

Comments

Response



Public Comment
Lahontan Basin Plan Amendment
Deadline: 5/30/14 by 12:00 noon



May 30, 2014



The Honorable Felicia Marcus
Chair, State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Comment Letter—Lahontan Basin Plan Amendments

Dear Chair Marcus,

The California Cattlemen's Association (CCA) and California Farm Bureau Federation (CFBF) appreciate the opportunity to comment on the State Water Resources Control Board (State Board)'s proposed adoption of the Basin Plan Amendment previously adopted by the Lahontan Regional Water Quality Control Board (Lahontan Board). As organizations with members throughout the state, including the Lahontan region, we have a significant interest in the water quality goals set by Regional Boards and adopted by the State Board. Our members pride themselves on being responsible stewards of the land, and seek to incorporate into their ranching and farming operations responsible management practices, informed by the best available science, in order to ensure that our land and water remain healthy for Californians and sustainable for future generations of agricultural producers.

CCA and CFBF are concerned with the Lahontan Basin Plan Amendment as written, and we are specifically opposed to the Lahontan Board's failure to address its restrictive and unattainable fecal coliform standard of 20/100mL. CCA and CFBF have strongly objected to this unreasonable standard in the past, and appreciate this opportunity to renew our objections to the overly-restrictive standard. We ask that the State Board defer approval of the Lahontan Basin Plan Amendment at this time, and remand the Amendment back to the Lahontan Board to revise its fecal coliform standard.

The Lahontan Board is the only regional board throughout the state to adopt a fecal coliform standard of 20/100mL—all other regional boards have adopted a standard of 200/100mL, which is also the standard adopted by the U.S. Environmental Protection Agency. The Lahontan Board's standard does not appear to be justified by the best scientific evidence available, as no scientific data has been advanced by the Lahontan Board to support the use of such a restrictive fecal coliform limit.

Additionally, there is ample evidence to suggest that the fecal coliform limit set by the Lahontan Board is unachievable under any circumstances. The objective was apparently originally based upon the unique purity of Lake Tahoe, but water data from 1966-1971 suggests that this has been an unattainable standard even for Lake Tahoe itself. Depending on lakeshore development and

CCA/CFB R1: The amendments adopted by the Lahontan Water Board do not modify the existing bacteria water quality objective, and the Lahontan Water Board's bacteria objective is not part of the amendments package that is being considered by the State Water Board.

As explained on pages 6 and 7 of the Staff Report on Triennial Review, presented to the Lahontan Water Board as Item 13 at the Board's January 17, 2013 meeting, changing the current bacteria objective is premature (see http://www.waterboards.ca.gov/lahontan/board_info/agenda/2013/jan/item_13.pdf).

Assessing the bacteria objective is a high priority for the Lahontan Water Board, and when the assessment is complete, the Lahontan Water Board may consider changing the current objective.

CCA/CFB R2: Not all other regional boards have adopted a bacteria objective of 20/100 mL. The North Coast Water Board adopted a bacteria objective of 50/100 mL for waters designated for contact recreation.

CCA/CFB R3: Data collected by the Lahontan Water Board indicates that many of the Lahontan Region's waters, including Lake Tahoe, meet the current bacteria water quality objective.

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distance from shore, Lake Tahoe at that time had fecal standards varying from 32, 64, 240, and 700/100mL—even the lowest of which would have exceeded the Lahontan Board's restrictive standard by more than 50%.

Research on the ground confirms that this standard cannot be realistically and reasonably achieved. For instance, over much of the past decade, members of the Bridgeport Ranchers Organization have worked with Regional staff to institute best management practices to reduce levels of fecal coliform in the waters of the Lahontan Basin. Despite this cooperation with staff and adherence to best management practices, testing data has confirmed that the high standard of 20 fec col/100mL is simply unachievable.

This high standard, permitting no more than a tenth of the fecal coliform level allowed throughout the rest of the state, puts ranchers within the Lahontan Basin at a significant disadvantage to ranchers throughout the rest of the state and country. This standard threatens the very livelihood of ranchers in the Bridgeport Valley; if the restrictive fecal coliform level stands, it will undoubtedly force ranchers and future generations to abandon their work on the land despite years of data which demonstrate that water quality is *actually improved* by passing through ranch property.

