

Lahontan Regional Water Quality Control Board

June 26, 2014

Dan Wilkins, Public Works Director
Department of Public Works, Town of Truckee
10183 Truckee Airport Road
Truckee, CA 96161

BOARD ORDER NO. R6T-2014-0047, FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND 100-YEAR FLOODPLAIN WASTE DISCHARGE PROHIBITION EXEMPTION FOR THE TROUT CREEK RESTORATION REACH 1, PHASE 1 PROJECT, TOWN OF TRUCKEE, NEVADA COUNTY, WDID NO. 6A291403005

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act (CWA) section 401 Water Quality Certification (WQC) application and application filing fee for the Trout Creek Restoration Reach 1, Phase 1 Project (Project) in Truckee, Nevada County. The application also provided information to support granting an exemption from a waste discharge prohibition in the Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan). This Order for WQC and 100-year floodplain prohibition exemption hereby assigns this Project the following reference number: Waste Discharger Identification (WDID)

No. 6A291403005. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

PROJECT DESCRIPTION

Table of Project Information:

WDID Number	6A291403005
Applicant	Town of Truckee 9646 Truckee Airport Road Truckee, CA 96161 Attention: Todd Landry

Table of Project Information continued:

Agent	John Dvorsky Waterways Consulting, Inc. 522 SW 5 th Avenue, Ste 700 Portland, OR 97204
Project Name	Trout Creek Restoration Reach 1, Phase 1 Project
Project Purpose and Description	This phase of a multi-phase restoration project involves restoring Reach 1, one of six reaches of Trout Creek from the Interstate 80 crossing to its confluence with the Truckee River. Improvements to Reach 2, upstream and downstream of Donner Pass Road crossing, were performed in 2006 when a bottomless arch culvert replaced an undersized culvert under the road. Reach 3, which was constructed in 2011, involved widening and lengthening the creek downstream of the Donner Pass Road culvert. This Project involves restoring a segment of Reach 1, which extends from Jibboom Street to Donner Pass Road. Due to constraints associated with landowner agreements and the presence of two road crossings, Phase 1 of Reach 1 only extends from approximately School Street through the Donner pass Road culvert. The reach currently consists of a 10 foot wide concrete channel and a floodplain that is almost entirely of asphalt parking areas, roads, and existing buildings/structures. The Applicant proposes to widen the channel/riparian corridor to 40 feet by removing the concrete channel downstream of School Street and removing a portion of the adjacent asphalt parking lot. The existing flat-bottomed concrete bed will be restored to a natural-bottomed pool-riffle morphology with offsetting pocket floodplains. The site will be vegetated with a mix of riparian and upland species and stormwater treatment elements will be incorporated into the design to pre-treat runoff from the adjacent parking lots and roadways before entering Trout Creek.
Project Type	Restoration
Project County	Nevada
Project Address or other Locating Information	Between Donner Pass Road and School Street on Trout Creek in the Town of Truckee
Location Latitude/Longitude	Latitude: 38.329444, Longitude: 120.186667
Hydrologic Unit(s)	Truckee River Hydrologic Area, 635.20 in the Truckee River Hydrologic Unit, 635.00
Overall Project Area	0.8 acres
Receiving Water(s) Name	Trout Creek, a tributary of the Truckee River
Water Body Type(s)	Perennial stream
Designated Beneficial Uses	MUN, AGR, GWR, REC-1, REC-2, COMM, COLD, WILD, RARE, SPWN
Potential Water Quality Impacts	Discharge of materials to the stream from Project implementation.
Area of Water(s) within the Overall Project Area	8,250 square feet, 850 linear feet

Impacts of Fill to Waters of the State, including Waters of the U.S. (WOUS) [if latter clause is not true, take out]	Waterbody Type	Permanent			Temporary		
		Square Feet	Linear Feet	Cubic Yards	Square Feet	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	8,250	850	1,583			
	<i>Wetland</i>						
Impacts of Dredging (Excavation) to Waters of the state, including (WOUS) [if latter clause is not true, take out]	Waterbody Type	Permanent			Temporary		
		Sq. Ft.	Linear Feet	Cubic Yards	Sq. Ft.	Linear Feet	Cubic Yards
	<i>Lake</i>						
	<i>Riparian</i>						
	<i>Stream</i>	8,250	850	1,583			
	<i>Wetland</i>						
	Total						
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under a Nationwide Permit Nos. 27 and 33, pursuant to CWA section 404.						
Non-Compensatory Mitigation	A gravity flow water diversion will be installed to route the water in the creek around the Project area and will include coffer dams established upstream and downstream to isolate the work area. Localized groundwater will be dewatered from the work area by pumping to a retention and treatment pond located adjacent to the stockpile and staging areas. Prior to channel dewatering, block nets will be installed at the upstream and downstream ends of the work area and all fish will be removed from the work area by a qualified biologist and temporarily relocated. To ensure successful establishment of vegetation, the site will be watered during the dry season for up to three years. Biodegradable erosion control fabric will be placed on the bank and adjacent floodplain, and coir logs will be keyed and staked onto the slopes to protect against rilling until vegetation is established. Site-specific Best Management Practices (BMPs) will be used throughout the construction period and for winterization to control erosion, including mulching bare soil, silt fences, straw wattles and revegetation. Permanent BMPs include re-establishing floodplain connectivity, minimizing vegetation disturbance, and re-vegetating with native plants.						
Compensatory Mitigation	This is a restoration Project, therefore compensatory mitigation is not required.						
Applicable Fees	\$1,201 (base application fee)						
Fees Received	\$1,201						

