

Comment	Response
<div data-bbox="191 237 254 285"> </div> <div data-bbox="262 240 373 298"> <p>United States Department of Agriculture</p> </div> <div data-bbox="415 240 472 279"> <p>Forest Service</p> </div> <div data-bbox="527 240 604 298"> <p>Pacific Southwest Region</p> </div> <div data-bbox="789 240 980 337"> <p>Regional Office, R5 1323 Club Drive Vallejo, CA 94592 (707) 562-8737 Voice (707) 562-9240 Text (TDD)</p> </div> <hr/> <div data-bbox="709 363 936 407"> <p>File Code: 2530 Date: February 24, 2014</p> </div> <p data-bbox="256 435 638 548"> Patty Kouyoumdjian Executive Officer Lahontan Regional Water Quality Control Board 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150 </p> <p data-bbox="256 574 457 594"> Dear Ms. Kouyoumdjian: </p> <p data-bbox="256 613 999 769"> The USDA Forest Service Pacific Southwest Region (USFS) manages seven National Forests within the jurisdiction of the Lahontan Regional Water Quality Control Board (Board). Vegetation management to improve forest health, reduce risks of wildfires, and stimulate local economies is an important activity on National Forest System (NFS) lands. Protection of water resources is also an integral part of the Forest Service mission, and I value our working relationship with the Board and its staff to protect water quality on the east side of the Sierra-Cascade Crest. </p> <p data-bbox="256 799 1003 958"> The Board's tentative timber waiver, currently open for public comment, will generally improve the ability of the USFS to manage vegetation on NFS lands while maintaining adequate protection of water quality. I appreciate the extensive efforts on the part of the Board's staff to discuss proposed changes to the current (2009) waiver with USFS staff and other stakeholders. Most of our concerns have been addressed through this outreach process. My comments, provided below, are directed at a number of remaining issues that we would like to have addressed in the proposed waiver presented to your Board for approval. </p> <p data-bbox="256 984 491 1003"> Monitoring—Attachment O </p> <p data-bbox="256 1032 1016 1169"> The tentative waiver eliminates the option for National Forests to use our Best Management Practice (BMP) Evaluation Program in lieu of effectiveness and forensic monitoring. The BMP evaluation program has, to the best of my knowledge, served well as a monitoring option under the current Lahontan waiver. The optional use of our BMP evaluation program has not resulted in violations of basin plan objectives or waiver conditions, and has reduced the number of reports that Board staff need to review each year. </p> <p data-bbox="256 1195 1003 1331"> Operationally, this change would increase USFS workloads because the Forests would be required to conduct effectiveness and forensic monitoring for the waiver in addition to BMP monitoring that is required by National Agency direction and our Management Agency Agreement (MAA) with the State Water Resources Control Board (State Board). Although the additional workload would be relatively minor for most National Forests, it would add to overall project costs and reduce the pace and scale of forest restoration. </p>	<div data-bbox="1050 487 1911 1071"> <p>➤ USFS-1: Since the BMPEP evaluates project effectiveness by randomly selecting a few projects rather than evaluating every project, some projects were never evaluated for compliance or effectiveness in protecting water quality and the BMPEP does not contain a corrective action implementation section. The proposed 2014 Timber Waiver contains forms that all project implementers would use to evaluate project compliance, effectiveness, and specify corrective actions where problems were noted. Some improvements were made to the forms to address burn scar vegetative recovery and to specify the minimum information required. Because every project implementer will be required to use the same forms, Water Board staff will be able to readily review the reports in a consistent manner and the information from multiple projects can be more readily compiled and available to the public.</p> </div> <div data-bbox="1050 1136 1911 1291"> <p>➤ USFS-2: Using the proposed 2014 Timber Waiver monitoring forms and reporting deadlines will reduce Water Board staff costs by improving program consistency and transparency.</p> </div>

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<p>Patty Kouyoumdjian 2</p> <p>More significantly, the elimination of the BMP monitoring option would effectively end the unique status of the USDA Forest Service (USFS) as a water-quality management agency, as we are designated under our MAA. Although this change would apply only in the Lahontan Region, other Regional Boards will be revising their waivers in 2015, and the State Board is considering alternatives to the proposed 2011 statewide waiver. The proposed change in monitoring requirements could be prejudicial to our future negotiations for those regulatory actions and limit our ability to implement new monitoring requirements if our MAA is revised. I therefore strongly urge you to reinstate the option for National Forests to use the BMP evaluation program in lieu of the standard reporting forms for effectiveness and forensic monitoring.</p> <p>Alternatively, the Board could acknowledge the status of the USFS as a water-quality management agency under the MAA in a Finding. Such a finding, and a commitment to revise the waiver to include specific conditions for National Forests based on any future changes to the MAA, would effectively address my major concern with the proposed changes to the monitoring program. Such a Finding might read as follows:</p> <p>“The Lahontan Regional Water Quality Control Board (Regional Board) acknowledges the status of the USDA Forest Service as a water-quality management agency under a Management Agency Agreement (MAA) with the State Water Resources Control Board (State Board). The Regional Board is aware of the potential for the development of a statewide regulatory action by the State Board for vegetation management and other activities on National Forest lands. Such a regulatory action would likely be based on the existing or a revised MAA. The Regional Board commits to facilitating the implementation of a statewide regulatory action within the Lahontan Region if approved by the State Board during the period that this [Lahontan 2014 timber] waiver is in effect.”</p> <p>The Board’s implementation monitoring form is compatible with the USFS Water Quality Management Handbook requirements for BMP implementation checklists, and would not impose an additional workload on our National Forests. I therefore have no objection to the proposed requirement for mandatory use of the Board’s standard implementation monitoring form.</p> <p>Soil Operability—Attachment A</p> <p>In Attachment A, operable <i>“means vehicles, tractors, and other equipment use off roads, under moist or wet conditions must not create ruts exceeding two inches in depth and 25 feet in length. No ruts exceeding three inches in depth are allowed.”