The California Water Code requires that regional water boards establish water quality objectives which reflect "a reasonable protection of beneficial uses," and directs regional boards to consider whether the standards they set "could reasonably be achieved." The Water Code further directs regional water boards to examine economic considerations in setting its standards. Here, it is evident that the Lahontan Board's restrictive fecal coliform level cannot be *reasonably* achieved (if indeed it can be achieved at all), and that adherence to the standard would be economically devastating to ranchers in the region. As such, this restrictive standard does not comport with the intent of the Water Code.

CCA and CFBF believe that the Lahontan Basin fecal coliform standard should be amended or clarified such that, in agricultural areas of the region, the fecal coliform objective is set to 200/100mL to conform to all other areas of the state. To this end, we ask that the State Board defer approval of the Lahontan Basin Plan Amendment and remand the Amendment to the Lahontan Board with instructions to revise the fecal coliform standard.

Sincerely,


 Kirk Wilbur
 Director of Government Relations
 California Cattlemen's Association


 Jack L. Rice
 Associate Counsel
 California Farm Bureau Federation

CCF/CFB R4: Discussions between the Lahontan Water Board staff and the Bridgeport Ranchers Organization indicate that ranchers have yet to implement all reasonable and feasible best management practices (BMPs) to reduce cattle feces inputs to area surface waters. Data indicate that when cattle are seasonally removed from the area the water quality greatly improves.

CCF/CFB R5: The Lahontan Water Board is not holding the Bridgeport area ranchers to the 20/100 mL water quality objective. The Waiver of Waste Discharge Requirements for the ranchers require them to meet an interim water quality objective of 200/100 mL by 2017, and the dischargers are not being held to any bacteria standard until then. There is no economic disadvantage being imposed upon the Bridgeport ranchers.

Contrary to the implication of the statement, data indicate that water quality only improves by passing through the ranch property when there are no cattle on the ranches and there are cattle grazing Forest Service allotments upstream of the ranches.

CCF/CFB R6: See response 4. Not all reasonable BMPs have been implemented by ranchers in the Bridgeport Valley; until such time that those BMPs are implemented, the level of bacteria in surface waters that can be reasonably achieved is not known. Hence, the Lahontan Water Board's requirement to implement those BMPs, and the ongoing monitoring program to assess water quality associated with that BMP implementation.

CCF/CFB R6: See Response 1. Amending the bacteria objective is not before the State Water Board for consideration.

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1220 Sweetwater Road
Incline Village, Nevada, 89451
775-832-1212



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TWSA Members:
Cave Rock Water System
Edgewood Water Company
Glenbrook Water Company
Incline Village GID
Kingsbury GID
Lakeside Park Association
North Tahoe PUD
Round Hill GID
Skyland Water Company
South Tahoe PUD
Tahoe City PUD
Zephyr Water Utility

5/23/2014

TWSA Comment Regarding Lahontan Region Water Quality Control Board Basin Plan Amendment - for the California State Water Board comment period ending 5/30/14.

The Tahoe Water Suppliers Association represents the majority of the area's municipal water purveyors whose source of drinking water is Lake Tahoe. Most of the members pull water directly from Lake Tahoe to service their customers. There are 160,000 public water systems in the United States. Only sixty systems in the entire nation hold filtration exemption status with the US EPA. This status defines special water treatment and watershed protection requirements. Six of those sixty filtration exempt systems are Tahoe Water Supplier Association members. It is unusual for the US EPA to grant filtration exemption status to a drinking water provider located in a watershed open to multiple uses, such as Tahoe. These six filtration exemption permits attest to the extremely high quality of Lake Tahoe's water. In the past 8 years, the TWSA has established an aggressive source water protection education program which includes the popular "I Drink Tahoe Tap" campaign. This campaign focuses on educating the public about source water protection and appreciation of the excellent tap water provided to our communities.

