

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – LAHONTAN REGIONAL WATER BOARD
MAY 7, 2013**

ITEM 7

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ON THE CERTIFICATION OF THE TAHOE REGIONAL PLANNING AGENCY CLEAN WATER ACT SECTION 208 LAKE TAHOE WATER QUALITY MANAGEMENT PLAN

DISCUSSION

The Tahoe Regional Planning Agency is the designated water quality planning agency for the Lake Tahoe region pursuant to federal Clean Water Act Section 208. The 208 Water Quality Management Plan provides a comprehensive framework for water quality management in the Lake Tahoe basin and describes mechanisms to achieve desired water quality outcomes. The existing 208 Plan (adopted in 1989) is inconsistent with adopted TMDL and the recently updated Regional Plan. An amended 208 Plan, prepared by the TRPA, addresses inconsistencies and streamlines the 208 Plan by incorporating by reference relevant planning documents.

POLICY ISSUE

Before the amended 208 Plan can take effect, it must be certified by both the State of California and the State of Nevada. Historically, the State Water Board has taken responsibility for certifying Clean Water Act 208 Plans and related amendments and will consider certifying the amended 208 Water Quality Management Plan for the Lake Tahoe region. Following certification, the 208 Plan must be approved by the United States Environmental Protection Agency (EPA). Portions of TRPA's updated Regional Plan cannot be implemented until the 208 Plan is certified by the States and approved by EPA.

FISCAL IMPACT

None

REGIONAL BOARD IMPACT

Yes – Region 6 South Lake Tahoe

STAFF RECOMMENDATION

Adopt the resolution as proposed.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Objective 1.1 to implement a statewide strategy to efficiently prepare, adopt, and implement TMDLs.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

CERTIFICATION OF THE TAHOE REGIONAL PLANNING AGENCY CLEAN WATER ACT SECTION 208 LAKE TAHOE WATER QUALITY MANAGEMENT PLAN

WHEREAS:

1. Lake Tahoe is a designated Outstanding National Resource Water that is impaired by elevated fine sediment particle and nutrient inputs from developed lands, atmospheric deposition, and disturbed undeveloped lands and stream systems.
2. Responsibility for protecting water quality in the Lake Tahoe basin is shared by the States of California and Nevada and the bi-state Tahoe Regional Planning Agency (TRPA). The TRPA is the designated area-wide water quality planning agency for the Lake Tahoe region pursuant to federal Clean Water Act section 208.
3. Lake Tahoe was placed on the Clean Water Act section 303(d) list of impaired water bodies in 1988 due to ongoing loss of the lake's historic deep water transparency.
4. On November 16, 2010 the Lahontan Regional Water Quality Control Board (Lahontan Water Board) adopted Basin Plan amendments incorporating a Total Maximum Daily Load (TMDL) to address the major sources of pollutant loading to Lake Tahoe. The proposed amendments add a Lake Tahoe TMDL section to the Basin Plan that includes a problem statement, numeric targets, source analysis, sediment loading capacity and allocations, a margin of safety, and an implementation and monitoring plan. The State Water Resources Control Board (State Water Board) approved the TMDL Basin Plan amendments on April 19, 2011 and the United States Environmental Protection Agency approved the Lake Tahoe TMDL on August 16, 2011.
5. The Lahontan Water Board has determined that the TMDL for fine sediment particles, total phosphorus, and total nitrogen for Lake Tahoe are set at levels necessary to attain and maintain the applicable water quality objectives taking into account seasonal variations and a margin of safety in the TMDL analysis.
6. On December 12, 2012, the TRPA Governing Board adopted an updated Regional Plan that aligns TRPA policies with the approved Lake Tahoe TMDL. The updated plan incentivizes redevelopment of existing urban areas and restoration of sensitive lands. The plan defers to the Lake Tahoe TMDL as the primary water quality management policy in the Lake Tahoe basin and avoids redundant and overlapping regulatory requirements.
7. On December 12, 2012, the TRPA Governing Board also adopted a resolution supporting an amended Water Quality Management Plan prepared pursuant to Clean Water Act section 208 (208 Plan) to address inconsistencies between the existing 208 Plan and the updated TMDL and Regional Plan policies. The amended 208 Plan provides a framework that identifies and describes the water quality management programs in the Lake Tahoe Region that are administered, managed, and implemented by a multitude of agencies.

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8. TRPA's amended 208 Plan requires certification by the State Water Board, the Nevada Division of Environmental Protection, and the United States Environmental Protection Agency to take effect.
9. On February 13, 2013, TRPA staff made a number of editorial changes to the amended 208 Plan to correct errata and clarify intent.
10. On February 14, 2013, the Lahontan Water Board adopted Resolution R6T-2013-0010, recommending that the State Water Board certify the amended 208 Plan.
11. The Nevada Division of Environmental Protection certified the amended 208 Plan on March 12, 2013.
12. Section 21083.5 of the California Environmental Quality Act (CEQA) directs that when an Environmental Impact Statement (EIS) has been prepared for a project pursuant to the requirements of the Tahoe Regional Planning Compact and implementing regulations, all or part of that EIS may be submitted in lieu of all or any part of an Environmental Impact Report (EIR) required by CEQA, provided the statement complies with the requirements of CEQA and CEQA Guidelines.

To support its action to approve updated Regional Plan documents, the TRPA prepared an EIS pursuant to the requirements of the Tahoe Regional Planning Compact (Gov. Code section 66801) and implementing regulations. The Regional Plan Update EIS prepared by the TRPA complies with the requirements and provisions of the CEQA and its Guidelines, including a robust alternatives analysis, detailed mitigation measures, greenhouse gas emission analysis, and assessments of growth inducing and cumulative impacts. In compliance with CEQA, the State Water Board will use the Regional Plan Update EIS prepared by the TRPA to support its determination to certify the amended 208 Plan.

13. According to the process outlined in CEQA Guidelines section 15225, where the EIS was circulated for public review as broadly as state or local law may require and gave notice meeting the standards in CEQA Guidelines section 15087(a), the lead agency may use the EIS in place of an EIR without recirculating the EIS for public review. Prior to using the EIS in place of an EIR the lead agency must give notice that it will use the EIS in the place of an EIR and that it believes that the EIS meets the requirements of CEQA.

The TRPA circulated the Regional Plan Update EIS for public review as broadly as state law required and gave notice meeting the standards in section 15087(a). The TRPA provided public notice of the availability of the draft EIS in the North Lake Bonanza on April 5, 2012 and in the Tahoe Tribune on April 4, 2012, at the same time it provided a notice of the availability of the Draft EIS and 60-day comment period to the State Clearinghouse (SCH # 2007092027). Because the EIS was circulated as broadly as state law required and notice met the standards of section 15087(a), the State Water Board will use the EIS without recirculating the EIS for public review. State Water Board staff gave notice via its email list service on March 18, 2013 and published notices in the Tahoe World (March 22, 2013), the Tahoe Tribune (March 23, 2013), and the North Tahoe Bonanza (March 28, 2013) regarding the State Water Board's intent to use the EIS in place of an EIR.

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THEREFORE BE IT RESOLVED THAT:

The State Water Board certifies the [Lake Tahoe Water Quality Management Plan](#) prepared by the TRPA pursuant to Clean Water Act Section 208.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 7, 2013.

Jeanine Townsend
Clerk to the Board