CEQA COMPLIANCE

The Applicant adopted a Mitigated Negative Declaration (MND) (State Clearinghouse No. 2010122026) and filed a Notice of Determination on January 25, 2011 for the Project, pursuant to the California Environmental Quality Act, (CEQA Public Resources Code 21000, et seq.).

The Water Board, acting as a CEQA Responsible Agency in compliance with CCR, title 14, section 15096, has considered the Applicant's MND for the Project and mitigation measures

incorporated into the MND to reduce potentially significant water quality impacts to less than significant with mitigation. As a result of the analysis, the Water Board finds, with the conditions required herein, the mitigation measures in the MND are adequate to reduce potentially significant water quality impacts to less than significant. This Order includes mitigation monitoring requirements for impacts to waters of the state, including WOUS. The Water Board will file a Notice of Determination for the above-referenced MND with the State Clearinghouse concurrently with this WQC.

WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITION

The Water Board has adopted a Basin Plan, which specifies the following discharge prohibition:

"4(c) The discharge or threatened discharge, attributable to human activities, of solid or liquid waste materials including soil, silt, clay, sand, and other organic or earthen materials to lands within the 100-year floodplain of the Truckee River or any tributary to the Truckee River is prohibited."

The proposed Project would violate the prohibition as it involves alterations within the 100-year floodplain of Trout Creek, a tributary to the Truckee River. The Water Board may grant an exception to the above-cited prohibition under certain conditions.

PROHIBITION EXEMPTION

The Water Board encourages restoration projects that are intended to reduce or mitigate existing sources of erosion or water pollution, or to restore the functional value to previously disturbed floodplain areas. The Basin Plan allows exemptions to the above-cited discharge prohibition for projects that meet the following exemption criteria:

- a) *The Project purpose is included in one or more of the five categories listed in Section 4.1 of the Lahontan Basin Plan: "(1) projects solely intended to reduce or mitigate existing sources of erosion or water pollution, or to restore the functional value to previously disturbed floodplain areas; (2) bridge abutment, approaches, or other essential transportation facilities identified in an approved county general plan; (3) projects necessary to protect public health or safety or to provide essential public services; (4) projects necessary for public recreation; and (5) projects that will provide outdoor public recreation within portions of the 100-year floodplain that have been substantially altered by grading and/or filling activities which occurred prior to June 26, 1975."*

The purpose of the Project is to restore the natural geomorphic function to previously-disturbed areas of lower Trout Creek. The previously-disturbed floodplain would be restored by transforming Reach 1 between School Street and Donner Pass Road from concrete box open channel to a 40 feet wide natural bottom stream channel and a more functional morphology with an expanded floodplain. Existing functional floodplain (that which does not flood the surrounding developed areas) would be expanded from 0.3 acres to 0.4 acres and floodplain volume will increase from 0.47 acre-feet to 0.68 acre-feet. Flood control measures incorporated in the restoration design would reduce flooding to adjacent properties in this developed area of the Town of Truckee. The level of flood protection would be increased from a 20-year to a 100-year storm event. The proposed Project will reduce existing sources of pollution by reducing flooding of developed areas (businesses, roads, and residences), will reduce the potential for future erosion, restore floodplain function, and improve and increase the riparian habitat within the area.

- b) *There is no reasonable alternative to locating the project or portions of the project within the 100-year floodplain.*

The Project is located entirely within the 100-year floodplain. There is no disturbance to vegetation as the channel and surrounding floodplain is concrete and asphalt. The removal of concrete and widening of the channel and floodplain is necessary to establish a more functional floodplain, reduce pollutant sources by eliminating flooding in disturbed and developed areas, and improve ecologic value by creating a functioning riparian corridor and enhancing aquatic habitat. There is no alternative to locating the Project within the 100-year floodplain.

