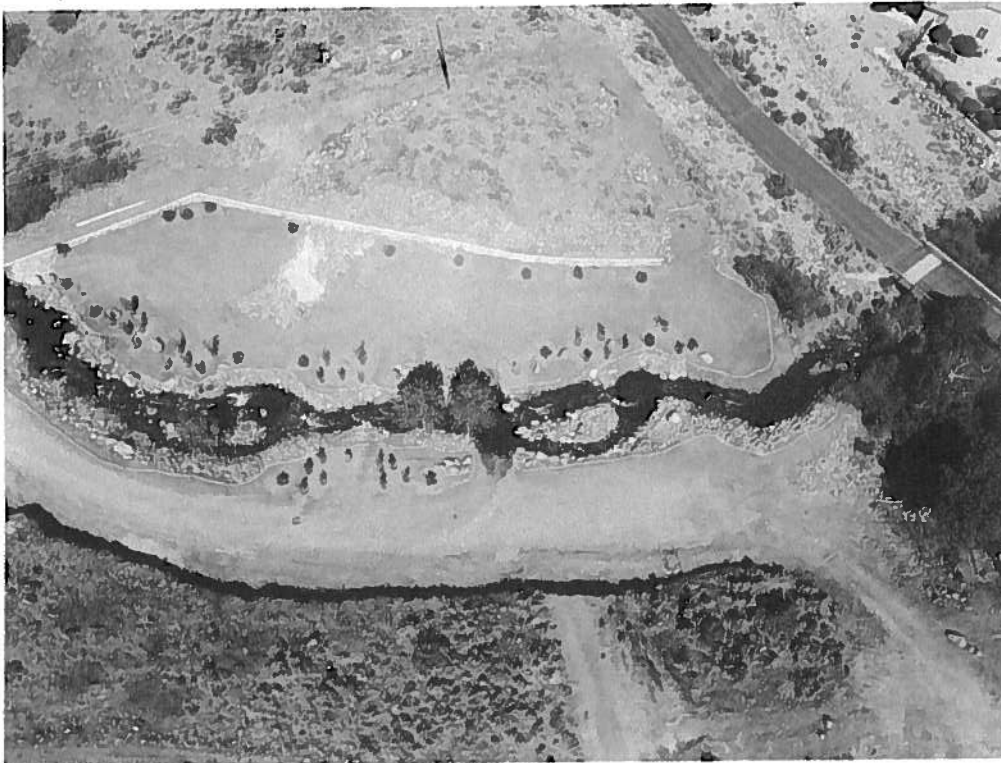
September 14, 2018



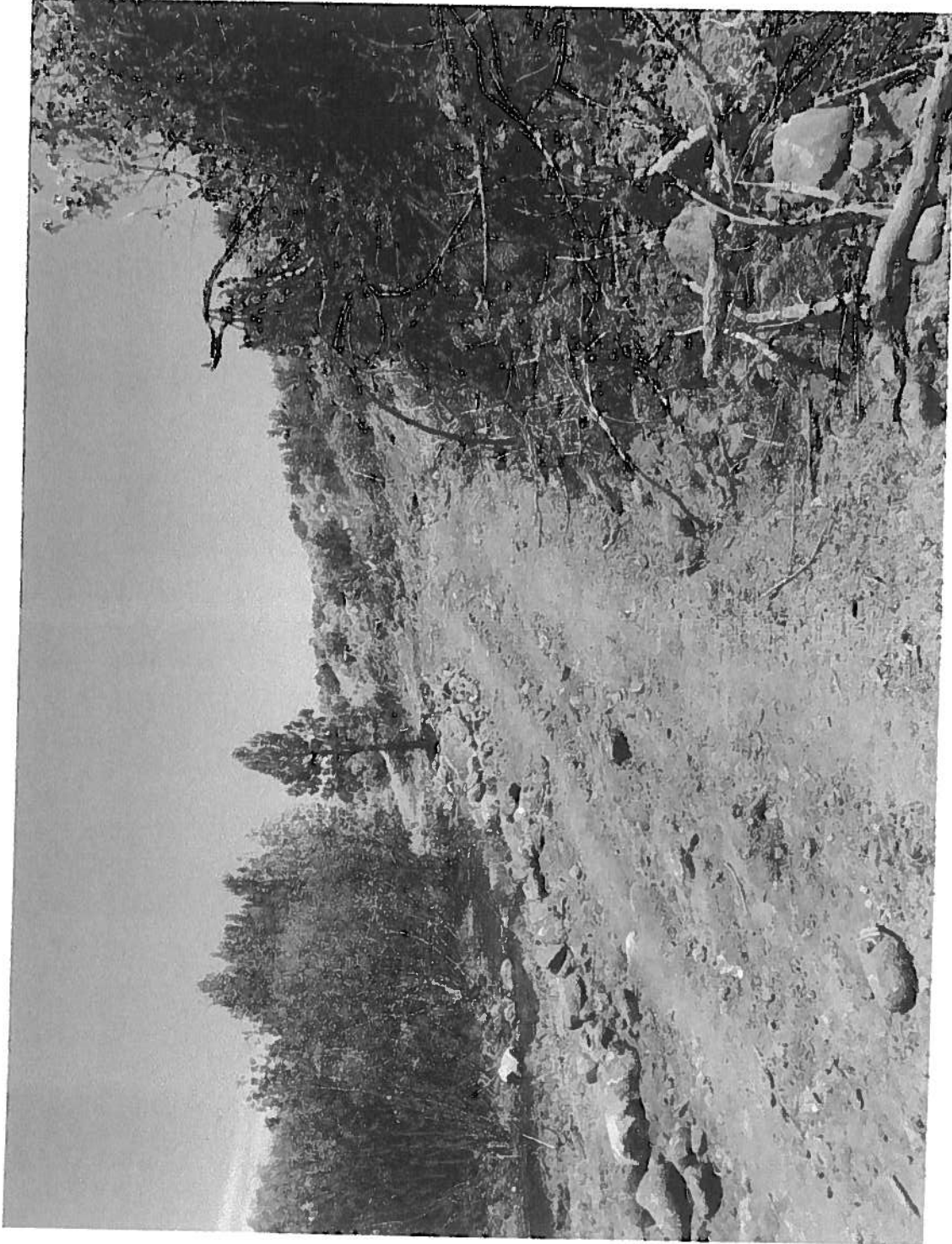
November 2018



May 3, 2019



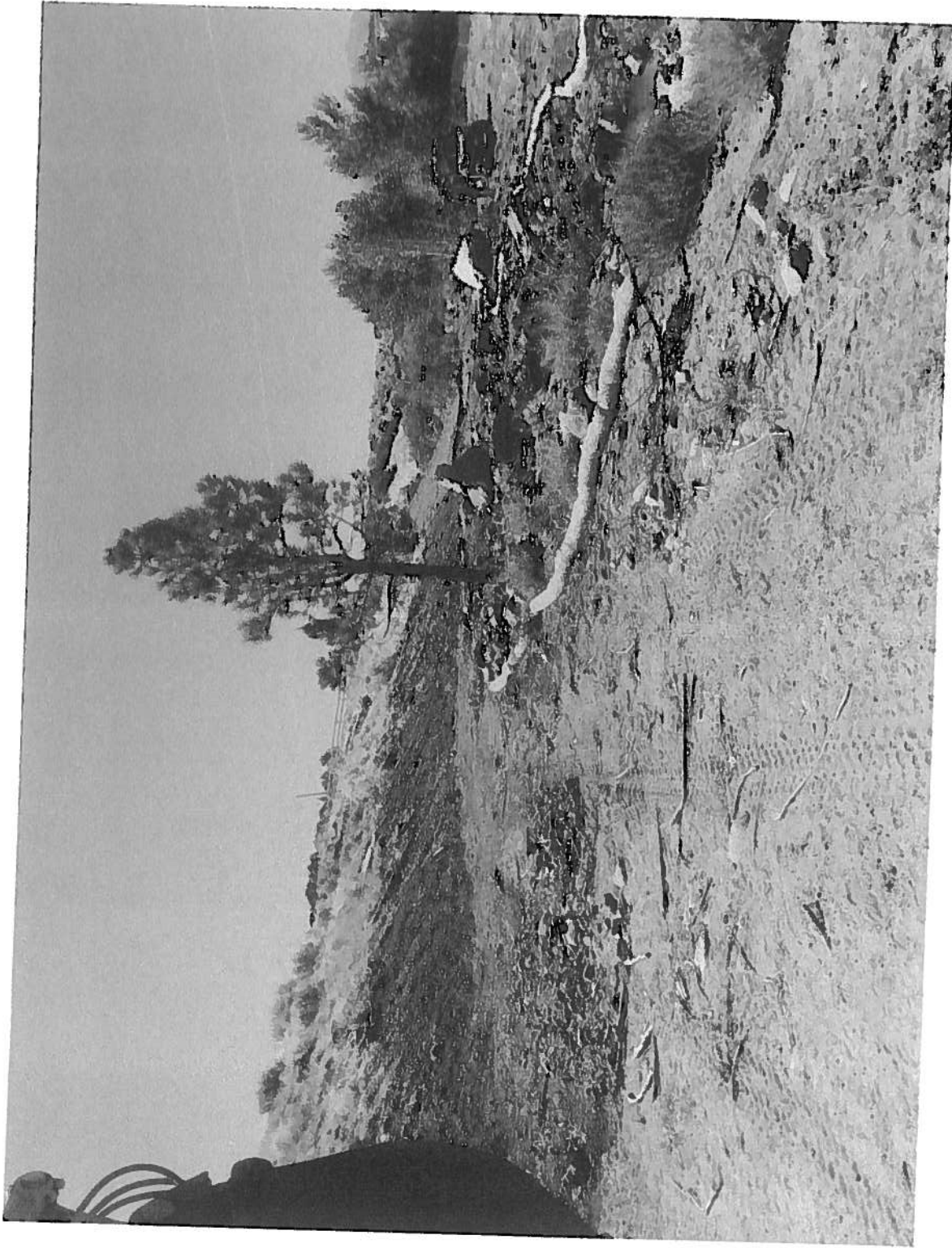
June 14, 2019



June 14, 2018



August 14, 2018



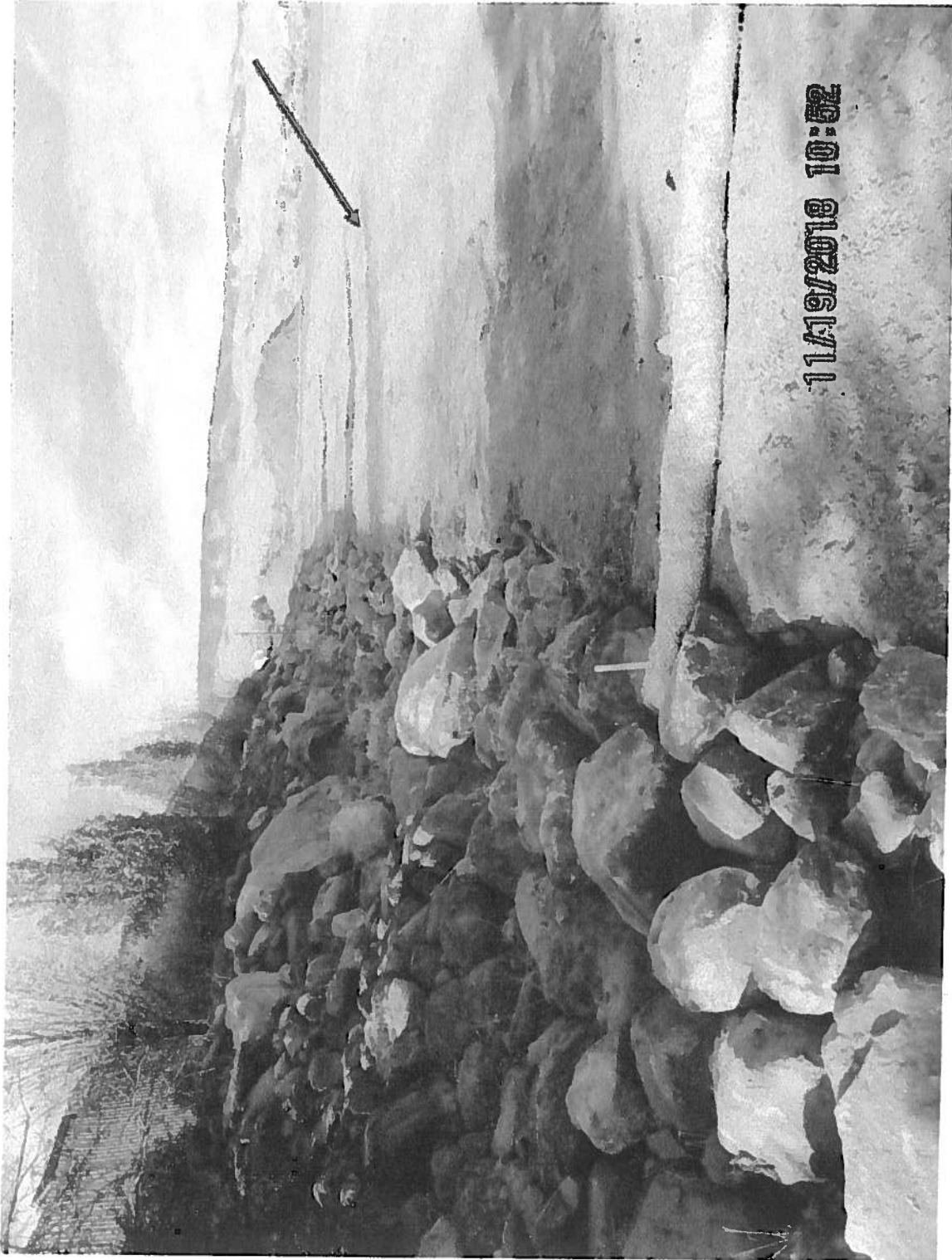
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NDEP 0070