</i> The intent of this standard is to prevent transport of sediment and other pollutants to waters of the state during periods with overland runoff. The creation of ruts when no surface runoff is likely does not constitute a threat to water quality. I request that soil operability criteria for ruts in wet or moist soils be established only for winterization or for any day with a local National Weather Service forecast of a 50% or greater chance of measurable rainfall. We also request that the definition of “operable” in Attachment A clearly indicate that the soil operability standard applies only to off-road areas in water body buffer zones.</p>	<p>USFS-3: The adoption of the proposed 2014 Timber Waiver has no bearing on the agreements made in the MAA, which was signed between the State Water Resources Control Board and the US Forest Service in 1981.</p> <p>USFS-4: The following new Finding 5 has been added to the proposed 2014 Timber Waiver, which is similar to the text suggested in the comment:</p> <p>“The Lahontan Regional Water Quality Control Board (Water Board) acknowledges the State Water Resources Control Board (State Board) and the USDA Forest Service signed a Management Agency Agreement in 1981 that recognized the USDA Forest Service as a water quality management agency for its lands. The Water Board is aware of the potential for the development of a statewide regulatory action by the State Water Board for vegetation management and other activities on National Forest lands. If, during the period that this Lahontan 2014 Timber Waiver is in effect, the State Board adopts a new statewide regulatory action for vegetation management, then the Water Board will consider revisions to the Timber Waiver consistent with the adopted provisions.”</p>

Comment	Response
<p data-bbox="205 233 373 253">Patty Kouyoumdjian</p> <p data-bbox="940 233 957 253">2</p> <p data-bbox="205 329 989 540">More significantly, the elimination of the BMP monitoring option would effectively end the unique status of the USDA Forest Service (USFS) as a water-quality management agency, as we are designated under our MAA. Although this change would apply only in the Lahontan Region, other Regional Boards will be revising their waivers in 2015, and the State Board is considering alternatives to the proposed 2011 statewide waiver. The proposed change in monitoring requirements could be prejudicial to our future negotiations for those regulatory actions and limit our ability to implement new monitoring requirements if our MAA is revised. I therefore strongly urge you to reinstate the option for National Forests to use the BMP evaluation program in lieu of the standard reporting forms for effectiveness and forensic monitoring.</p> <p data-bbox="205 570 989 683">Alternatively, the Board could acknowledge the status of the USFS as a water-quality management agency under the MAA in a Finding. Such a finding, and a commitment to revise the waiver to include specific conditions for National Forests based on any future changes to the MAA, would effectively address my major concern with the proposed changes to the monitoring program. Such a Finding might read as follows:</p> <p data-bbox="205 712 989 924">“The Lahontan Regional Water Quality Control Board (Regional Board) acknowledges the status of the USDA Forest Service as a water-quality management agency under a Management Agency Agreement (MAA) with the State Water Resources Control Board (State Board). The Regional Board is aware of the potential for the development of a statewide regulatory action by the State Board for vegetation management and other activities on National Forest lands. Such a regulatory action would likely be based on the existing or a revised MAA. The Regional Board commits to facilitating the implementation of a statewide regulatory action within the Lahontan Region if approved by the State Board during the period that this [Lahontan 2014 timber] waiver is in effect.”</p> <p data-bbox="205 953 989 1044">The Board’s implementation monitoring form is compatible with the USFS Water Quality Management Handbook requirements for BMP implementation checklists, and would not impose an additional workload on our National Forests. I therefore have no objection to the proposed requirement for mandatory use of the Board’s standard implementation monitoring form.</p> <p data-bbox="205 1073 485 1092">Soil Operability—Attachment A</p> <p data-bbox="205 1122 989 1356">In Attachment A, operable <i>“means vehicles, tractors, and other equipment use off roads, under moist or wet conditions must not create ruts exceeding two inches in depth and 25 feet in length. No ruts exceeding three inches in depth are allowed.”</i> The intent of this standard is to prevent transport of sediment and other pollutants to waters of the state during periods with overland runoff. The creation of ruts when no surface runoff is likely does not constitute a threat to water quality. I request that soil operability criteria for ruts in wet or moist soils be established only for winterization or for any day with a local National Weather Service forecast of a 50% or greater chance of measureable rainfall. We also request that the definition of “operable” in Attachment A clearly indicate that the soil operability standard applies only to off-road areas in water body buffer zones.</p>	<p data-bbox="1045 233 1906 1203">USFS-5: The suggested change does not adequately protect the soil and vegetation resources from potentially significant disturbance. The intent of the “operable” soils standard is to prevent impacts to soils and native vegetation within water body buffer zones (WBBZs) and Tahoe Basin stream environment zones (SEZs), and to prevent transport of sediment and other pollutants to waters of the State. Although the creation of ruts when no surface water runoff is likely may not immediately impact water quality, the impacts to soils and vegetation from the creation of these ruts under moist or wet conditions may create long-lasting impacts which affect water quality. Soils and vegetation, especially those within WBBZs and SEZs, capture and infiltrate water, providing numerous physical, chemical, and biological functions that are critical to sustaining healthy ecosystems and maintaining environmental quality. Further, root densities of grasses, forbs, and shrubs are highest towards the soil surface and attenuate with depth, with the greatest root concentration typically at the surface (0-6 inches). Surface root adherence to soil is an important biological factor related to soil erosion control. Disturbance of the surface soil via rutting when the soils are moist or wet, regardless whether runoff to waterbodies is occurring, is likely to affect plant health or mortality of roots and the plant’s ability to attenuate stormwater flows and to hold soils in place. Soil disturbance potential can vary depending upon soil type, rooting depth, soil moisture content, surface litter thickness and overbearing forces. The “operable” soil standard is in place to minimize soil erosion and the loss of soil productivity when soils are moist or wet within highly sensitive areas, not just as a standard to prevent runoff discharge.</p> <p data-bbox="1045 1239 1906 1399">There may be some confusion where equipment use on “operable” soils vs. on “saturated soils” may exist. We have therefore added “As applied in Categories 2, 4, and 6” under the “Operable” header and “As applied in Categories 1, 2, 4, and 6” under the “Saturated Soils” header in Attachment A.</p>