The regulatory revisions being implemented by the Lahontan Regional Water Quality Control Board (potentially allowing for the direct introduction of herbicides into an open water application at Lake Tahoe) are of paramount concern to the public water suppliers. We do not concur that the Substitute Environmental Document for the Lahontan Basin Plan adequately addresses the concerns for utility services and drinking water quality. Tahoe's municipal water systems are not designed to, nor are they effective at, removing chemical contaminants. They are designed to treat biological contaminants only. Our concerns focus on the long-term implications of establishing chemical controls for aquatic invasive weeds maintenance, setting an unseen precedent at Lake Tahoe. We also question the efficacy of chemical methods, seeing the risk as too large to imperil one of the purest water bodies in the world.

For example: "No herbicides are used in the Okanagan Basin Water Board's water milfoil control program. In the late 1970s test plots of Eurasian water milfoil were treated with 2,4-D in granular form. Although 2,4-D is a systemic herbicide, taken up by the plant and capable of killing the root, repeat applications are needed, usually on an annual basis. This chemical is the same active ingredient that is found in many lawn weed killers. Another

TWSA R1: The Lahontan Region Basin Plan amendments that include exemption criteria for the waste discharge prohibition for pesticides was adopted by the Lahontan Water Board on December 7, 2011, received State Water Board approval on May 15, 2012 and received Office of Administrative Law on September 6, 2012. The amendments currently before the State Water Board for consideration only amend what entities and in what circumstances exemption requests may be filed. The period for comment on the California Environmental Quality Act documentation for the existing pesticide prohibition and exemption criteria and for the amendments before the State Water Board has passed.

The existing pesticide prohibition exemption criteria require evaluation of non-chemical means of control, and a showing acceptable to the Lahontan Water Board that either (1) non-chemical efforts failed to address target organisms or (2) use of non-chemical measures are not feasible or their use is not justified.

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herbicide, Diquat, was tested once in the mid 1970s. It is the chemical equivalent of mowing the top growth of the plant and does not affect root viability. All the Okanagan lakes are used as drinking water reservoirs. Aside from citizen concern about chemicals in our water supplies, neither of these herbicides provides long term control."
Source: http://www.ubc.ca/milfoil/methods_of_control/

And

" Milfoil species are dicots, and therefore selective herbicides can be used to control them with minimal collateral damage to the primarily monocot native plant communities. 2,4-D, a selective herbicide, and fluridone, a non-selective herbicide, have both been used to control Eurasian watermilfoil to good effect in western Washington lakes. However, 2,4-D cannot be used in waterbodies that support salmonids (salmon and trout species). Triclopyr, another selective herbicide, has been approved for control of submerged plants as of 2009 and shows promise as an alternative herbicide for milfoil control. Endothal and Diquat, which are both contact herbicides, will control existing vegetation, but will not kill the roots, so the control is temporary."

(Source: http://www.westwater.com/infocenter/1-800-833-8333/courses/whdc2/98vul=600wG@A1du7=brn63436703672nurkmpcnmp_posh2Fdrp6Z/Etcrcy%2Froter_and_hend257woods5ZFBH%2F3F3ifil_AyrFqyylfics_control.pdf?oi=2D5_HL_Wcau60H727r4p3vq=ASUCMHot7D_887p1_0K75405KXK3Y7AS3um=bu_6722229jth2D

The TWSA has been a supporting member of the efforts of the Lake Tahoe Aquatic Invasive Species Working Group. In the past, we have provided staff resources to support water quality monitoring needs during the Asian Clam Projects in Marla Bay. We regularly attend meeting and work sessions. While acknowledging the challenge that lies ahead in successful management of Aquatic Invasive Species at Lake Tahoe, the water providers cannot support the direct introduction of any chemical agent into Lake Tahoe as a management tool for weeds.

Lake Tahoe is a Tier 3, Outstanding National Resource Water (ONRW). This is the highest designation of a non-degraded water body in the nation. Lake Tahoe is not simply a California water body; but also a Nevada water body and are federally owned waters. Tahoe is a national treasure.

"Tahoe is on a world stage environmentally for how we protect both the urban and natural worlds for future generations. Few alpine lakes which claim such awe-inspiring beauty and pristine conditions also share the complexities of being a year-round vacation destination surrounded by diverse communities. Lake Tahoe is one of just three lakes on the West Coast designated an Outstanding National Resource Water and the only one outside the National Parks system with a mix of public and private property ringed by highways and a population in the tens of thousands.