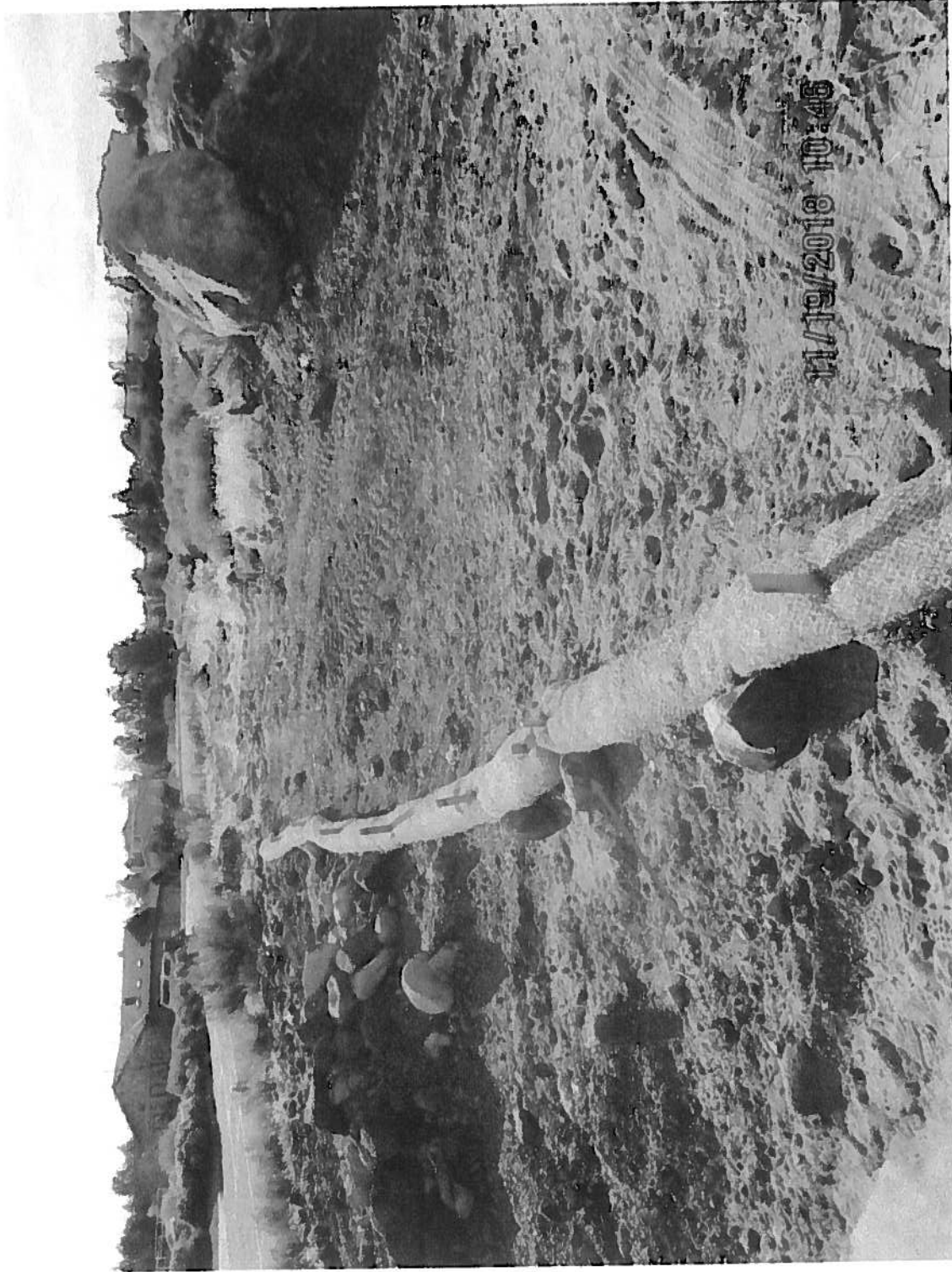


October 4, 2018

EXHIBIT E



November 19, 2018



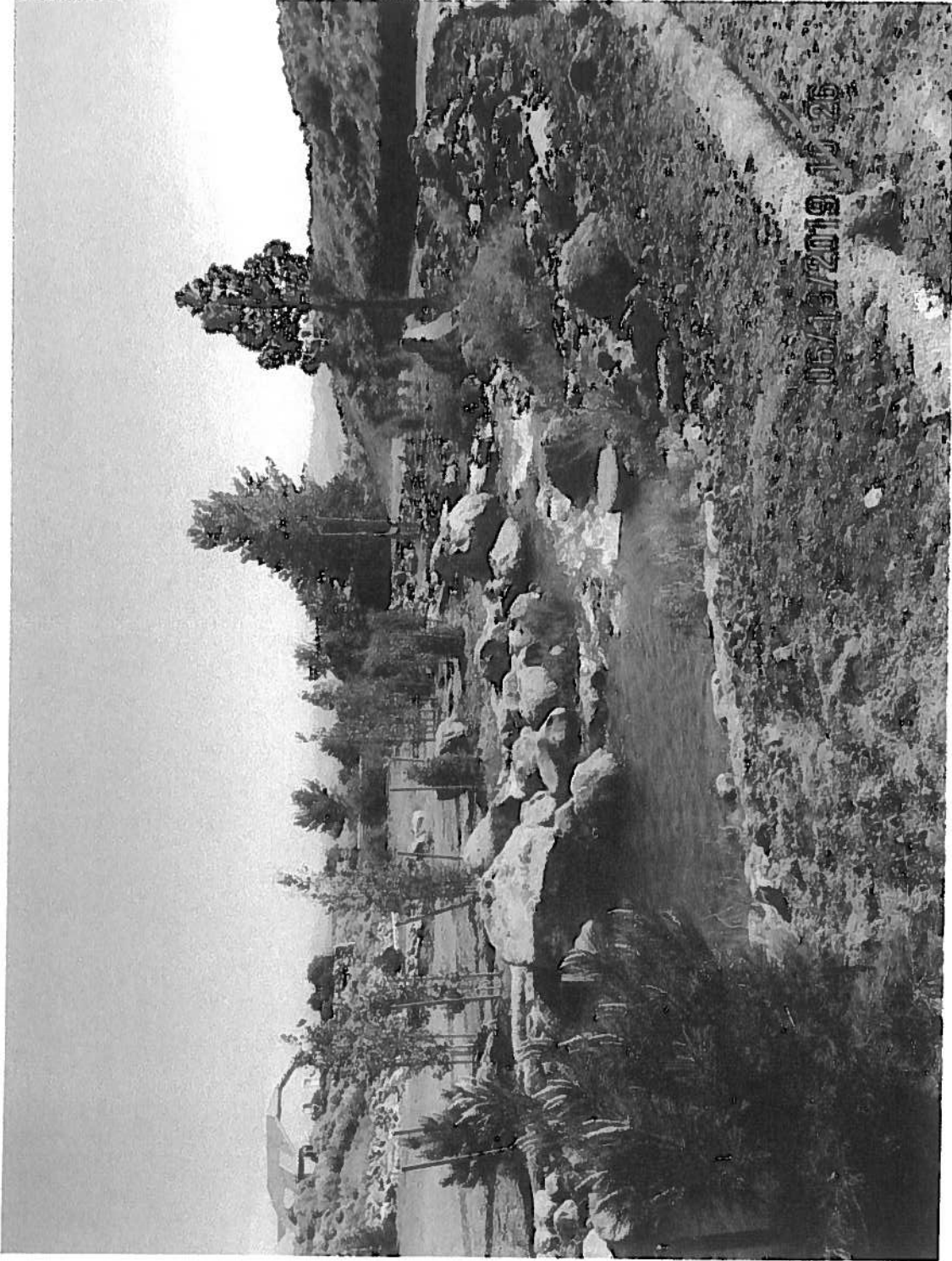
November 19, 2018



April 9, 2019

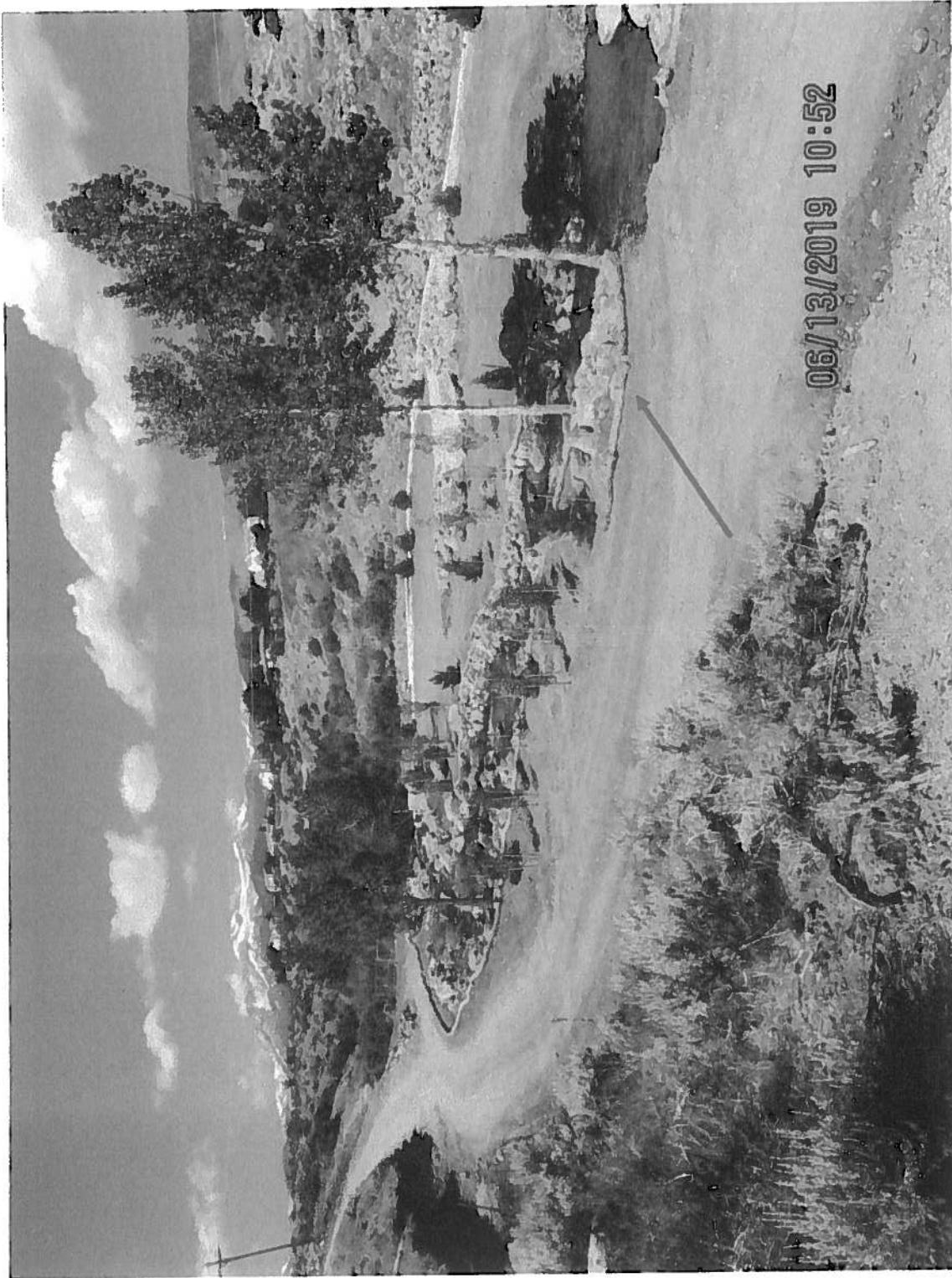


June 13, 2019



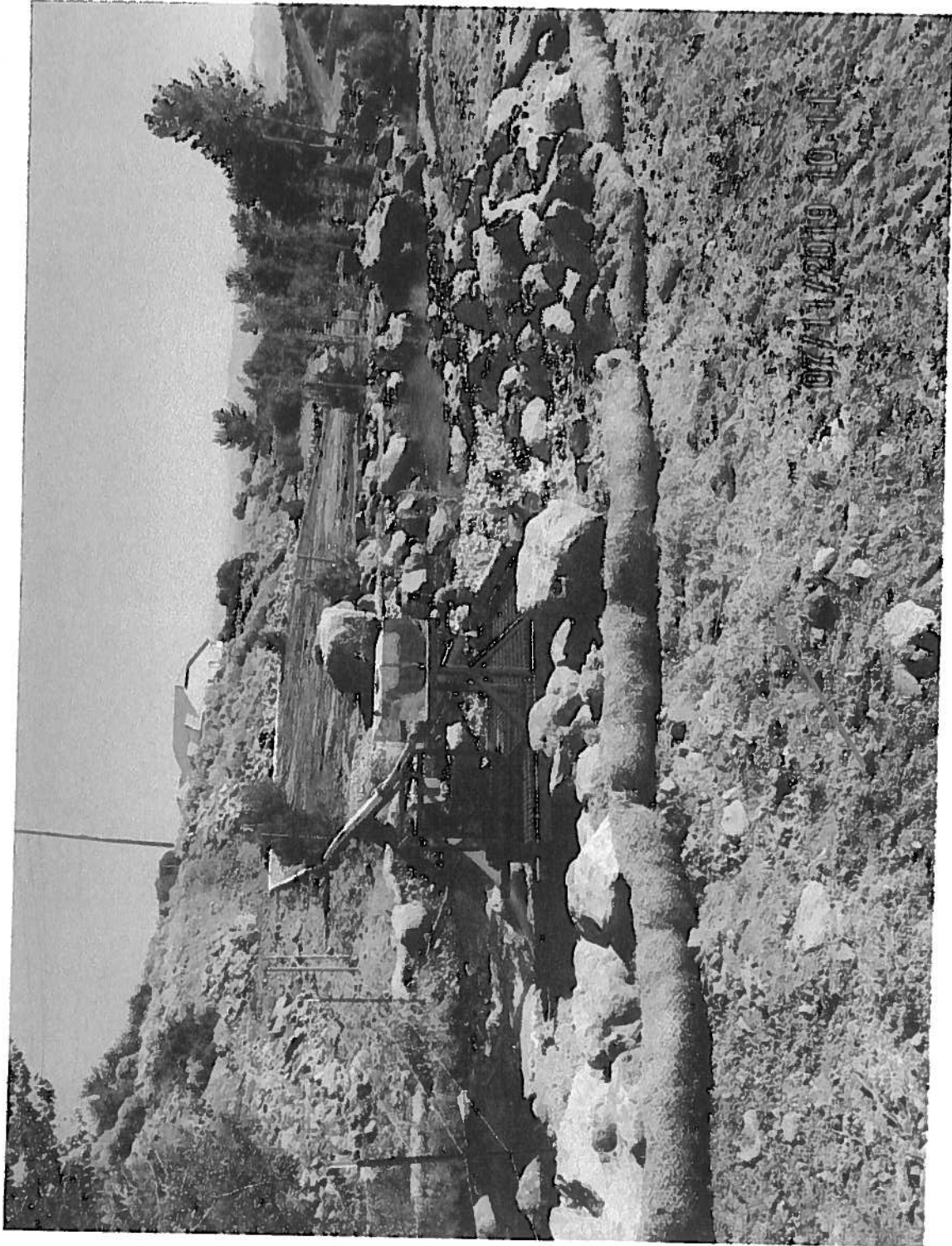
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NDEP 0076