Comment	Response
<p>Adequate Ground Cover—Attachments A and Q</p> <p>Our experience indicates that protection of soils from erosion can be achieved by maintaining ground cover on 85% of the land surface. We therefore request that the definition of “<i>Adequate Ground Cover</i>” in Attachment A be amended to allow ground cover of 85% or higher to be considered adequate. This standard would be consistent with the area limitation of 15% for burn scars in Attachment Q and is generally compatible with USFS forest plan standards.</p> <p>Pile Burning in Waterbody Buffer Zones (WBBZs)—Attachments A and Q</p> <p>Requirements—</p> <p>The third bullet item, which states that “<i>no more than 15% of any acre may be burned each year,</i>” is irrelevant and should be removed. Recommendations included at the end of this attachment encourage forest fuels practitioners to allow surface fires to “creep” through forest floor fuels between piles, which will result in varying percentages of burned areas within projects. Rather than focusing on the acres burned, this requirement should focus on the extent of burn scars, so that pile burning does not result in more than 15% of any acre with burn scars.</p> <p>The fourth bullet should be changed to read “<i>No more than 15% of any acre can have burn scars that are not in a significant stage of native vegetation recovery representative of the vegetative capacity of the site, including organic mulch or native duff cover provided either naturally or through management.</i>” The extent and nature of vegetation recovery will vary based on site conditions. As an example, vegetation recovery may be very slow in arid climates (such as on parts of the Inyo National Forest), or in areas that retain a high density conifer canopy cover (such as in Stream Environment Zones [SEZs] on the east side of the LTBMU). Under these conditions, ground cover through vegetation may be a minor component, relative to native duff.</p> <p>Remove the sixth bullet, which concerns vegetative recovery of burn scars. This bullet is redundant with the fourth bullet (discussed above). Riparian vegetative is a form of vegetation that can be native or invasive (such as Canada thistle and Tall white top). I want to encourage native vegetation to recover in burn scars. Change the definition of Vegetation Recovery in Attachment A to remove the word “riparian”.</p>	<p>➤ USFS-6: To be consistent with the 15% burn scar allowance, the definition of “adequate ground cover” has been changed to 85%.</p> <p>➤ USFS-7: The referenced section in Attachment Q has been removed, since the limit of no more than 15% burn scars is a more appropriate performance requirement.</p> <p>➤ USFS-8: The definition of “vegetative recovery” in Attachment A has been changed to address site variability and vegetation communities adjacent to the burn piles. Native duff and organic mulch are topical dressings which have been shown to significantly enhance the vegetative recovery when raked into the burn scar. Attachment Q includes a provision that allows project implementers to propose alternate management measures and permitting options when the requirements in Attachment Q cannot be met.</p> <p>➤ USFS-9: The word “riparian” has been removed from Attachments A and Q since it is redundant and not needed.</p>

Comment	Response
<p>Remove the seventh bullet, which prescribes the composition of burn piles in terms of wood diameter. This condition would be operationally difficult to meet during project implementation. Although burn pile composition may affect burn intensity, the restrictions on burn scar areas and vegetative recovery in Attachment Q will provide adequate protection for soils affected by prescribed burning.</p> <p>Amend the eighth bullet to specify, “<i>Burn scars that exceed a 25-foot diameter or 500 contiguous square feet shall have native duff, or organic mulch and seed, raked to an 85% coverage.</i>” A standard of 85% coverage is consistent with the standard for burn scar areas in the fourth bullet of Attachment Q, discussed above. Add the area adjacent to the burn scar, when describing when snow or ice conditions will prevent mitigation, and increase the time for implementing mitigation after snow and ice is no longer present to 30 days. The majority of time</p> <p>Patty Kouyoumdjian 4</p> <p>we will want to allow seed sources on site to re-populate the burn scars, through raking in adjacent duff or natural processes, to ensure species that are not really appropriate to the site are not introduced through imported seed mixes. An appropriate seed mix would only be utilized in areas where native duff is not present, to be utilized with imported organic mulch. The area adjacent to the burn scar needs to be clear of snow and ice to implement the preferred mitigation, if needed. Fifteen days is not operationally realistic for implementing mitigations, and is not needed to prevent significant impacts.</p> <p>Recommendations—</p> <p>I support the recommendation to allow fire to “creep” between burn piles and into buffers. The other recommendations are unnecessary and I request that they be removed.</p> <p>Thank you for the opportunity to comment on the tentative waiver. If you have any questions, please contact Regional Hydrologist Barry Hill (barryhill@fs.fed.us) at (707) 562-8968.</p> <p>Sincerely,</p> <p>/s/ <i>Barnie T. Gyant (for)</i> RANDY MOORE Regional Forester</p>	<p>➤ USFS-10: The scientific literature reviewed to support Attachment Q modifications conclude that pile composition, not pile size are the primary influences for soil impacts related to pile burning in sensitive areas. The research showed each pile should be composed of less than 50% large woody material to help minimize the heating effects on the soil during the burning. However, specifying a pile composition requirement does not guarantee the soil beneath a burn scar will not be affected by the burn. Specifying a pile composition requirement reduces the flexibility of a project implementer to manage its burning especially in areas that lack sufficient slash to meet a 50% woody material maximum. This proposed condition has been removed since the requirement is that each burn scar’s vegetation has adequately recovered within two growing seasons. The pile composition design feature has been moved to the recommendations section of Attachment Q.</p> <p>➤ USFS-11: The coverage specification has been changed to 85%, which is consistent with the requirement for no more than 15% burn scar. The provision that snow or ice be clear from the both the burn scar and adjacent area has been added, and a 30 day timeframe to implement duff raking has been incorporated into the requirement.</p> <p>➤ USFS-12: Text has been added to clarify that the listed recommendations are to be helpful guidelines for project implementers searching for example design features for piling and burning in SEZ/WBBZ.</p>