- c) *The project, by its very nature, must be located within the 100-year floodplain.*

The Project to improve stream, floodplain and riparian function, by its very nature, must be located within the 100-year floodplain.

- d) *The project incorporates measures that will ensure any erosion and surface runoff problems caused by the project are mitigated to levels of insignificance.*

Construction-related activities within the creek channel and floodplain include the following and other measures to avoid impacts to water quality. Construction will occur under low flow conditions. Dewatering will consist of installing coffer dams at the upstream and downstream end of the Project area and diverting low flows around the Project area. Clean groundwater will be discharged into the diversion pipe from wells in the creek area to lower groundwater on Project site, while sediment-laden water will be pumped to a temporary basin for treatment and/or upland disposal. Long-term site stabilization will be achieved through a comprehensive revegetation effort.

- e) *The project will not individually or cumulatively with other projects, directly or indirectly, degrade water quality or impair beneficial uses of water.*

The Project, in conjunction with other watershed management projects being implemented by the Applicant, will directly improve water quality in Trout Creek. The restored floodplain is expected to have improved capacity to trap and store sediment and nutrients because the Trout Creek floodplain will have improved functions and values (e.g. larger functional floodplain, increased riparian corridor) with respect to the current degraded condition. The Project will not degrade water quality or impair beneficial uses.

- f) *The project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the groundwater flow treatment capacity from existing conditions. All 100-year floodplain areas and volumes lost as a result of the project must be completely mitigated by restoration of previously-disturbed floodplain within or as close as practical to the project site. The restored, new, or enlarged floodplain shall be sufficient area and volume to more than compensate for the flood flow attenuation capacity, surface flow treatment capacity, and groundwater flow treatment capacity which are lost as a result of the project. This finding will not be required for: (1) essential public health or safety projects, (2) projects to provide essential public services for which the Regional Board finds such mitigation measures to be infeasible because the financial resources of the entity proposing the project are severely limited, or (3) projects for which the Regional Board finds (based on evidence presented by the proposed discharger) that the project will not reduce the flood flow attenuation capacity, the surface flow treatment capacity, or the groundwater flow treatment capacity from existing conditions.*

To evaluate the Project's effects on flood flow attenuation capacity, surface flow treatment capacity and groundwater flow treatment capacity, the existing and proposed conditions for the lower Trout Creek were modeled using the hydraulic model Hydrologic Engineering Centers River Analysis System (HEC-RAS). For the 100-year peak flow scenario, the modeling indicated that the proposed Project would increase the volume but decrease the surface area of floodplain. However, for the much more frequent 10-year peak flow scenario, the proposed Project would increase both the acreage and volume of floodplain. The primary reason why acreage decreases and volume increases under the 100-year flood scenario is because the large area inundated to the south of Trout Creek consists of shallow water, on the order of a few inches deep, which flows over compacted, disturbed, and developed or semi-pervious floodplain. The proposed Project would remove approximately 3,400 square feet of concrete channel base and 400 linear feet of concrete channel wall, realign channel several feet to the south, install several boulder weir grade control structures and root wads, and revegetate the site. Despite the loss of floodplain surface area, the Project will not reduce flood flow attenuation capacity (shown using HEC-RAS modeling) because the expanded floodplain will have a greater infiltration capacity than the existing compacted, disturbed area over which the current 100-year flood flows spread. The Water Board finds that the floodplain analysis of the proposed conditions will provide much more flood attenuation and groundwater treatment capacity than existing conditions over a broader range of flow conditions. Over the 50+year hydrologic record that was used for modeling hydrologic responses, there would be an eight-fold increase in the surface water/floodplain interaction and six-fold increase in the volume of water that interacts with the floodplain.

DELEGATION AUTHORITY FOR GRANTING AN EXEMPTION

The Water Board has delegated authority to the Water Board Executive Officer to grant exemptions to the 100-year floodplain discharge prohibition in the Truckee River Hydrologic Unit for specific discharges where the proposed Project meets the conditions required for a waiver of waste discharge requirements or for approval under general waste discharge requirements or a general National Pollutant Discharge Elimination System permit (NPDES). The Project will be regulated under the terms and conditions of the Statewide General Waste Discharge Requirements and NPDES General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit).