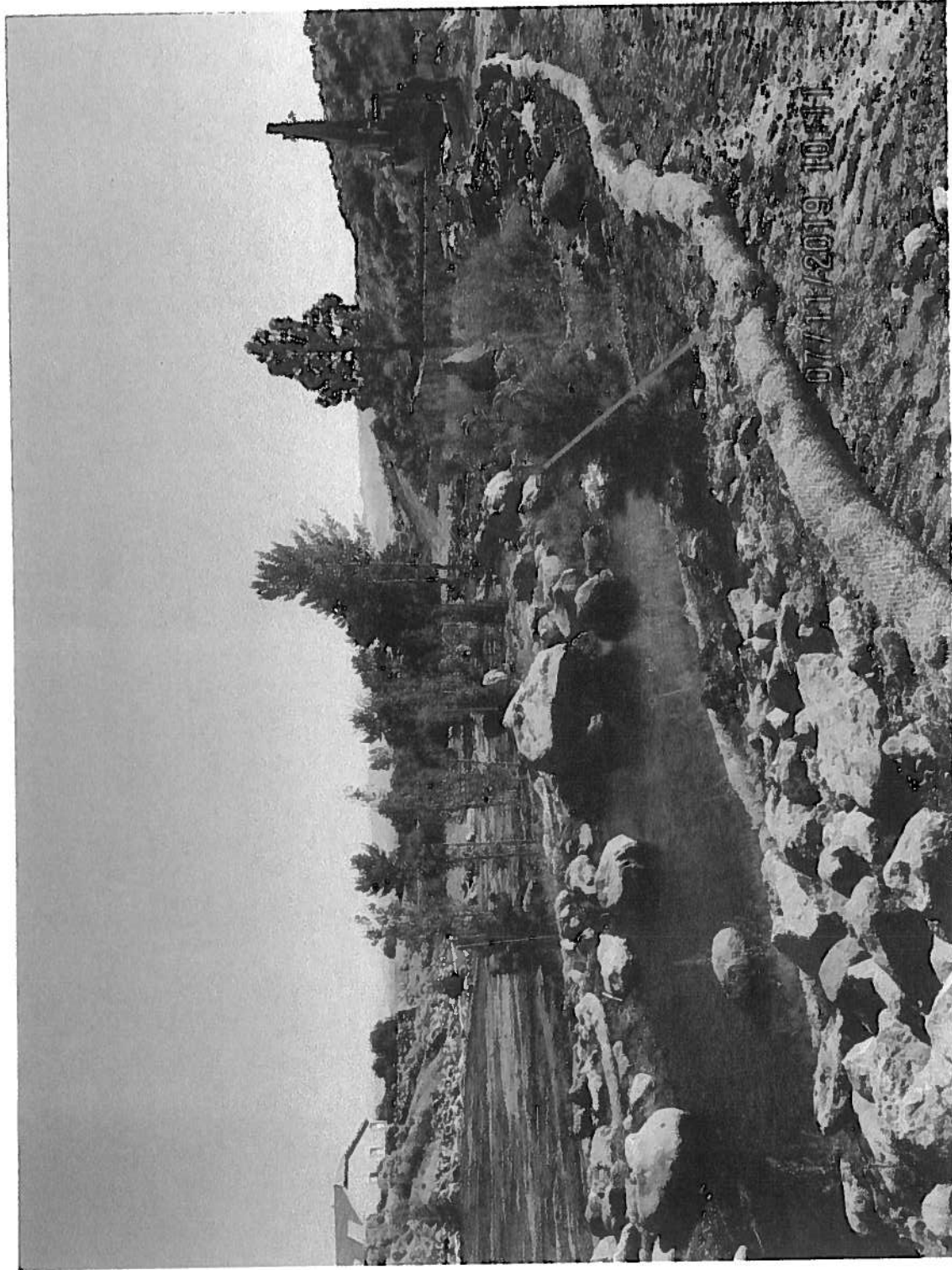


June 13, 2019

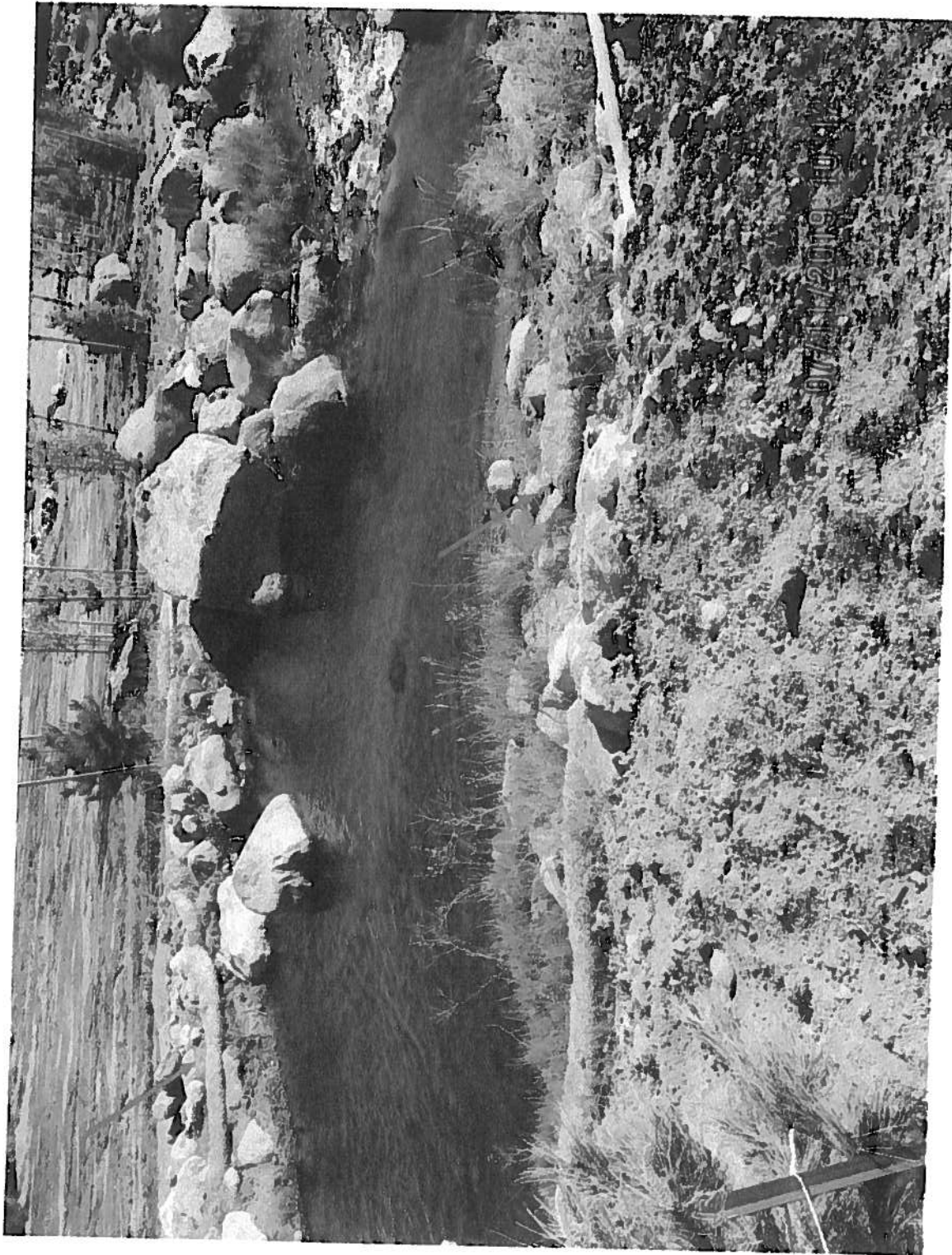
EXHIBIT E



July 11, 2019



July 11, 2019



July 11, 2019



July 11, 2019



July 11, 2019

Exhibit D

Cease and Desist Order



STATE OF NEVADA
Department of Conservation & Natural Resources
Brian Sandoval, Governor
Bradley Crowell, Director
Greg Lovato, Administrator

August 28, 2018

Randy & Kami Soule
13390 Welcome Way
Reno, NV 89511

Certified Mail#
9171 9690 0935 0039 9478 30

Site Name: Soule Property APN: 049-165-05

Re: Cease and Desist for Construction without a Permit

Dear Mr. and Mrs. Soule,

The Nevada Division of Environmental Protection's (Division) Bureau of Water Pollution Control was notified on August 14, 2018 of ongoing unpermitted construction activities in and around Thomas Creek. Thomas Creek conveys waters of the State of Nevada to the Truckee River, which is a Waters of the U.S. The Division requires that any work being conducted in or near a waterway be permitted for the construction activities. In this case a working in waterways permit, construction stormwater permit and a 401 Water Quality Certification or waiver will be required. Additional permits may also be required by other agencies. Construction in a waterway without a permit is in direct violation of NRS 445A.465.

Therefore, the Division requires Randy & Kami Soule to complete the following:

1. Immediately cease and desist from any and all construction activities in and around Thomas Creek until such time as all required permits are obtained.
2. By September 14, 2018 submit permit applications for a Construction Stormwater and Working in Waterways permit required by the Division for the construction activities located on any and all parcels owned by Randy and Kami Soule that border Thomas Creek.
3. By September 14, 2018 obtain a 401 Water Quality Certification or waiver from the Division, Bureau of Water Quality Planning.
4. Within 21 days of obtaining permit coverage, complete all bank stabilization and installation of BMPs as required in the permits.

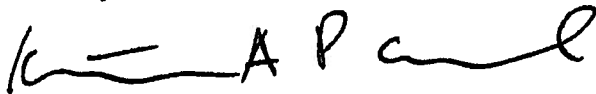
5. Please contact the following agencies to inquire about the permit application process and what permits are required for your construction activities.

- a. Division - Bureau of Water Pollution Control permits branch supervisor Donette Barreto 775-687-9414) and Andrew Dixon, Stormwater Branch 775-687-9422.
- b. Division – Bureau of Water Quality Planning, Jeanmarie Stone 775-687-9456.

The Division takes this violation seriously. If construction on the properties that borders Thomas Creek continues without obtaining the required permit or permits, **this failure to comply will result in the direct referral of this matter to Formal Enforcement Proceedings which can lead to penalties of up to \$25,000 per day for every item of noncompliance.**

If there are any questions, please contact me at (775) 687-9435.

Sincerely,



Katrina Pascual, P.E., Supervisor
Technical, Compliance and Enforcement
Bureau of Water Pollution Control

CC:
Washoe County Planning Department, PO Box 11130, Reno, NV 89520

ECC:
Andrew Dixon, NDEP
Ryan Fahey, NDEP
Jeanmarie Stone, NDEP
Donette Barreto, NDEP



[FAQs >](#)

Track Another Package X

Randy and Kami Soule, "Re: Cease and Desist for Construction without a permit, Soule Property"

Track

Tracking Number: 9171969009350039947830

Remove **X** Feedback

Your item was delivered to an individual at the address at 12:43 pm on September 10, 2018 in RENO, NV 89511.

Delivered

September 10, 2018 at 12:43 pm
Delivered, Left with Individual
RENO, NV 89511

Return Receipt Electronic

Tracking History

September 10, 2018, 12:43 pm
Delivered, Left with Individual
RENO, NV 89511

Your item was delivered to an individual at the address at 12:43 pm on September 10, 2018 in RENO, NV 89511.

12/8/2018

NDEP 0086

September 6, 2018, 11:28 am

Notice Left (No Authorized Recipient Available)

RENO, NV 89511

September 6, 2018, 12:13 am

Departed USPS Regional Facility

RENO NV DISTRIBUTION CENTER

September 5, 2018, 9:20 pm

Arrived at USPS Regional Facility

RENO NV DISTRIBUTION CENTER

September 5, 2018, 8:05 pm

Accepted at USPS Origin Facility

CARSON CITY, NV 89701

September 5, 2018

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

Feedback

Product Information

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs

Exhibit E

Written Site Inspections



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

**BUREAU OF WATER POLLUTION CONTROL
STORMWATER PROGRAM**

INSPECTION REPORT FOR Randy Soule Property CSN-45222
PERMIT #

Randy Soule 13390 Welcome Way
OWNER OR OPERATOR ~~State~~ Nevada Environmental ADDRESS
consulting contact

Kristie Black 9/25/18
INSPECTOR DATE OF INSPECTION

PURPOSE: REGULAR FOLLOW-UP COMPLAINT INVESTIGATION OTHER _____
(CIRCLE ONE)

TYPE OF INSPECTION: INDUSTRIAL CONSTRUCTION MINING MS4
(CIRCLE ONE)

ITEM #	OFFICIAL NOTICE	DATE REQUIRED
1	SWPPP corrections: Needs to be signed, when you get the approval letter add it, copy of permit in binder	10/11/18