Comment		Response	
<p>United States Department of Agriculture</p>	<p>Forest Service</p>	<p>Truckee Ranger District 10811 Stockrest Springs Road Truckee, CA 96161-2949 530-587-3558 530-587-6907 TDD 530-587-6914 FAX</p>	<p>Sierraville Ranger District P.O. Box 95 Sierraville, CA 96126 530-994-3401 530-994-3521 TDD 530-994-3143 FAX</p>
<p>File Code: 2530 Date: FEB 9 2014 </p> <p>Ms. Patty Z. Kouyoumdjian Executive Officer Lahontan Regional Water Quality Control Board 2501 Lake Tahoe Blvd. So. Lake Tahoe, CA 96150</p> <p>Dear Ms. Kouyoumdjian,</p> <p>We appreciate the opportunity to work with The Board on your revision to this waiver. Vegetation management to improve forest health, reduce risks of wildfires, and stimulate local economies is an important activity on the Tahoe National Forests. Protection of water resources is also an integral part of the Forest Service mission, and we value our working relationship with the Board and its staff to protect water quality on the east side of the Sierra-Cascade Crest. The Board's tentative timber waiver, currently open for public comment, will generally improve the ability of the USFS to manage vegetation on NFS lands while maintaining adequate protection of water quality. Specifically, we appreciate the change in the pile burning requirements as this will allow us more flexibility to manage vegetation for forest health. Our staff also welcomes the new reporting date of February 15 rather than January 15 for the annual reports. We appreciate the extensive efforts on the part of the Board's staff to discuss proposed changes to the current (2009) waiver with USFS staff and other stakeholders. Most of our concerns have been addressed through this outreach process. Our comments, provided below, are directed at the few remaining issues that we would like to have addressed in the proposed waiver presented to your Board for approval.</p> <p><u>Soil Operability—Attachment A</u> In Attachment A, operable “means vehicles, tractors, and other equipment use off roads, under moist or wet conditions must not create ruts exceeding two inches in depth and 25 feet in length. No ruts exceeding three inches in depth are allowed.” The intent of this standard is to prevent transport of sediment and other pollutants to waters of the state during periods with overland runoff. The creation of ruts when no surface runoff is likely does not constitute a threat to water quality. We request that soil operability criteria for ruts in wet or moist soils be established only for winterization or for any day with a local National Weather Service forecast of a 50% or greater chance of measureable rainfall.</p>		<p>→ Tahoe NF-1: The suggested change should not be made because it does not protect the soil and vegetation resources from potentially significant disturbance. The intent of the “operable” soils standard is to prevent impacts to soils and native vegetation within water body buffer zones (WBBZs) and Tahoe Basin stream environment zones (SEZs), and to prevent transport of sediment and other pollutants to waters of the State. Although the creation of ruts when no surface water runoff is likely may not immediately impact water quality, the impacts to soils and vegetation from the creation of these ruts under moist or wet conditions may create long-lasting impacts which affect water quality. Soils and vegetation, especially those within WBBZs and SEZs, capture and infiltrate water, providing numerous physical, chemical, and biological functions that are critical to sustaining healthy ecosystems and maintaining environmental quality. Further, root densities of grasses, forbs, and shrubs are highest towards the soil surface and attenuate with depth, with the greatest root concentration typically at the surface (0-6 inches). Surface root adherence to soil is an important biological factor related to soil erosion control. Disturbance of the surface soil via rutting when the soils are moist or wet, regardless whether runoff to waterbodies is occurring, is likely to affect plant health or mortality of roots and the plant's ability to attenuate stormwater flows and to hold soils in place. Soil disturbance potential can vary depending upon soil type, rooting depth, soil moisture content, surface litter thickness and overbearing forces. The “operable” soil standard is in place to minimize soil erosion and the loss of soil productivity when soils are moist or wet within highly sensitive areas, not just as a standard to prevent runoff discharge.</p>	

Comment	Response
<p><u>Adequate Ground Cover—Attachments A and N</u> From review of the draft waiver, it appears that the requirement to have “adequate ground cover” in Attachment A, only applies to CTL or other low pressure equipment operations within 100 year floodplains on the Tahoe National Forest. We would appreciate clarification as to whether these operations are the only activity with the ‘adequate ground cover’ requirement. We</p> <p>feel that from our experience that protection of soils from erosion can be achieved by maintaining ground cover on 80% of the land surface. We request that the definition of “Adequate Ground Cover” in Attachment A be amended to allow ground cover of 80% or higher to be considered adequate. We also request that this definition be used in place of “sufficient ground cover” in item 5.c. in the table at the end of Attachment N.</p>	<p>➤ Tahoe NF-2: The adequate ground cover requirement applies to CTL operations within 100-year floodplains within the Truckee and Little Truckee River HU areas of the Tahoe National Forest.</p> <p>➤ Tahoe NF-3: To be consistent with the 15% burn scar allowance, the definition of “adequate ground cover” has been changed to 85%.</p> <p>➤ Tahoe NF-4: The “adequate ground cover” requirement pertains to placing or leaving material on the ground post-operations, whereas “sufficient ground cover” pertains to required ground surface conditions prior to equipment operations. Additional language was added to Table N1, Item 5.c. to indicate that the intent of sufficient ground cover prior to operations is to prevent direct ground contact of CTL equipment tires or tracks during operations.</p>

Comment	Response