These are among the reasons Tahoe's environmental initiatives are so often used as models and drivers of environmental innovation. Our efforts to establish equilibrium between the human and natural environments provide both inspiration and instruction for communities grappling with

TWSA R2: The Lahontan Water Board is also a participant in the Lake Tahoe Aquatic Invasive Species Working Group. The existing pesticide prohibition exemption criteria require evaluation of non-chemical means of control, and a showing acceptable to the Lahontan Water Board that either (1) non-chemical efforts failed to address target organisms or (2) use of non-chemical measures are not feasible or their use is not justified. The amendments before the State Water Board do not alter those requirements.

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similar issues. When we work to protect our shores, sometimes we are saving more than our beloved lake. We are setting an example of environmental stewardship for others far and wide.'
(Source: Joanne Morchetti, the Executive Director of the Tahoe Regional Planning Agency, first her guest column published in the March Lake Tahoe Magazine on March 27, 2014.)

It is acknowledged that the Tahoe Keys Homeowners Association is developing an Aquatic Weeds Management Plan which will include an herbicide application project. How is Tahoe, as a Tier 3 ONRW, going to be differentiated from other water bodies and afforded the highest level of protection of any water body in the nation - if herbicides can be used to eradicate weeds in an open water situation?

Invasive aquatic weeds can be successfully managed using non-chemical methods which are now being rejected as too costly. The approval of the potential use of herbicides 'as a tool in the toolbox' for weed control in Lake Tahoe does not highlight innovation or stewardship. This 'tool' may be cheaper for the project proponent, but has the potential to induce a costly burden on all of the tax payers around the lake when the water purveyors must build filtration plants if herbicides and pesticides are introduced into Lake Tahoe.

In the EPA Federal Water Quality Standards Handbook, the foundation of the water quality pollution control program mandated by the Clean Water Act - the following is written: Regulation 40 CFR.131.12(a)(3): The regulation requires water quality to be maintained and protected in ONRWs. EPA interprets this provision to mean no new or increased discharges to ONRWs and no new or increased discharge to tributaries to ONRWs that would result in lower water quality in the ONRWs. The only exception to this prohibition, as discussed in the preamble to the Water Quality Standards Regulation (48 F.R. 51402) permits States to allow some limited activities that result in temporary and short-term changes in the water quality of ONRW. Such activities must not permanently degrade water quality or result in water quality lower than that necessary to protect the existing uses in the ONRW. It is difficult to give an exact definition of "temporary" and "short-term" because of the variety of activities that might be considered. However, in rather broad terms, EPA's view of temporary is weeks and months, not years. The intent of EPA's provision clearly is to limit water quality degradation to the shortest possible time. If a construction activity is involved, for example, temporary is defined as the length of time necessary to construct the facility and make it operational. During any period of time when, after opportunity for public participation in the decision, the State allows temporary degradation, all practical means of minimizing such degradation shall be implemented.

Chemicals may dilute and degrade, but they do not disappear. The customer confidence we have built in "Tahoe Tap" cannot be replaced once chemicals are introduced into Lake Tahoe.

Lake Tahoe's Tier 3, Outstanding National Resource Water designation demands that the innovation and stewardship be paramount in the handling of invasive weeds in the Aquatic Invasive Species Management programs at Lake Tahoe.

TWSA R3: The existing pesticide prohibition exemption criteria require the Lahontan Water Board to find that a proposed aquatic pesticide project is consistent with the State and Federal antidegradation policies. The amendments before the State Water Board do not alter those requirements.

TWSA R4: The existing pesticide prohibition exemption criteria require evaluation of non-chemical means of control, and a showing acceptable to the Lahontan Water Board that either (1) non-chemical efforts failed to address target organisms or (2) use of non-chemical measures are not feasible or their use is not justified. The amendments before the State Water Board do not alter those requirements.

TWSA R5: The existing pesticide prohibition exemption criteria require the Lahontan Water Board to find that a proposed aquatic pesticide project is consistent with the State and Federal antidegradation policies. The amendments before the State Water Board do not alter those requirements.

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California Water Code section 106, considers, by law, that drinking water is the highest beneficial use of waters of the state, followed by irrigation.

Chemical methods are neither temporary, nor short-termed, nor an innovative way to handle the weed problem at Lake Tahoe, nor protective of the highest beneficial use of the waters of Lake Tahoe.