2	Make sure to perform weekly inspections and post storm inspections	10/2/18 From 9/26/18 on
3	Address the stakes in the wattles on the north side curve the silt fence near the dirt path in the middle, curve the wattle address silt fence stakes address wattles on south access path	10/2/18

Based on the inspection conducted this date, the items marked above identify deficient operations or documentation that must be corrected by the date specified by the NDEP Inspector signed below. This is considered a written notice and requirement for corrective action. Failure to comply with the deficient items by the required due date may result in other action, including enforcement.

Inspector: I certify that this document and all attachments were prepared under my direction. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

Inspector: Kristie Black Kristie Black 9/25/18
(Print Name) (Signature) (Date)

Consultant: Daniel Rockwell [Signature] 9/25/18
(Print Name) (Title) (Signature) (Date)

4 - Address BMPs and permitting for House pad portion of the property 10/2/18



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

**BUREAU OF WATER POLLUTION CONTROL
STORMWATER PROGRAM**

INSPECTION REPORT FOR Randy Soule Property

CSW-4522-2
PERMIT #

Randy Soule
OWNER OR OPERATOR

13390 Welcome Way
ADDRESS

Kristie Black
INSPECTOR

11/19/18
DATE OF INSPECTION

PURPOSE: REGULAR FOLLOW-UP COMPLAINT INVESTIGATION OTHER _____
(CIRCLE ONE)

TYPE OF INSPECTION: INDUSTRIAL CONSTRUCTION MINING MS4
(CIRCLE ONE)

ITEM #	OFFICIAL NOTICE	DATE REQUIRED
1	Re-temporary stabilize near house ped once drainage complete	12/3/18
2	BMP around soil piles and trench in current BMP	11/26/18
3	Trench in wattles NE corner	11/26/18

Based on the inspection conducted this date, the items marked above identify deficient operations or documentation that must be corrected by the date specified by the NDEP Inspector signed below. This is considered a written notice and requirement for corrective action. Failure to comply with the deficient items by the required due date may result in other action, including enforcement.

Inspector: I certify that this document and all attachments were prepared under my direction. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

Inspector: Kristie Black Kristie Black 11/19/18
(Print Name) (Signature) (Date)

Owner/Operator: Randy Soule OWNER Randy Soule 11/19/18
(Print Name) (Title) (Signature) (Date)

Randy Soule

From: Kristie Black <kblack@ndep.nv.gov>
Sent: Monday, June 17, 2019 10:46 AM
To: Randy Soule; 'Kristin Setty'; 'Matthew Setty'
Cc: Andrew Dixon; Katrina Pascual; April Holt; Ryan Fahey
Subject: CSW-45222

Hello all,

The Nevada Division of Environmental Protection's Bureau of Water Pollution Control (BWPC) visited the site for CSW-45222 Randy Soule Property on Welcome Way on June 13, 2019. April Holt and myself were onsite for the inspection. During the inspection, the BWPC found the following Stormwater General Permit deficiencies.

Per Section 3.3.1 the operator shall ensure that all control measures remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness. The straw waddles along the creek are not properly staked and trenched. In addition, there are broken or deteriorated straw waddles along the creek. These items need to be addressed by June 20, 2019.

Per Section 3.5.2.1 the operator shall install appropriate control measures (e.g., fiber rolls, berms, silt fences, vegetative buffer strips, sediment traps, or equivalent approved sediment controls) along those perimeter areas of the site that will receive stormwater from earth-disturbing activities. The property along the east side (along Welcome Way) lacked a BMP. It was indicated that there was a curb cutback; however, the curb cutback was full of sediment. This area must be addressed by June 20, 2019.

Per Section 3.5.3 the operator shall implement effective control measures (e.g., stone/rip rap pad, concrete or steel wash racks, or other NDEP approved systems) to minimize tracking of sediments, debris and other pollutants from vehicles and equipment leaving the site. At the time of inspection, there were not appropriate control measures at the entrance on the southeast side of the site on Welcome Way. This area should be addressed by June 20, 2019.

These items were addressed to you onsite at the inspection. This information is to complete the onsite inspection conducted on June 13, 2019, as this inspection could not be finalized until completion of the review of the weekly inspections.

This is considered a written notice and requirement for corrective action. Failure to comply with the deficient items by the required due date or continued non-compliance may result in other action, including enforcement.

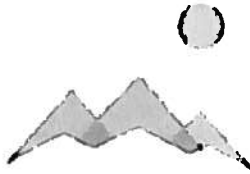
Please print this email, sign and date it, and send it back to the below inspector by June 24, 2019 to verify that you have read and understand the contents and requirements of this inspection.