<p><u>Pile Burning in Waterbody Buffer Zones (WBBZs)—Attachment Q Requirements</u></p> <p>The third bullet item, which states that “no more than 15% of any acre may be burned each year,” is inconsistent with the recommendations included at the end of this attachment which encourage forest fuels practitioners to allow surface fires to “creep” through forest floor fuels between piles, which would result in varying percentages of burned areas within projects. In addition, fire intensity in both the piles as well as the forest floors between piles will depend on pile composition and timing of the burn. Rather than focusing on the acres burned, the fourth bullet is protective of water quality with the requirement that burn scars cover no more than 15% of any acre.</p> <p>The current fourth bullet should include native duff and or organic mulch in addition to vegetation as a component of recovery of burn scar areas. The extent and nature of vegetation recovery will vary based on site conditions and ground cover through vegetation may be a minor component, relative to native duff in areas with a dense conifer canopy.</p> <p>Remove the sixth bullet, which also concerns vegetative recovery of burn scars. This bullet is redundant with the fourth bullet (discussed above). Also, riparian vegetative is a form of vegetation that can be native or invasive (such as Canada thistle and Tall white top). We want to encourage native vegetation to recover in burn scars. Also, change the definition of Vegetation Recovery in the definitions section, to remove the word “riparian”. Amend the seventh bullet to specify, “...shall have native duff, or organic mulch and seed, raked...”.</p> <p>Also please add the area adjacent to the burn scar, when describing when snow or ice conditions will prevent mitigation, and increase the time for implementing mitigation after snow and ice is no longer present to 30 days. The majority of time we will want to allow seed from nearby native vegetation to re-populate the burn scars, through raking in adjacent duff or natural processes, to ensure species that are not really appropriate to the site are not introduced through imported seed mixes. An appropriate seed mix would only be utilized in areas where native duff is not present, and would be spread with imported organic mulch. The area adjacent to the burn scar needs to be clear of snow and ice to implement the preferred mitigation, if needed. Fifteen days is not operationally realistic for implementing mitigations, and is not needed to prevent significant impacts.</p> <p><u>Recommendations</u></p> <p>Since these are not requirements, and are not enforceable, we suggest removing these entirely. Thank you for the opportunity to comment on the tentative waiver. If you have any questions, please contact Tahoe NF Watershed Program Manager, Carol Purchase (cpurchase@fs.fed.us, 530-478-6239).</p>	<p>→ Tahoe NF-5: The referenced section in Attachment Q has been removed, since the limit of no more than 15% burn scars is a more appropriate performance requirement.</p> <p>→ Tahoe NF-6: The definition of “vegetative recovery” in Attachment A has been changed to address site variability and vegetation communities adjacent to the burn piles. Native duff and organic mulch are topical dressings which have been shown to significantly enhance the vegetative recovery when raked into the burn scar. Attachment Q includes a provision that allows project implementers to propose alternate management measures and permitting options when the requirements in Attachment Q cannot be met.</p> <p>→ Tahoe NF-7: The word “riparian” has been removed from Attachments A and Q since it is redundant and not needed. Bullet six was removed and bullet seven was moved the to the Recommendations section of Attachment Q.</p> <p>→ Tahoe NF-8: The provision that snow or ice be clear from the both the burn scar and adjacent area has been added, and a 30 day timeframe to implement duff raking has been incorporated into the requirement.</p> <p>→ Tahoe NF-9: Text has been added to clarify that the listed recommendations are to be helpful guidelines for project implementers searching for example design features for piling and burning in SEZ/WBBZ.</p>

Comment	Response
<p>Date: 23 February 2014-02-13</p> <p>To: California Regional Water Quality Control Board of the Lahontan Region</p> <p>From: Dennis D. Murphy, PhD.</p> <p>Re: Comment on 2014 Timber Waiver</p> <p>I write to express my concerns regarding the Water Board’s Tentative 2014 Timber Waiver and its Attachments, Board Order No. R6T 2014 00XX, (“Tentative Waiver”). As a conservation biologist and lead author and editor of the Lake Tahoe Watershed Assessment (published by the Forest Service in 2000), and with a residence on Echo Lake, I am particularly concerned about the potential effects that any Timber Waivers issued by the Water Board may have on the ecological integrity of and water quality in the Lake Tahoe basin. Two of my concerns are described below.</p> <p>Phased Projects</p> <p>Section B, General Provision 2 of the Tentative Waiver allows for phased projects. General Provision 2 gives Timber Waiver applicants sole discretion to enroll each phase of their projects under different waiver categories, even if a project may ultimately lead to harmful discharge into water bodies. This phased project option can contribute to environmentally destructive forest management practices and compromise water quality in ecologically sensitive aquatic circumstances.</p> <p>For example, in September 2013, the United States Forest Service began implementing the Upper Echo Lakes Hazardous Fuels Reduction project, removing trees and brush from land surrounding Upper and Lower Echo Lake, a long-monitored, high-elevation water source to Lake Tahoe. The Forest Service piled the resulting cut materials around Echo Lake and ultimately intends to burn the piles. In a Decision Memo justifying its intention to pile and burn slash from the project, the Forest Service indicated that it would apply for a Category 6 Timber Waiver from the Water Board.¹ However, because phased projects are currently allowed, the Forest Service initiated cutting brush and trees under a Category 2 waiver without the notice, application, or mandatory monitoring and reporting that a Category 6 waiver would require.</p> <p>Piles now sit stacked around Echo Lake and will remain until the Forest Service applies for and is granted a Category 6 waiver (see Attachment A photograph). However, it is unclear if the Forest Service will be able to secure a Category 6 waiver, as it has piled and further intends to pile and burn within sensitive Echo Lake Stream Environment Zones (“SEZs”), and will need to meet all the requirements of Tentative Waiver Attachment Q to do so. The Forest Service should not have been allowed to commence clearing and piling trees and brush under a Category 2</p> <p>¹ USDA Forest Service, Lake Tahoe Basin Management Unit, Upper Echo Lakes Hazardous Fuels Reduction Decision Memo, Nov. 15, 2012, Attachment A.