Madonna Dunbar
Executive Director, Tahoe Water Suppliers Association
Resource Conservationist, Incline Village General Improvement District
Submitted on behalf of the Tahoe Water Suppliers Association
5/23/2014

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TWSA R6: Comment acknowledged.

TWSA R7: The existing pesticide prohibition exemption criteria require evaluation of non-chemical means of control, and a showing acceptable to the Lahontan Water Board that either (1) non-chemical efforts failed to address target organisms or (2) use of non-chemical measures are not feasible or their use is not justified. Consistent with the antidegradation policies, the existing prohibition exemption criteria requires that any lowering of existing water quality will be consistent with the maximum benefit to the people of the State and that water quality be adequate to protect existing uses fully. The amendments before the State Water Board do not alter those requirements.

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State of California—Health and Human Services Agency
California Department of Public Health

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Deadline: 5/30/14 by 12:00 noon



EDWARD S. BROWN, JR.
Governor

May 29, 2014

State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Attention: Jeanine Townsend, Clerk to the Board

Subject: Comment Letter – Lahontan Basin Plan Amendments

On May 14, 2014, Sandi Tenney, Lassen District Associate Sanitary Engineer, Department of Public Health (Department), Drinking Water Field Operations Branch, received an electronic copy of a "Notice of Opportunity to Comment" (Notice) for proposed amendments to the Water Quality Control Plan for the Lahontan Region (Plan). The Notice was provided by Ken Fischer, North Tahoe PUD, along with an electronic copy of "Spoken Comment for TWSA" presented by Madonna Dunbar, Executive Director of the Tahoe Water Suppliers Association (TWSA). Lake Tahoe is a source of domestic water for at least 14 public water systems, the 12 members of the TWSA as well as Agate Bay Water Company and Fulton Water Company.

The Plan was reviewed by Michael Burgess, Lassen District Staff Engineer. Based on Mr. Burgess' review of the Plan, the Department has the following comments:

1. Only herbicides registered with the US Environmental Protection Agency (USEPA) for use in drinking water reservoirs should be used for direct application to Lake Tahoe.
2. Any herbicide used should be applied in accordance with the full product label as registered by the USEPA.
3. At least all California-regulated public water systems with surface water intakes on Lake Tahoe should be informed of the application at least 15 days prior to its use.

CDPH R1: The Lahontan Region Basin Plan amendments that include exemption criteria for the waste discharge prohibition for pesticides was adopted by the Lahontan Water Board on December 7, 2011, received State Water Board approval on May 15, 2012 and received Office of Administrative Law on September 6, 2012. Those exemption criteria include requirements for applying pesticides "consistent with label instructions approved by the United States Environmental Protection Agency ... and Use Permits issued by the CAC [County Agricultural Commissioner] which incorporate permit conditions recommended by the Department of Pesticide Regulation and the California Department of Public Health." The amendments before the State Water Board at this time do not alter those requirements.

CDPH R2: The existing prohibition exemption criteria require notification of Lake Tahoe water purveyors whose source water relies on the surface water and/or groundwater wells designated under the direct influence of the surface water

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- 4. It is requested that the Department's Lassen District Office should be notified at the address below at least 15 days prior to any direct application of herbicide to Lake Tahoe.

Michael J. McNamara, P.E.
Lassen District Engineer
364 Knotcreek Dr., Suite 101
Redding, CA 96002

- 5. The notification to the water systems and the Department's field office should include the chemical applied, the expected date(s) of application, the amount of chemical applied, method of application, and localized concentration of the chemical at the time of application.

If you have any questions or comments, please contact Michael J. McNamara or myself at (530)224-4800.



Richard L. Hinrichs, P.E., Chief
Northern California Section
DRINKING WATER
FIELD OPERATIONS BRANCH

cc: Madonna Dunbar, TWSA Executive Director
Ken Fischer, Lead Water Quality Control Technician, North Tahoe PUD

CDPH R3: The existing prohibition exemption criteria require the Lahontan Water Board to consult with the Department of Public Health when reviewing exemption requests that may affect surface drinking water intakes.

CDPH R4: The existing prohibition exemption criteria require the requested information to be provided.