Kristie Black
Environmental Scientist III
Stormwater Branch, Bureau of Water Pollution Control
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
kblack@ndep.nv.gov
(O) 775-687-9429

*Received & So NOTED:
R Soule
6/17/19.*

*Received signed copy by
email 6/26/19
KWB*





NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

BUREAU OF WATER POLLUTION CONTROL STORMWATER PROGRAM

INSPECTION REPORT FOR Randy Soule Property LSN-45222
PERMIT #

Randy Soule
OWNER OR OPERATOR

Welcome Way
ADDRESS

Kristie Black
INSPECTOR

7/11/19
DATE OF INSPECTION

PURPOSE: REGULAR **FOLLOW-UP** COMPLAINT INVESTIGATION OTHER _____
(CIRCLE ONE)

TYPE OF INSPECTION: INDUSTRIAL **CONSTRUCTION** MINING MS4
(CIRCLE ONE)

ITEM #	OFFICIAL NOTICE	DATE REQUIRED
1	Waddles - Broken one must be replaced and they must be installed properly (overlap, trenched, staked).	7/15/19
2	Track out needs to be refreshed and the sediment removed from the street	7/15/19
3	Curb cut back along NE corner needs to be addressed	7/15/19

Based on the inspection conducted this date, the items marked above identify deficient operations or documentation that must be corrected by the date specified by the NDEP inspector signed below. This is considered a written notice and requirement for corrective action. Failure to comply with the deficient items by the required due date may result in other action, including enforcement.

Inspector: I certify that this document and all attachments were prepared under my direction. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

Inspector: Kristie Black [Signature] 7/11/19
(Print Name) (Signature) (Date)

Owner/Operator: [Signature] Randy Soule owner 7/11/19
(Print Name) (Title) (Signature) (Date)

Exhibit F

Discharge Monitoring Report

Nevada Environmental Consulting, LLC

316 California Ave. # 763 Reno, Nevada 89509 | (775) 544-1149 | info@nvenv.net www.nvenv.net



July 1, 2019

Nevada Division of Environmental Protection
Bureau of Water Pollution Control
901 S. Stewart Street, Suite 4001
Carson City, NV 89701

RECEIVED
JUL 05 2019
ENVIRONMENTAL PROTECTION

RE: Discharge Monitoring Report – Working-in-Waterway Permit # NVW-45965

Dear NDEP,

Stream corridor restoration work subject to Washoe County Special Use Permit #WCSUP-2018-0017 and USACE Nationwide Permitting (After-the-Fact) is being conducted along Thomas Creek. The encroachment into the Ordinary High Water Mark (OHWM) of Thomas Creek, as Water of the US and Water of the State was permitted to occur under the Working-in-Water Permit # NVW-45965 at an existing dirt road stream crossing. This existing road, on private land, provides access across the stream to the restoration site on the north side of the Thomas Creek. Restoration work requires the transit of a rubber tire loader (Volvo 18 Ton) and a steel track excavator (Volvo 24 Ton). All equipment movement uses this existing roadway during transit of material to the north side of the creek.

The project owner, Mr. Randy Soule has been doing the restoration work himself and in cooperation with Garden Shop Nursery for final landscaping. Nevada Environmental Consulting (NVENV) has been providing weekly SWPPP and other permit inspection and advisement to Mr. Soule. This letter is providing a status report on the project activities conducted during the period May 2019 and June 2019. Work was documented (reported to NVENV by Mr. Soule) on the following dates:

- June 14, 2019
- June 26, 2019

Please find attached photographs of the equipment crossing Thomas Creek.

During this same period Mr. Soule expanded the work near the creek without notice to NDEP or the USACE. This additional encroachment into the OHWM of Thomas Creek consisted of placement of native cobbles and boulders along the stream for erosion protection and aesthetic features. Additionally, Mr. Soule forced the stream back into its original (pre-2018 flood event) alignment near the north edge of the parcel. NVENV is revising the project description and will be resubmitting this information to the USACE along with a new estimate of the volume of material altered. NDEP and the USACE conducted a site visit on June 13, 2019 and have discussed this non-compliance with Mr. Soule. NVENV will copy NDEP on the revised submittal to the USACE.

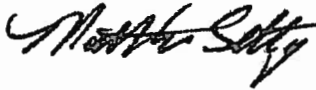
Sediment disturbance associated with the equipment crossing of the stream was short duration. The stream channel bed in this reach contains little fine grained materials to yield sediment. The high gradient of the stream and fast moving water results in a short duration sediment plume that dissipates within a few minutes. Downstream turbidity has not been a persistent issue during equipment crossings. Other work within the OHWM is likely to have created turbidity for a longer period of time, however Mr. Soule did this work without notifying NVENV and

turbidity samples were not obtained. NVENV is not aware of any complaints or inquiries of downstream turbidity during this period of time.

All work below the OHWM is complete, with exception of a 10' x 4' area of native cobble to be placed on the north bank above the water line at the recommendation of agency staff. Pursuant to discussions with NDEP and the USACE aerial photographs were taken to document the existing condition of the stream corridor within the project site. Comparison images of the recent channel work is attached. Additional imagery will be obtained to document that no further alteration of the stream channel has occurred. This final imagery will be obtained upon completion of the landscape restoration (hydroseeding) anticipated to occur in July.

The Discharge Monitoring Report form attached is the first submittal associated with work conducted under this authorization. Mr. Soule did not notify NVENV of any work in the prior month, nor provide photos of stream crossings during the month of May as required in the April 22nd authorization letter. The May 28th DMR was not submitted. Although sediment generating work is near complete, NVENV will monitor the site and communicate with Mr. Soule on the nature of ongoing restoration work in preparation of preparing the remaining MDR and final report.

Sincerely,



Matthew Setty
Principal Scientist

Photos take 6/14/19

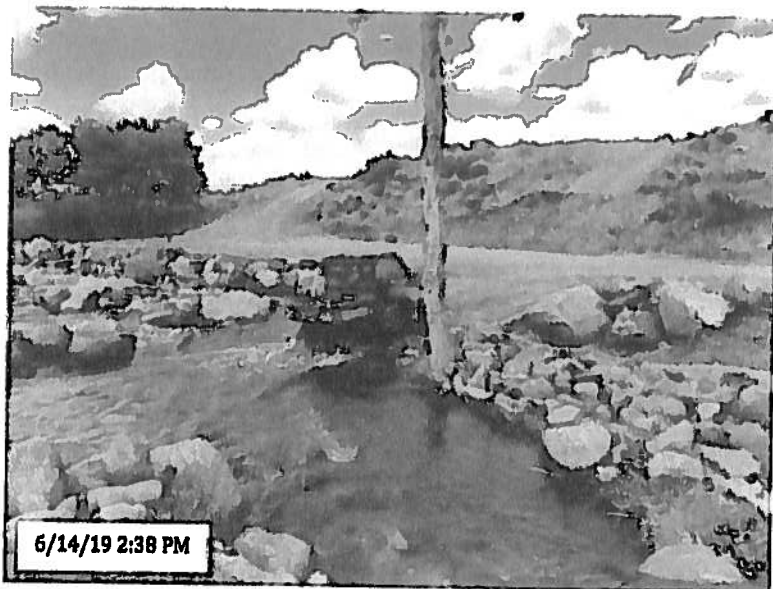
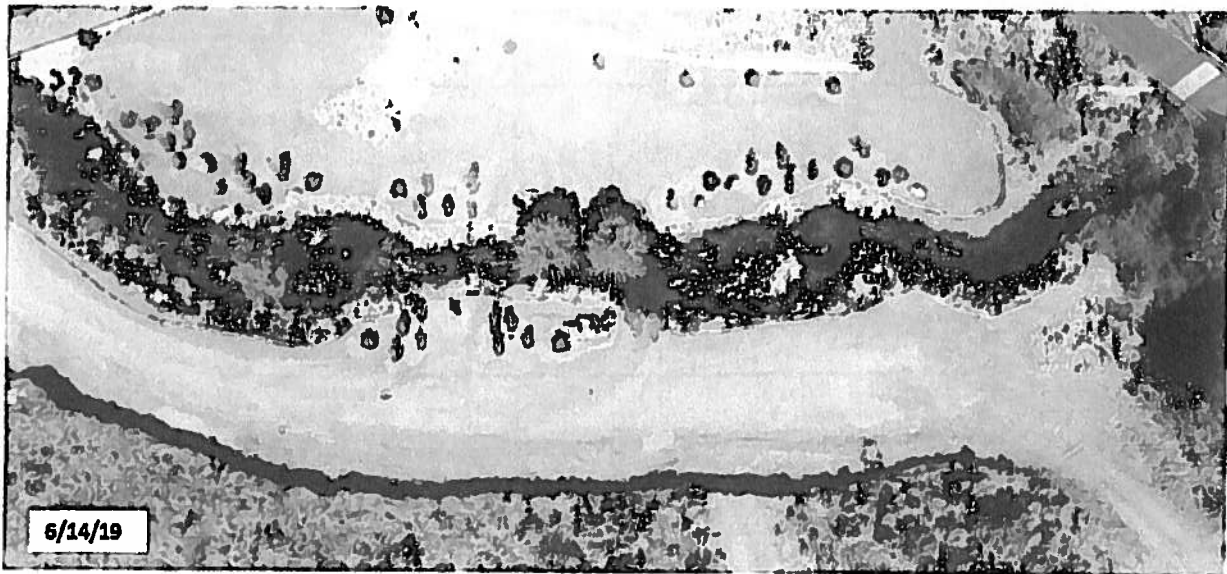
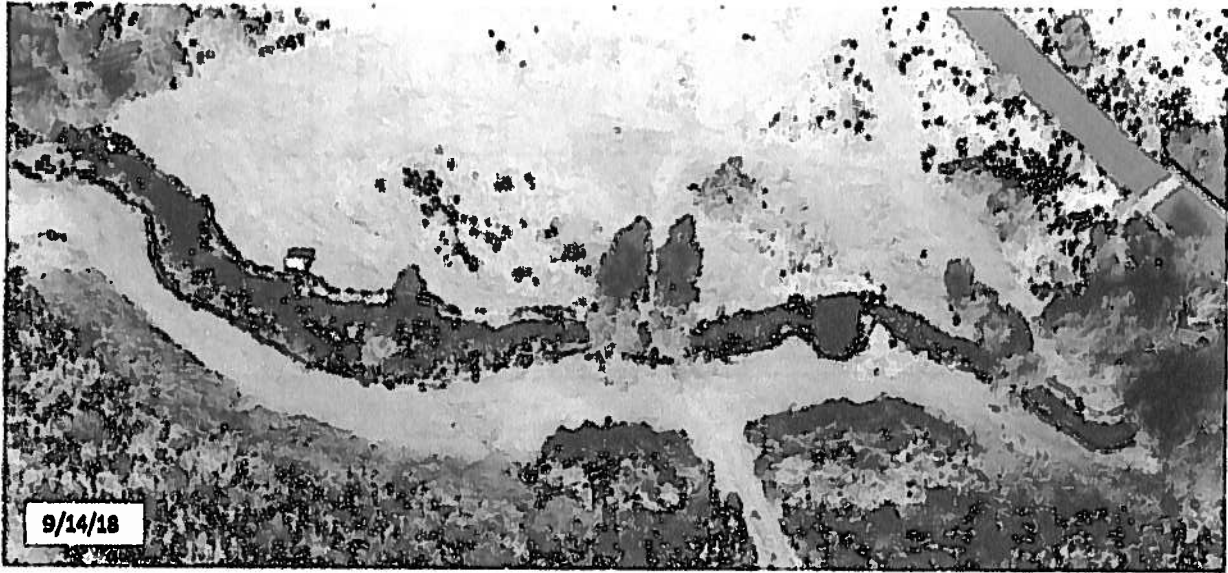


Photo taken 6/26/19





PERMITTEE ADDRESS
(Include Facility Name/Location if different from above)

STATE OF NEVADA TEMPORARY GROUNDWATER DISCHARGE
DISCHARGE MONITORING REPORT (DMR)

NAME: Randy Soule

ADDRESS: 13360 Welcome Way

Reno, Nevada 89511

FACILITY: Randy Soule Property

LOCATION: Latitude 39.418240, Longitude -119.797745

Wellcome Way Reno, Nevada 89511

NWW-46886

PERMIT NUMBER

NA

REUSE SUPPLIER PERMIT NUMBER

OUTFALL:

ND EP 0084

Pg. 1 of 1

NOTE: Read instructions before completing this form.