</p>	<p>Murphy-1: Projects enrolled under the existing and proposed Timber Waiver must adhere to all of the General Conditions contained within the permit, and phased projects are not exempt from complying with all the General Conditions. These Conditions preclude projects from having a “harmful discharge into water bodies” whether or not the project is phased. Projects having an unauthorized discharge of waste into a water body are in violation of the Timber Waiver. Specifically, proposed Timber Waiver Section C. General Conditions 2 and 6 address the discharge of waste into water bodies.</p> <p>General Condition 2 states: “Wastes, including but not limited to, petroleum products, soil, silt, sand, clay, rock, felled trees, slash, sawdust, bark, ash, pesticides, must not be discharged to surface waters or be deposited in locations where such material may discharge to surface waters. If discharge of wastes to surface waters occurs (not previously authorized by the Water Board), the discharger enrollee must notify the Water Board by telephone or email within 24 hours of detection of the discharge or the next business day, whichever comes first.”</p> <p>General Condition 6 states: “Timber harvest and vegetation management activities subject to this Timber Waiver must not create a pollution, contamination, or nuisance, as defined by Water Code section 13050, subdivisions (k), (l), and (m).”</p>

Comment	Response
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<p>waiver when it will ultimately need to apply for a Category 6 waiver to complete the project as planned.</p> <p>This example illustrates the need for the Lahontan Water Board to amend the Tentative Waiver to eliminate the phased project option and require timber waiver applicants to apply for the most stringent waiver that an applicant reasonably can foresee will be necessary before implementing a project. Otherwise, Timber Waivers allow applicants to sidestep the notice and application process and engage in activities that harm waters of the state without the Water Board's knowledge or consent.</p> <p>Arbitrary Buffer Zones</p> <p>Condition 2 of a Category 2 waiver states that "[o]peration of ATVs, chippers, brush mowers, or similar equipment off roads must always occur at distances greater than 25 feet away from a waterbody." Likewise, Eligibility Criteria 5 of a Category 4 waiver allows for equipment with ground pressures less than 13 psi at distances greater than 25 feet from a waterbody. Absent roads into the project area, and with a Category 6 waiver inappropriate given the assured delivery of post-burning residual material directly into the Echo Lakes, the standing piles in the Echo basin must be mechanically removed and transported by boat from the project area.</p> <p>While a 25-foot buffer may make sense for some projects, it does not make sense for projects that occur on certain terrains with distinct hydrodynamics. The roadless circumstances at the Echo Lakes, for example, are characterized by dispersed old-growth forest patches and open granite (see Attachment A herein, two photographs). Steam courses across much of the landscape are ephemeral, and following snowmelt, sheet runoff across glacially polished surfaces deposits organic material, contaminants, and sediments directly into the lakes. Because granite substrates do not provide the same protections from runoff as more-absorbent, uncompromised soils, projects that disturb the soil and remove brush are assured to harm water quality in the Echo Lakes, Echo Creek, Upper Truckee River, and Lake Tahoe. A traditional 25-foot buffer between the lake and stream courses is thus not adequate to prevent wasteful discharge from damaging the waters of Echo Lake and water bodies below that are tributaries to Lake Tahoe.</p> <p>Instead of stating fixed distances from water bodies for accumulating and burning slash piles, the Tentative Timber Waiver should be amended to take fully into account site-specific project conditions. The 2014 waiver should acknowledge that situations exist in the Lake Tahoe basin in which pile burning must be completely prohibited.</p> <p>Thank you for considering these concerns and changes to the Tentative Waiver.</p> <p>Sincerely,</p> <p>Dennis D. Murphy, Ph.D.</p>	<p>Murphy-3: The decision to implement all or a portion of a proposed project rests with the project applicant. Phased projects are allowed under the Timber Waiver.</p> <p>Murphy-4: Phased projects are not exempted from complying with all the General Conditions of the Timber Waiver. Please see the response to Murphy-1 above for a discussion regarding protections against the discharge of waste to water bodies. Harm to waters of the state is not allowed under the Timber Waiver.</p> <p>The Timber Waiver has six categories of projects that cover a broad range of vegetation management activities conducted under the Timber Waiver. Projects enrolled under the Timber Waiver vary significantly in size and the length of time to implement. Criteria, conditions, and monitoring requirements have been included to ensure that the activities that proceed under the proposed Timber Waiver will not result in significant impacts. Criteria and conditions limit the scope, extent or nature of activities that are eligible under each category of the proposed Timber Waiver. One of the factors used to distinguish the categories was threat to water quality. Projects enrolled under Categories 1, 2, and 3 pose less threat to water quality than projects under Categories 4, 5, and 6, and therefore do not require notification or monitoring. This allows Water Board staff to focus limited staff resources on timber harvest and vegetation management activities that pose greater threats to water quality. Phased project implementation also allows project proponents to focus greater efforts on monitoring and planning for those areas of a large project that pose the greatest threat to water quality.</p>