The other criteria that the Project must satisfy for delegation authority to be granted to the Water Board Executive Officer are as follows:

1. *The project is within the following size limitations:

less than 1000 square feet of new impervious coverage, or
less than 2000 square feet of new ground disturbance, or
less than 100 cubic yards of fill or excavation; or*
2. *The project's primary purpose is to reduce, control, or mitigate existing sources of erosion or water pollution; and*
3. *The project meets the exemption criteria set forth in the Basin Plan.*

The Project's primary purpose is to reduce, control, and mitigate existing sources of erosion and water pollution, and meets the exemption criteria set forth in the Basin Plan.

PROHIBITION EXEMPTION GRANTED

As demonstrated above, the Project meets the conditions and criteria for an exemption to the 100-year floodplain waste discharge prohibition. The Applicant has incorporated appropriate BMPs into the Project to ensure that any erosion and surface runoff problems caused by the Project are minimized to levels of insignificance. A draft notice of exemption was posted on the Water Board website and distributed through an interested persons mailing list allowing at least ten (10) days to submit comments. The Project is hereby granted an exemption to the above-cited waste discharge prohibition.

SECTION 401 WATER QUALITY CERTIFICATION**Authority**

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to WOUS, must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and application filing fee required for WQC under section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under Nationwide Permit Nos. 27 and 33 pursuant to CWA section 404.

CCR, title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The Trout Creek Restoration Reach 3 Project qualifies for such WQC.

Standard Conditions

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

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

Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification, including Project operation, must be submitted to the Executive Officer for prior review and written approval.

6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the state of California or any subdivision thereof may result in the revocation of this certification and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this certification as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the CWA, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this certification, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the CWA.
8. This certification does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531 et seq.). If a "take" will result from any act authorized under this certification, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all requirements of the applicable Endangered Species Act for the Project authorized under this certification.

Additional Conditions

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

1. A qualified professional with experience in hydrology must monitor the implementation and compliance monitoring of the Project.
2. The Applicant must stabilize from erosion all areas of temporary impacts to waters of the state and all other areas of temporary upland disturbance due to placement of dredge and/or fill material which could result in a discharge or a threatened discharge to waters of the state.
3. The Applicant must temporarily stabilize the site from erosion (winterize) prior to October 15 in a manner which will remain effective until May 1 of the following year, until revegetation success criteria are met.
4. The Applicant must prevent the introduction or spread of noxious/invasive weeds within the Project and staging area. Control measures may include removing existing invasive vegetation, cleaning all equipment and gear prior to use on the site, using weed-free erosion control materials (including straw), and using weed-free seeds and plant material for revegetation of disturbed areas.
5. Water Board staff must be notified 48 hours prior to commencement of ground disturbance.

6. The Applicant must permit Water Board staff or its authorized representative upon presentation of credentials:
 - a) Entry onto Project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b) Access to copy any record required to be kept under the terms and conditions of this Order.
 - c) Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
 - d) Sampling of any discharge or surface water covered by this Order.
7. No debris, cement, concrete (or wash water therefrom), oil or petroleum products must be allowed to enter into or be placed where it may be washed from the Project site by rainfall or runoff into waters of the state. When operations are completed, any excess material must be removed from the Project work area, and from any areas adjacent to the work area where such material may be transported into waters of the state.
8. A copy of this Order must be maintained at the Project site so as to be available at all reasonable times to site operating personnel and Water Board staff.
9. Construction equipment must be monitored for leaks, and removed from service if necessary to protect water quality.
10. An emergency spill kit must be at the Project site at all times.

Enforcement

1. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of CWA section 401(d), the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
2. In response to a suspected violation of any condition of this certification, the State Water Board or the Water Board may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring report the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this certification, the Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

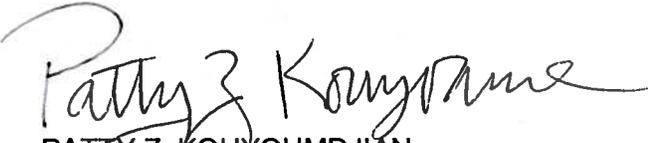
Section 401 Water Quality Certification Requirements Granted

I hereby issue an Order certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of state law. This discharge is also regulated under State Water Board Order

No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

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

We look forward to working with you in your efforts to protect water quality. If you have questions, please contact Tobi Tyler, Water Resources Control Engineer, at (530) 542-5435 or Alan Miller, North Basin Regulatory Unit Chief, at (530) 542-5435.