Monitoring Period		Reporting Quarter	
YEAR	MONTH	YEAR	QUARTER
2019	April	2019	2nd
DAY	MONTH	DAY	YEAR
23	June	30	2019

PARAMETER	QUANTITY OR LOADING			QUALITY OR CONCENTRATION			Units	No. of Exceptions	Frequency of Analysis	Sample Type
	30-DAY AVERAGE	MAXIMUM	Units	MINIMUM	AVERAGE	MAXIMUM				
Turbidity	Sample Measurement	No sampling during this period.								
	Permit Requirement									
	Sample Measurement									
	Permit Requirement									
	Sample Measurement									
	Permit Requirement									
	Sample Measurement									
	Permit Requirement									
	Sample Measurement									
	Permit Requirement									
	Sample Measurement									
	Permit Requirement									

Name/Title Principal Executive Officer
(Typed or Printed)

Matthew Setty
Principal Scientist

TELEPHONE No.: 775-544-1149

Signature of Principal Executive Officer or Authorized Agent: *Matthew Setty*

DATE: July 1, 2019

Month: July Day: 1 Year: 2019

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. See 18 U.S.C. §1001 and 33 U.S.C. §1319. Penalties under these statutes may include fines up to \$10,000 and/or maximum imprisonment of between 6 months and 5 years.

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)

From: [Kirschenman, Sophia](#)
To: [Olander, Julee](#)
Subject: Re: Soule conditions
Date: Wednesday, January 15, 2020 2:23:40 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[Outlook-emuob1zp.png](#)
[Outlook-sjd5o5lm.png](#)
[Outlook-bss02fbr.png](#)
[Outlook-u0envevr.png](#)
[Outlook-b4fw1iqi.png](#)

Hi Julee,

After reviewing the Vegetation Restoration Plan for the Soule property, I've determined that the Park Program's condition of approval for WSUP18-0017 has been satisfied.

That being said, the plan recommends that annual monitoring reports be submitted to the Army Corps of Engineers (USACE), NDEP and Washoe County per the requirements of the above-stated agencies on an annual basis, through 2022, to ensure that revegetation criteria are met. I would like to request that any monitoring reports prepared for USACE or NDEP be submitted to the Washoe County Parks Program as well.

Let me know if you have any questions.

Thank you,



Sophia Kirschenman
Park Planner | Community Services Department
775.328.3623 | 1001 E. 9th Street, Reno, NV 89512



From: Olander, Julee <JOlander@washoecounty.us>
Sent: Monday, January 13, 2020 11:51 AM
To: Kirschenman, Sophia <SKirschenman@washoecounty.us>
Subject: RE: Soule conditions

Thank you.

Julee Olander

EXHIBIT E



Planner | Community Services Department- Planning & Building Division

jolander@washoecounty.us | Office: 775.328.3627 | Fax: 775.328.6133

1001 E. Ninth St., Bldg A., Reno, NV 89512



Connect with us: [cMail](mailto:) | [Twitter](https://twitter.com/) | [Facebook](https://www.facebook.com/) | www.washoecounty.us

From: Kirschenman, Sophia <SKirschenman@washoecounty.us>

Sent: Monday, January 13, 2020 8:47 AM

To: Olander, Julee <JOlander@washoecounty.us>

Subject: Re: Soule conditions

Sounds good. I'll take a look asap. Thanks!



Sophia Kirschenman

Park Planner | Community Services Department

775.328.3623 | 1001 E. 9th Street, Reno, NV 89512



From: Olander, Julee <JOlander@washoecounty.us>

Sent: Friday, January 10, 2020 3:48 PM

To: Kirschenman, Sophia <SKirschenman@washoecounty.us>

Subject: Soule conditions

Sofie,

I have attached the restoration plan for the Soule property. Let me know if it resolves the conditions of approval from Parks.

Thanks,



Julee Olander

Planner | Community Services Department- Planning & Building Division

jolander@washoecounty.us | Office: 775.328.3627 | Fax: 775.328.6133

1001 E. Ninth St., Bldg A., Reno, NV 89512



Connect with us: [cMail](mailto:) | [Twitter](https://twitter.com/) | [Facebook](https://www.facebook.com/) | www.washoecounty.us



THOMAS CREEK / SOULE PROPERTY VEGETATION RESTORATION PLAN FOR RIPARIAN FLOODPLAIN AND UPLAND HABITATS

Prepared by:
Matthew Setty, Principal Scientist
Nevada Environmental Consulting, LLC
316 California Avenue #763
Reno, NV 89509
matt@nvenv.net



EXHIBIT F

Thomas Creek / Soule Property Vegetation Restoration Plan for Riparian Floodplain and Upland Habitats

Introduction

Land disturbance on Washoe County assessor parcels 049-165-06 and 049-165-07 resulting from vegetation removal and debris clearing work conducted during the summer of 2018 has impacted approximately 1.3 acres of upland and riparian zone land disturbance requiring revegetation. This restoration plan was prepared on behalf of the property owner to meet the obligations for permit compliance and requests for information presented by Washoe County, the U.S. Corps of Engineers, and the Nevada Division of Environmental Protection. This restoration plan, once enacted, will result in the restoration of native vegetation to stabilize exposed soils, prevent erosion, enhance habitat, and the protect sensitive aquatic resources of Thomas Creek, and the associated riparian corridor and adjacent upland areas. All proposed work will be implemented on private property owned by the applicant using private funding.

The project site is located in T18N., R. 19E., NW ¼ of the NE ¼ of Section 24, M.D.B.&M. and is accessed from the cul-de-sac at the north end of Welcome Way, 13390 Welcome Way, Reno, NV 89511. The geographic centerpoint of the project is located at latitude at 39.418126 north, longitude 119.8100 east decimal degrees.

Purpose and Need

This plan shall meet the regulatory requirements of multiple agencies while providing clear guidance on the restoration of the project site. The impacts to the riparian and stream corridor of Thomas Creek as a result of vegetation thinning, and debris removal require soil stabilization with native vegetation, protection of in-channel aquatic habitat from impacts of sediment for the duration the restoration period. This plan is needed to comply with the Clean Water Act administer both at the Federal and State levels and Washoe County Stream Protection Ordinance 418, and conditions of WCSUP 18-007.

Historical Conditions

The riparian vegetation along Thomas Creek in the project reach is characterized by mature Yellow Willow, Mountain Alder, and riparian and upland shrubs. Clusters of Quaking Aspen, and Jeffrey Pine, and Black Cottonwoods are common but generally widely spaced. The riparian understory near the creek is dominated by native sedge and juncus riparian vegetation with a mix of native bunch and rhizomatous grasses and multiple introduced species. The shrub understory is mainly Wood's Rose, with less common woody shrubs like golden current (*ribes* spp.). The entire reach of Thomas Creek is challenged by invasive and noxious weeds present along the trail systems and frequently well-established along the riparian-upland ecotone were moisture conditions are favorable.

Due to the proximity of homes along Thomas Creek, wildfire suppression has been implemented for many years. This has led to a riparian overstory that is very mature with dead and decadent vegetation abundant across the floodplain. The dense canopy has limited the growth and diversity of groundcover throughout the system, leading to a reduction in biodiversity, when compared to the more variable areas of Thomas Creek located above the urban interface, on National Forest land.

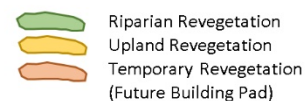
The waters of Thomas Creek are appropriated for irrigation under the Orr Ditch Decree. A point of diversion for these water rights (Claim 718) is located within the project reach and will continue to divert water irrigation water for use on the project parcels.

Existing Conditions

The current conditions (existing condition) of the parcel is reflected in Figure 1, This aerial photo shows the project site with the majority of the riparian canopy removed and land clearing impacts along much of the creek. The stream banks were left unaffected over most of the reach, but several areas totaling approximately 120 linear feet of bank was cleared of vegetation, and one area was reconfigured into an in-channel pool structure with an area of approximately 100 square-feet. Although the surface of the soil was disturbed extensively within the riparian floodplain, much of the root masses of the sedges and bunch grasses remain and showing signs of regrowth. There is evidence of regrowth along the stream corridor from willow and alder that were cut off at ground level, rather than removed with the roots. It is anticipated that preservation of these areas of regrowth will expedite the restoration of the riparian groundcover and canopy. Disturbance in the upland areas resulted in the removal of most of the native vegetation in the effected areas. These areas are currently bare earth and will require restoration with the appropriate upland vegetation palette.



Figure 1.



Regulatory Setting

The project site is current under several local, State, and Federal regulatory process. This Plan will address restoration requirements of the US Army Corps of Engineers (USACE) Reno Regulatory Office, Nevada Division of Environmental Protection (NDEP), and Washoe County Special Use Permit.

The USACE Request for Information letter dated September 5, 2018, (SPK 20018-00705) requires a plan for Restoration for impacts to jurisdictional waters of the United States (WOUS). Portions of Thomas Creek within the project site were graded. These areas are subject to Section 404 regulation for Dredge and Fill within a WOUS. Impacts to lands below the Ordinary High-Water Mark (OHWM) are jurisdictional waters regulated by the USACE.

The Nevada Division of Environmental Protection (NDEP) administers Water of the State, including Thomas Creek for impacts to water quality using the Clean Water Act Section 401 process, which require certification that the proposal actions will be conducted in compliance with Water Quality Standards (Water Quality Certification). NDEP also regulates the encroachment into or alternation of a stream bed using the Working in Waterway Permit. NDEP also issues Construction Stormwater Permits under the Nevada General Construction Stormwater Permit (NVR100000). Stormwater best management practices (BMP's) have been installed and are managed through the Stormwater Pollution Prevention Plan (SWPPP). Compliance with Stormwater Regulations was established with the implementation of the project SWPPP (CSW-45222, NOI filed September 18, 2018).

Washoe County has issued a Special Use Permit (WCSUP 18-0017) for grading at the project site. This after the fact permit was issued to condition the restoration of the site. The conditions established in Special Use Permit, see Attachment C, require site restoration in accordance with County Planning Code and requires the County to consulting with agencies during the review of this Plan.

This plan seeks to meet the requirements of multiple agency requirements and jurisdictions.

The applicable regulatory actions have established different regulatory oversight timelines. These range in duration from initial vegetation coverage attainment required to retire the SWPPP, typically about six months. Report and presentation to the County Board of Adjustment on October 4, 2018 shall be provided in accordance with WCSUP 18-0017. NDEP and USACE regulatory over site has not been established but may extend three to five years depending on the restoration success and agency/permitting reporting requirements.

The project site is appurtenant to two type of water rights. Groundwater rights with a point of diversion on an adjacent parcel also owned by the Soule's can be used for irrigation year-around. Surface water rights are available for direct diversion from Thomas Creek, as decreed in the Orr Ditch Decree administered by the U.S. District Court Water Master and the Nevada State Engineers office.