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<p>waiver when it will ultimately need to apply for a Category 6 waiver to complete the project as planned.</p> <p>This example illustrates the need for the Lahontan Water Board to amend the Tentative Waiver to eliminate the phased project option and require timber waiver applicants to apply for the most stringent waiver that an applicant reasonably can foresee will be necessary before implementing a project. Otherwise, Timber Waivers allow applicants to sidestep the notice and application process and engage in activities that harm waters of the state without the Water Board's knowledge or consent.</p> <p>Arbitrary Buffer Zones</p> <p>Condition 2 of a Category 2 waiver states that "[o]peration of ATVs, chippers, brush mowers, or similar equipment off roads must always occur at distances greater than 25 feet away from a waterbody." Likewise, Eligibility Criteria 5 of a Category 4 waiver allows for equipment with ground pressures less than 13 psi at distances greater than 25 feet from a waterbody. Absent roads into the project area, and with a Category 6 waiver inappropriate given the assured delivery of post-burning residual material directly into the Echo Lakes, the standing piles in the Echo basin must be mechanically removed and transported by boat from the project area.</p> <p>While a 25-foot buffer may make sense for some projects, it does not make sense for projects that occur on certain terrains with distinct hydrodynamics. The roadless circumstances at the Echo Lakes, for example, are characterized by dispersed old-growth forest patches and open granite (see Attachment A herein, two photographs). Stream courses across much of the landscape are ephemeral, and following snowmelt, sheet runoff across glacially polished surfaces deposits organic material, contaminants, and sediments directly into the lakes. Because granite substrates do not provide the same protections from runoff as more-absorbent, uncompromised soils, projects that disturb the soil and remove brush are assured to harm water quality in the Echo Lakes, Echo Creek, Upper Truckee River, and Lake Tahoe. A traditional 25-foot buffer between the lake and stream courses is thus not adequate to prevent wasteful discharge from damaging the waters of Echo Lake and water bodies below that are tributaries to Lake Tahoe.</p> <p>Instead of stating fixed distances from water bodies for accumulating and burning slash piles, the Tentative Timber Waiver should be amended to take fully into account site-specific project conditions. The 2014 waiver should acknowledge that situations exist in the Lake Tahoe basin in which pile burning must be completely prohibited.</p> <p>Thank you for considering these concerns and changes to the Tentative Waiver.</p> <p>Sincerely,</p> <p>Dennis D. Murphy, Ph.D.</p>	<p>Murphy-5: Timber Waiver, Section A, Finding 2, states that activities eligible for the permit vary in potential threat to water quality, and that project characteristics such as method of tree removal, intensity and proximity of activities to surface waters, and sensitivity of the area will influence the mitigation measures needed to ensure the activity will have a less-than-significant impact on water quality and the environment. Restrictions on the discharge of waste contained in General Conditions 2 and 6 (as described in Murphy-1 above) will sufficiently protect water bodies; however the following clarifying language has been added to the proposed Timber Waiver as described below.</p> <p>Language was added to Category 2 (condition 7), Category 4 (condition 15), and Attachment Q to indicate that 25-foot is a minimum distance for pile placement. The following language from Category 4 (condition 15a) "Areas burned within WBBZs must be left in a condition such that waste, including ash, soils, and/or debris, will not discharge to a waterbody" was added to Category 2 (condition 7) and Attachment Q (Item i) where it will also apply to SEZs.</p>

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<p>waiver when it will ultimately need to apply for a Category 6 waiver to complete the project as planned.</p> <p>This example illustrates the need for the Lahontan Water Board to amend the Tentative Waiver to eliminate the phased project option and require timber waiver applicants to apply for the most stringent waiver that an applicant reasonably can foresee will be necessary before implementing a project. Otherwise, Timber Waivers allow applicants to sidestep the notice and application process and engage in activities that harm waters of the state without the Water Board's knowledge or consent.</p> <p>Arbitrary Buffer Zones</p> <p>Condition 2 of a Category 2 waiver states that "[o]peration of ATVs, chippers, brush mowers, or similar equipment off roads must always occur at distances greater than 25 feet away from a waterbody." Likewise, Eligibility Criteria 5 of a Category 4 waiver allows for equipment with ground pressures less than 13 psi at distances greater than 25 feet from a waterbody. Absent roads into the project area, and with a Category 6 waiver inappropriate given the assured delivery of post-burning residual material directly into the Echo Lakes, the standing piles in the Echo basin must be mechanically removed and transported by boat from the project area.</p> <p>While a 25-foot buffer may make sense for some projects, it does not make sense for projects that occur on certain terrains with distinct hydrodynamics. The roadless circumstances at the Echo Lakes, for example, are characterized by dispersed old-growth forest patches and open granite (see Attachment A herein, two photographs). Steam courses across much of the landscape are ephemeral, and following snowmelt, sheet runoff across glacially polished surfaces deposits organic material, contaminants, and sediments directly into the lakes. Because granite substrates do not provide the same protections from runoff as more-absorbent, uncompromised soils, projects that disturb the soil and remove brush are assured to harm water quality in the Echo Lakes, Echo Creek, Upper Truckee River, and Lake Tahoe. A traditional 25-foot buffer between the lake and stream courses is thus not adequate to prevent wasteful discharge from damaging the waters of Echo Lake and water bodies below that are tributaries to Lake Tahoe.</p> <p>Instead of stating fixed distances from water bodies for accumulating and burning slash piles, the Tentative Timber Waiver should be amended to take fully into account site-specific project conditions. The 2014 waiver should acknowledge that situations exist in the Lake Tahoe basin in which pile burning must be completely prohibited.</p> <p>Thank you for considering these concerns and changes to the Tentative Waiver.</p> <p>Sincerely,</p> <p>Dennis D. Murphy, Ph.D.</p>	<p>→ Murphy-6: The Timber Waiver includes specific conditions that must be complied with for that project to have a less-than-significant impact on the environment. The Timber Waiver places restrictions on the location and magnitude of piles that can be placed within sensitive areas and requires vegetative recovery for every burn scar. Projects that propose pile burning in SEZs, which is only allowed under Category 6, must apply to the Water Board for enrollment in the Timber Waiver and wait 30 days or receive staff approval to proceed prior to implementation of the project. This allows Water Board staff time to review project details prior to implementation. As described in the proposed 2014 Timber Waiver Finding 18 (2009 Timber Waiver Finding 15), the Water Board Executive Officer retains the right terminate the applicability of the Timber Waiver for any activity that could affect the quality of waters of the State of California.</p> <p>The following language has been added to the 2014 Timber Waiver as a new General Provision 4 and to Attachment N (Section 3):</p> <p>“This Timber Waiver shall not create a vested right to discharge waste and all such discharges shall be considered a privilege, as provided for in Water Code section 13263, subdivision (g). The Water Board Executive Officer may terminate the applicability of the Timber Waiver described herein to any activity at any time when such termination is in the public interest and/or the activity could affect the quality of the waters of the state for beneficial uses.”</p>