PATTY Z. KOUYOUMDJIAN
EXECUTIVE OFFICER

Enclosure: Reach 1 Map

cc: Todd Landry / Town of Truckee
John Dvorsky / Waterways Consulting
Jason Brush / Wetlands Regulatory Office (WTR-8), US EPA, Region 9
(via email at R9-WTR8-Mailbox@epa.gov)
Leah Fisher / U.S. Army Corps of Engineers, Sacramento Office
Bill Orme / State Water Resources Control Board, Division of Water Quality
(via email at Stateboard401@waterboards.ca.gov)

TT/adw/T: R6T-2014-00XX_Trout Creek phase 1 Restoration 401 and FPE_6A291403005
[File: Trout Creek Restoration Reach 1, Phase 1 Project / WDID 6A291403005]

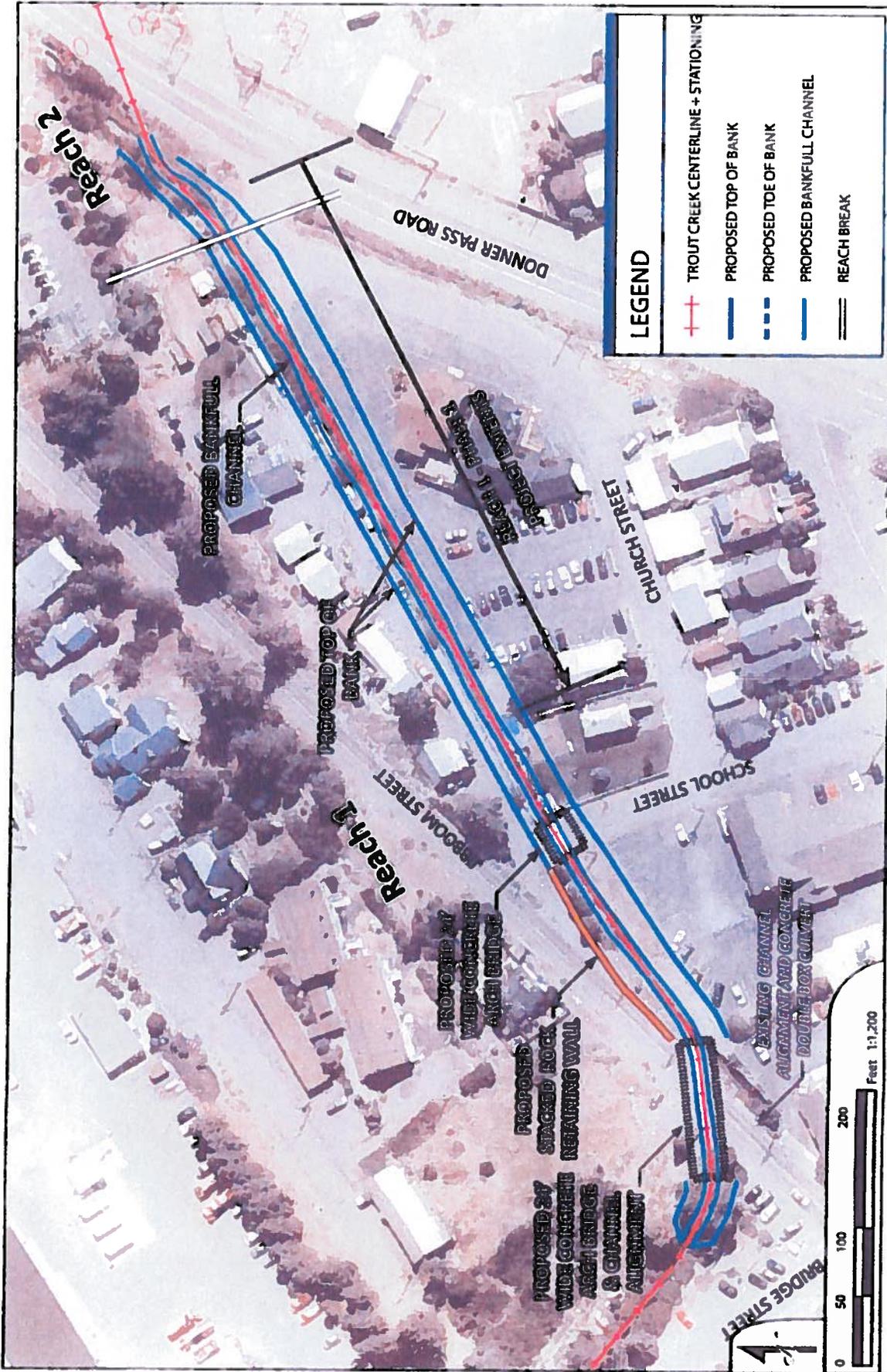


FIGURE 3
 Reach 1 proposed conditions. Phase 1 of Reach 1 only extends from the Donner Pass Road culvert to approximately the School Street Culvert. Remaining project elements will be completed in Phase 2, including replacement of the School Street and Jibboom Street culverts with freespans or bottomless arch culverts.