The target restoration community or reference reach is reflected in the immediately upstream and downstream reaches of Thomas Creek. The concept of a reference reach is often discussed in the context of in-channel alteration. Few areas of the channel within the project reach were affected and the overall morphology, profile and cross-section were generally unaffected in a manner that would cause an alteration in the stability or inhibit the recover potential. Therefore, reference reach in this context is better used to describe the stability, vegetative cover, habitat quality and overall characteristics of the associated upstream and downstream riparian corridor (floodplain).

Restoration Plan

Introduction

This Restoration Plan (Plan) defines a program to meet the regulatory objectives of the USCAE, NDEP and Washoe County. This plan is presented in narrative and design sheet forms to best describe the intent of the restored riparian conditions and demonstrate the method for attaining the desired results. The landowner desires to create a native riparian floodplain environment on his property.

The vegetated floodplain will be irrigated to ensure the desired vegetation and species composition is maintained. Irrigation within Thomas Creek water rights will support riparian vegetation and select upland vegetation using both flood/sprinkler irrigation and drip irrigation during the initial plant establishment period and annually in compliance with the provisions of the available surface and/or groundwater rights. Groundwater rights may be used to supplement surface water irrigation.

Revegetation Strategies and Techniques

The land disturbance that prompted the restoration efforts did not totally devoid the area of existing vegetation. To the degree possible, existing vegetation will be preserved and promoted to expedite site stabilization. The dominate existing vegetation is *Carex nebraskensis*, a native sedge. This strongly rooted plant had the potential to both reseed and spread through rhizomatous root growth. Areas where the surface vegetation was removed currently show signs of regrowth. To the maximum extent practice, considering the final grading plan, this vegetation should be preserved.

Several “islands” of upland vegetation occur within the riparian floodplain. The largest and most mature area is in the center of the north side of the floodplain, approximately twenty-five feet from the stream. This area has upland grasses, sage and rabbit brush, and immature bitterbrush. Although dominated by cheatgrass, Crested Wheatgrass, a common perennial bunchgrass does occur and will be supported with additional seeding of the upland areas and temporary irrigation.

Cheatgrass, *Bromus tectorum*, is ubiquitous throughout the area and is likely to be an ongoing occurrence, as the seed source is uncontrollable. The upland seed mix planted and irrigated in the upland disturbed areas promote perennial bunchgrasses to compete with the cheatgrass, however it should be noted the nature of cheatgrass establishment in disturbed areas is such that it may take several years of establishment of desirable grasses before a competitive effect of native and perennial grasses can compete with the occurrence of cheatgrass.

The upland-riparian buffer areas will serve as transition zones for irrigation dependent plant communities. This area is intentionally narrow to provide a relative narrow transition between the upland, dry, planting areas and the water-obligate riparian community that will require establishment and ongoing irrigation for establishment. This narrow transition zones serves to limit the area with variable soil moisture exploited by noxious weeds. Additionally, a clearly defined riparian to upland boundary promotes a more precisely maintained revegetation areas through clear limits on irrigation and weed control.

The restoration plan illustrates several clusters of native tree species. These large caliper (>2” DBH) trees are to be planted at a depth that allows root access to the existing groundwater in the riparian floodplain, Jeffrey Pine, and Curl-leaf Mountain Mahogany will received temporary irrigation until they are sustainable with natural hydrology.

All tree species planted in the riparian zone will be in direct access to available groundwater. The placement of these trees is outside the OHWM of Thomas Creek to limit near channel disturbance. The canopy at maturity will shade the channel but be not so dense that it inhibits other riparian plants, as currently occurs above and below the restoration site. The goal of increasing vegetation biodiversity in this reach of Thomas Creek requires the canopy to be open enough to promote a diversity of riparian groundcover of grasses, forbes and shrubs.

Revegetation Strategies by Plant Community

There are three plant communities that are being promoted in this restoration plan. The first is the upland soils stabilization community. This plant and seed mix is intended to meet regulatory criteria for soil stabilization using a fast growing upland seed mix. These application areas are scheduled for further development in the near future; therefore, this “temporary” plant community is anticipated to be disturbed and replaced by a permanent landscaping plan within these next few yew years. The second community is a permanent upland community consisting of native uplands species and will resemble the adjacent upland grass-bitterbrush-sage habitat present in nearby upland environments. This community also has upland tree and shrub species that will require temporary irrigation. The third and largest restoration plant community is the riparian floodplain community. This is a combination of facultative wetland species, riparian shrubs, forbes and grasses, and riparian tree species.

Within the riparian plant community existing clusters of upland plants occur (remain). These will likely thrive during the temporary irrigation phase of the restoration and are proposed to be left alone and protected in place during restoration.

Planting Plan

The order of events for revegetation is for live planting to be installed first, then any required irrigation infrastructure, then broadcast seed mix followed by wood/paper mulch and hydromulch.

Seed Mix

The prescribed seed mix shall be hand sown and raked to ensure seed-soil contact is established. Hand or mechanical broadcast seeder shall be used to evenly distribute the prescribed mix within the proper plant community zone. The best practice is to broadcast over the entire seeding area until the required seed quantity is sown. Immediately after seeding the surface soils shall be raked with a metal tined rake to a depth of no less than 1.5-inches. Different species will thrive at different depths, most of the described seed types require a raked depth of 1-2 inches. Raking of the seed will also decrease seed predation by birds and rodents. The seeded areas shall be mulched immediately upon completion of the seeding.

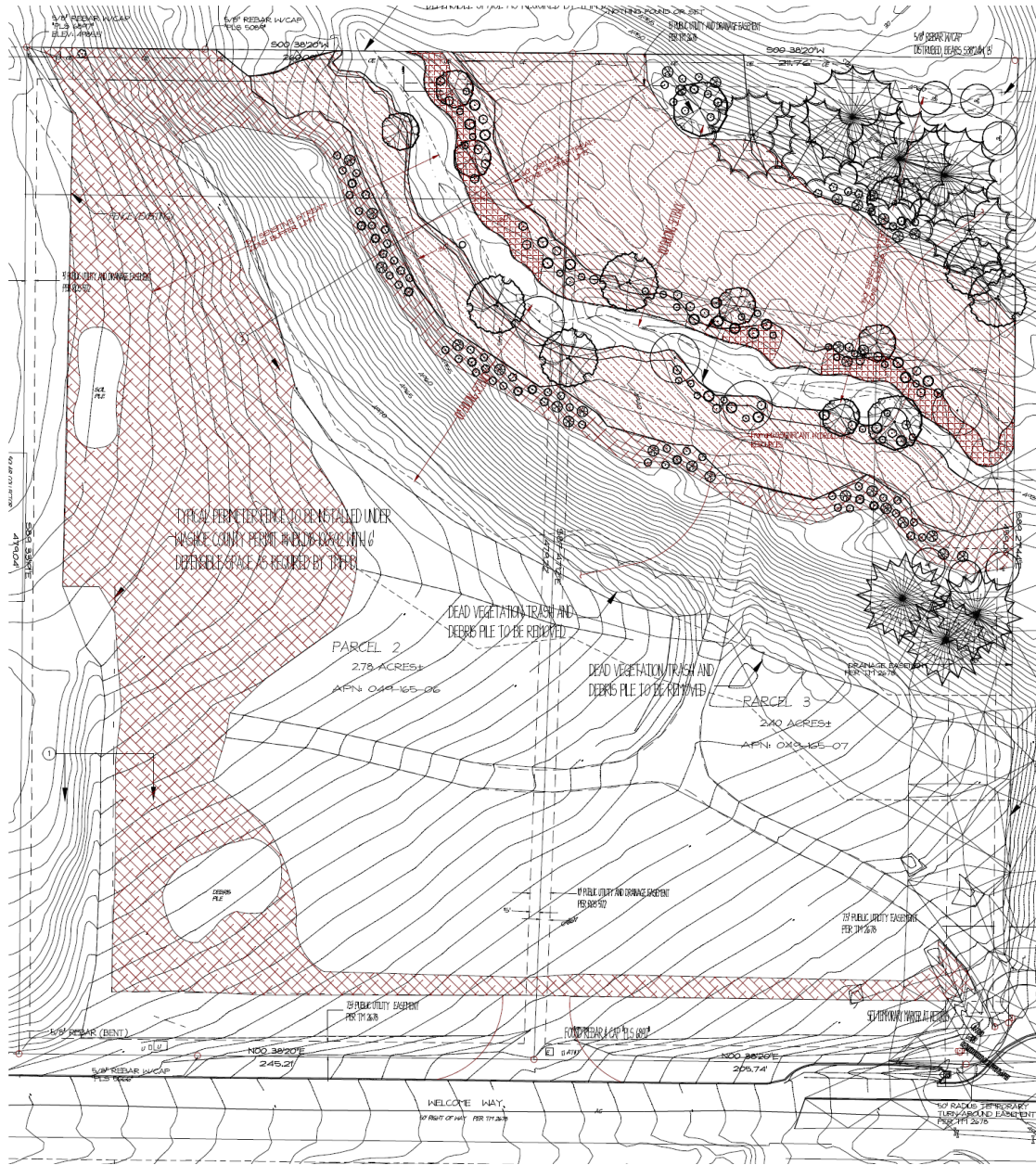
The following riparian and upland seed mixes have been developed in coordination with Comstock Seed to ensure the recommended mix shown below is available for immediate application in the species and quantities desired.

AREA: Thomas Creek riparian	Total Area: 1.00 Acres	MIXED: Yes
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SPECIES	LBS/ACRE	TTL LBS	
WILDRIE BASIN Sierra front source	2.00	2.00	FOB Gardnerville
WILDRIE CREEPING	2.00	2.00	\$/LBS \$25.87
WHEATGRASS STREAMBANK SO	4.00	4.00	\$/ACRE \$468.25
FESCUE SHEEP COVAR	3.00	3.00	Seed Rate
BLUEGRASS SANDBERG COMME	2.00	2.00	LBS/ACRE 18.10
HAIRGRASS TUFTED	0.25	0.25	
CURRENT WAX	0.25	0.25	
SAGEBRUSH LOUISIANA	0.10	0.10	
RABBITBRUSH RUBBER	0.25	0.25	
SAGEBRUSH BIG MOUNTAIN	0.25	0.25	
WOODS ROSE	0.25	0.25	
SEDGE NEBRASKENSIS	0.25	0.25	
WILDFLOWER CUSTOM BLEND	0.50	0.50	
RYEGRASS ANNUAL GULF	3.00	3.00	
AREA TOTALS	18.10	18.10	

AREA: Thomas Creek upland	Total Area: 0.50 Acres	MIXED: Yes
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SPECIES	LBS/ACRE	TTL LBS	
SAGEBRUSH BIG MOUNTAIN	0.50	0.25	FOB Gardnerville
BITTERBRUSH	2.00	1.00	\$/LBS \$14.62
SPINY HOPSAGE	1.00	0.50	\$/ACRE \$376.50
MORMON TEA NEVADA	1.00	0.50	Seed Rate
WHEATGRASS BLUEBUNCH	4.00	2.00	LBS/ACRE 25.75
WHEATGRASS SIBERIAN STABIL	4.00	2.00	
WILDRIE BASIN Sierra front source	2.00	1.00	
FESCUE SHEEP COVAR	2.00	1.00	
INDIAN RICEGRASS RIMROCK	2.00	1.00	
SQUIRRELTAIL PUEBLO	2.00	1.00	
SALTBUSH FOURWING	1.00	0.50	
BLUEGRASS SANDBERG COMME	1.00	0.50	
WILDFLOWER MIX DRYLAND nat.	0.25	0.13	
RYEGRASS ANNUAL GULF	3.00	1.50	
AREA TOTALS	25.75	12.88	




Live Planting

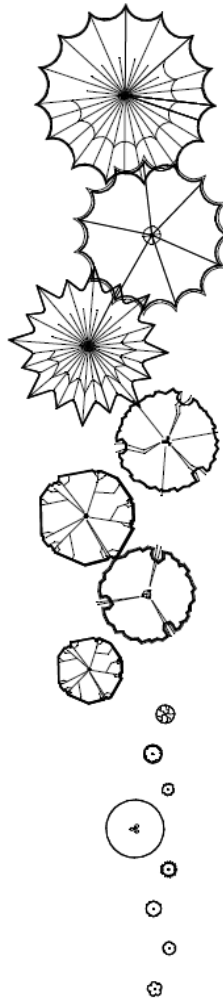
Live plantings shall be planted in a hole with dimensions one and a half times (x1.5) the diameter of the installed plant. So, a two-foot diameter plant shall be placed in a hole at least three-foot diameter. The depth of the hole shall be a minimum of 12-inches greater than the depth of the plan. The base of the plant (top of root ball) shall be at least 4-inches below the finish grade of the ground surface. This ensures that frost heaving does not reject (push-up) the plants. Each live planting (potted plant) shall be removed from its container and the root ball pulled apart to encourage root growth and integration with native soils.

Live riparian trees shall be planted in holes excavated to the depth of the static water table. This requires the holes farther from the stream to be slightly deeper than the holes closer to the stream as the shallow groundwater in this reach of stream is supported by infiltration from the stream into the adjacent floodplain.

 EROSION CONTROL BLANKET (APPROX. 2,700 SF)
APPLICATION:
SCARIFY SOIL, BROADCAST SEED,
RAKE INTO TOP 1/4" OF SOIL, AND
INSTALL (BURLAP) BLANKET STAKED WITH
TRIANGULAR PATTERN EVERY 24" (SEE REVEG. SPECS)

 RIPARIAN SEED MIX (APPROX. 38,000 SF)
APPLICATION:
SCARIFY SOIL, BROADCAST SEED,
RAKE INTO TOP 1/4" OF SOIL, AND
HYDRO MULCH 500 LBS. WOOD FIBER,
500 LBS. WOOD CELLULOSE, 100 LBS. TRIPLE TAC (SEE REVEG. SPECS)

 UPLAND SEED MIX (APPROX. 51,000 SF)
APPLICATION:
SCARIFY SOIL, BROADCAST SEED,
RAKE INTO TOP 1/4" OF SOIL, AND
HYDRO MULCH 500 LBS. WOOD FIBER,
500 LBS. WOOD CELLULOSE, 100 LBS. TRIPLE TAC (SEE REVEG. SPECS)



PLANT LEGEND

COMMON NAME	BOTANICAL NAME	SIZE	QTY
JEFFREY PINE	<i>Pinus jeffreyi</i>	6'-8' HT	3
LIMBER PINE	<i>Pinus flexilis</i>	6'-8' HT	3
SINGLELEAF PIÑON	<i>Pinus monophylla</i>	6'-8' HT	3
FREMONT COTTONWOOD	<i>Populus deltoides</i> var. <i>fremontii</i>	2' CALIPER	3
RIVER BIRCH	<i>Betula occidentalis</i>	2' CALIPER	2
SERVICEBERRY	<i>Amelanchier</i> spp.	2' CALIPER	3
QUAKING ASPEN	<i>Populus tremuloides</i>	2' CALIPER	6
BITTERBRUSH	<i>Furcraea tridentata</i>	5 GAL	30
CHOCHECHERRY	<i>Prunus virginiana</i>	5 GAL	21
ELDERBERRY	<i>Sambucus</i> spp.	5 GAL	26
MT. MAHOGANY, CURLEAF	<i>Cercocarpus ledifolius</i>	5 GAL	6
MORMON TEA	<i>Ilex</i> spp.	5 GAL	8
SERRA CURRANT	<i>Ribes nevadense</i>	5 GAL	26
SNOWBERRY	<i>Symphoricarpos</i> spp.	5 GAL	48
GUALUBUSH	<i>Atriplex lentiformis</i>	5 GAL	10

Soil Stabilization

Small Woody Debris (wood mulch)

Wood mulch is available from material generated on-site and may be used throughout the project area to aid in soil stabilization. The wood mulch generated from mastication of the woody debris removed from the project areas should be adequately mulched/shredded and dried to avoid reestablishment of willows present in the mulch. All noxious and invasive weeds should be removed from the mulch generated on-site, and any imported mulch must be weed-free.

Hydromulch

Multiple types of hydromulch are acceptable from a regulatory perspective. The requirement for mulch is to address exposed soil stabilizations. Due to the proximity of the stream corridor, and the expressed desire of the client to generate a native restoration of the area. A wood-fiber mulch or a 50:50 mix of wood and paper fiber, should be used and applied at rate of approximately 1,500 pounds per acre. Hydromulch shall be applied after the reseeding and used as a protective cover for applied seed.

Tackifier

A polymer tackifier shall be applied in combination with the hydromulch per manufacturer's specification. During temporary stabilization a tackifier may be applied without a mulch additive to meet the regulatory timeline for stabilization of disturbed soils. Tackifier use is effective for short-term stabilization, however in areas where frequent pedestrian use or other disturbance occur its effectiveness is limited.

Permanent BMP's

Several of the BMP's installed to address the temporary stabilization needs described in the project's Stormwater Protection Plan (SWPPP) may be left in place to aid in the long-term vegetation and stability along the creek. The 8" weed-free straw wattle placed along the OHWM shall be left in place and allowed to degrade naturally. This will prevent sediment loss to the stream that may occur if the wattle were to be removed. Other permanent BMP's consist of grading of the floodplain to capture stormwater and pond it on-site. Upon establishment of the vegetation at a density of 70% vegetative cover, all silt fences may be removed.

SWPPP/ Temporary BMP's

A project SWPPP (CSW 45222) has been implemented and maintained for the project area. The SWPPP NOI was initiated on September 18, 2018 and has been maintained in good standing since that time. Project consultants and NDEP have conducted weekly inspections of the site and have notified the property owner of recommended improvements and required maintenance.

Weed Management

Management of noxious weeds is required for the duration of the restoration period on into the future to establish and maintain a native riparian vegetation along Thomas Creek. Noxious weed identification and management practices are well documented in many publications focused on local noxious weed management practices.

Project Phasing

The restoration of the disturbed areas was delayed while county permitting associated with the grading permits and landscape architecture work was being completed. Because this is an after-the-fact restoration plan, the typical pre-disturbance/pre-project project planning and plant salvage was not a part of this plan. The following project phases are discussed below.

Phase 1 – Initial Site Stabilization. Site stabilization work was completed in September 2018 and on-going application of tackifier and hydromulch has been reapplied periodically to comply with time requirements of disturbed areas and stockpiles. Since that time no further ground disturbance has occurred near the stream. The initial site stabilization consisted of silt fence and weed-free straw wattle installation, application of tackifier, and general site cleanup.

Phase 2 – Site Grading and Replanting. In compliance with the Washoe County Grading Permit (reference TBD), the project site will be reseeded and replanted pursuant to the planting palettes presented above and per the location shown on restoration plan figures.

Phase 3 – Monitoring. Project monitoring is required to inform the owner of maintenance needs, replacing of failed seeding, and/or die-offs of planted live materials in order to achieve the restoration goals. Existing weekly, pre-storm, and post-storm SWPPP maintenance is required until the closure of the SWPPP at 70% vegetation cover (estimated to be 6-12 months). To monitor the success of new vegetation establishment, monthly inspections shall be conducted during the winter months and bi-weekly monitoring is needed during the irrigation season to ensure that the restoration plantings and seeded areas are adequately irrigated. Revegetation monitoring may be combined with the ongoing SWPPP monitoring to achieve the most efficient plan implementation.

Monitoring data collected during field visits shall include plant health/survivorship of live-plantings, establishment and growth stage of reseeded areas. Identification of erosion induced revegetation impacts, and the impact of pedestrian induced impacts associated with ongoing trespass issues.

Phase 4 – Reporting. Multi-agency compliance monitoring shall be conducted as specified in the Washoe County Special Use Permit, and anticipated USACE and NDEP orders.

A monthly inspection report shall be made available to County or State/Fed agency personnel upon requirement.

Monitoring

Monitoring of revegetation planting shall occur periodically to ensure the desired growth is becoming established and the temporary and long-term irrigation is correctly applied. The initial goal of the monitoring is to determine if the site achieved a 70% vegetative cover in order to close out the SWPPP and the site is adequately stabilized to prevent sediment transport to the stream system.

Monitoring shall consist of survivorship assessment of all installed plants. Calculation of the vegetative cover using a line-intercept method will determine plant establishment success. If a line-intercept is used to calculate percent coverage, multiple transects shall be located in both the riparian and upland planting areas.

The Washoe County Special Use Permit requires an annual report on the vegetation establishment to be submitted in October 2019. It is recommended that annual reporting be submitted to the USACE until a 70% vegetative cover is maintained for a period of two years post-installation (2019, 2020 and 2021). This will be provided assurance to the Corps that the site is adequately stabilized, and the normal practice of irrigation is established. Because this site is planned for irrigation of existing water rights, the typical USACE condition that the site should perform without assistance of human caused irrigation should be waived, recognizing this site is a private parcel utilizing native landscaping, but has historically been irrigated with Thomas Creek water to some extent.

Adaptive Management

Periodic inspection of the installed planting shall be conducted by the owner and restoration team. Based upon this inspection replanting and/or reseeded may be required. Species selection shall generally conform to this plan, however if other seed stock or plant stock is used it shall be documented as an adaptive management action. Some species will be more successful than others based on site specific conditions. To the extent possible species diversity should be considered when selecting adaptive management actions. The objective of the adaptive management actions should be to enhance plant establishments and site stability, while also ensuring a high degree of biodiversity and resist the restoration site from reverting to the limited diversity of the adjacent stream sections.

Vegetation Maintenance

The proposed live planting shall be maintained in the prescribed numbers for a period five years. This ensures that the plants become established for long-term viability and are drought resistant.

Irrigation

Irrigation water will be supplied as required from one of two sources. Surface water rights (permit 72166, Certificate 18258) during the decreed irrigation season of use extending April 1st through October 15, Thomas Creek rights (Orr Ditch Decree Claim 719), and/or permitted groundwater rights (Temporary Change Application No. 88419) which are available anytime during the year. The total of the two rights may not exceed the permitted duty described in the permit and/or Decree of 5.00 acre-feet per acre.

Upland Vegetation

Sprinkler and drip irrigation of upland vegetation shall be provided to ensure initial plan establishment. The period of irrigation of upland native bunch grass and shrubs shall be limited to approximately 18 months, precipitation dependent. It is the objective of the plan to discontinue regular irrigation of upland habits to discourage unwanted weeds and encroachment of non-upland vegetation into upland environments.

Drip irrigation of trees and large shrub areas in the upland may be required for several years and shall be provided at a minimum of three years from the time of planting. This establishment irrigation is provided to allow time for tree roots to fully develop and access the natural hydrology along the riparian corridor.

Riparian Floodplain

Irrigation of the riparian floodplain will utilize two sources of water rights. The applicable water rights consist of surface water rights decreed in the federally administered Orr Ditch Decree and will be diverted from Thomas Creek at the upper (south) end of the property and applied through a combination of sprinkler and flood irrigation. Supplemental rights available for use throughout the project parcels are codified in permit #88419 administered by the Nevada State Engineers office. Both water rights require annual reporting to the appropriate agency to maintain good standing. Groundwater rights are available for application anytime during the year, whereas the surface water rights from Thomas Creek are only available during the decreed irrigation season extending from April 1 through October 15th of each year, subject to restriction issued by the U.S. Federal Court Water Master's Office.