Comment	Response
<div data-bbox="323 237 854 323" data-label="Image"> <p>ECHO LAKES ENVIRONMENT FUND A Non-Profit Community Service Organization Donations Tax-Deductible</p> </div> <div data-bbox="787 358 995 500" data-label="Image"> </div> <p data-bbox="212 501 390 526">February 23, 2014</p> <p data-bbox="212 553 659 646">Doug Cushman Lahontan Regional Water Quality Control Board 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150</p> <p data-bbox="212 672 674 696">Re: Comments on Tentative 2014 Timber Waiver</p> <p data-bbox="212 722 401 743">Dear Mr. Cushman:</p> <p data-bbox="212 769 1016 984">I am writing as the representative to the Lahontan Board of the Echo Lakes Environment Fund (ELEF). Thank you for your receptivity with respect to our recent discussions on the subject of forest thinning operations at Echo Lakes and the environmental concerns that these have raised. The Echo Lakes Environment Fund, a non-profit organization concerned with the ecological integrity and health of the Echo Lakes in the Lake Tahoe Basin, knows that you have an understanding of the “fuels reduction” action undertaken by the U.S. Forest Service in sparsely distributed forest patches at high elevation in the Echo Lake Basin in higher reaches of the Upper Truckee River watershed.</p> <p data-bbox="212 1010 1026 1300">It is the Forest Service’s unnecessary and unsound forest-thinning action implemented last autumn at the Echo Lakes that compels us to comment on the draft 2014 Timber Waiver during this public comment period. As described in our letter to you, dated November 4, 2013, registering concern regarding the Category 2 Timber Waiver then being sought by the Service, it was then clear that despite Timber Waiver program obligations associated with forest-thinning and fuels reduction projects in the Tahoe Basin, the Forest Service had implemented tree cutting and brush removal in highly sensitive upper-montane (near sub-alpine) vegetation communities, and significant environmental damage had already occurred. Patchily distributed old-growth, mixed conifer forest patches and prostrate shrub cover was cut and piled in circumstances that guarantee lateral transport of organic material and newly exposed soils across sheer granite substrates into the Upper Truckee River via the Echo Lakes.</p>	

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<p>The Forest Service in its Decision Memo supporting the Upper Echo Lake Hazardous Fuels Reduction project stated the Service's intent to secure a Category 6 waiver, which would require the Lahontan Board to consider the disposal of cut materials via pile burning. It would seem unlikely that the Lahontan Board would have issued that waiver given the landscape circumstances in the area of the project action. But now with trees cut, brush removed and soils exposed, and piles constructed on low-nutrient substrates, much of the north shores of Upper and Lower Echo Lakes are assured unprecedented ecological disturbances at multiple spatial scales that will combine to compromise water quality in the major tributary to Lake Tahoe and Lake Tahoe itself.</p> <p>The current use of the Timber Waiver program, as engaged by the Forest Service and implicitly tolerated by the Lahontan Board, encourages or allows misrepresentation of landscape conditions associated with highly sensitive watershed circumstances, especially those occurring in higher-elevation situations in the Lake Tahoe basin where stream zones are obscured by sheet runoff with snowmelt on impermeable substrates, and encourages or allows wholly unacceptable shifting of waiver categories after the implementation of an action. The Draft 2014 Timber Waiver seems to tolerate post hoc misrepresentations of landscape conditions in order to obtain the Timber Waiver and encourages category shifts that contribute to one simple outcome - the compromise of environmental integrity in the Lake Tahoe Basin, water quality in the lake, and commitments to the restoration of Lake Tahoe.</p> <p>The Echo Lakes Environment Fund believes that the deletion of Attachment "O" and substitution of a revised monitoring approach may be helpful in meeting restoration goals at Lake Tahoe. The Basin Plan text under "Water Quality Objectives," "Anti-degradation Policy" for Lake Tahoe (identified as an ONRW), and wording addressing nutrients is encouraging. But, ELEF believes that important issues are not adequately addressed in the nutrients discussion, owing to the distinct and unique physical and biotic circumstances of certain Tahoe Basin areas, such as those surrounding the Echo Lakes. We therefore call your attention to two distinct but interrelated concerns that we hope the Lahontan Board will explicitly address in the overall context of water quality in the 2014 Timber Waiver.</p> <p>The ELEF requests that the Lahontan Board consider language in the 2014 Timber Waiver that contemplates the current circumstances on the Echo Lakes and anticipates that the U.S. Forest Service, having set precedent in the Echo Lakes Basin, will repeat actions that compromise the quality of waters entering Lake Tahoe. The Lahontan Board should introduce language into the draft Timber Waiver that assures that slash piles in the Echo Lakes basin and in similar situations in the Lake Tahoe basin cannot be burned in situ. If slash piles are burned in the Echo Lakes basin, especially along the northeast shore, which is essentially a large granite funnel steering combustion byproducts into the lakes as nutrients - especially carbon, nitrogen, and phosphorus - and fine sediments, these contaminants will find their way into Lake Tahoe in direct contradiction of the goals and purposes of the Basin's Bi-State Compact. Attachment "Q" in the draft waiver states - "Piles should be burned or removed as soon as possible giving preference to those within SEZs". ELEF believes that the Lahontan Board should</p>	<p>ELEF-1: The Timber Waiver (current and proposed) does not encourage or allow misrepresentation of environmental conditions. Project applications are certified by the landowner (or agent thereof) under penalty of perjury that the project submittals accurately represent site conditions. Potentially significant impacts must be identified and mitigated to a less than significant level to qualify for coverage under the Timber Waiver. Criteria, conditions, and monitoring requirements have been included to ensure that the activities that proceed under the proposed Timber Waiver will not result in significant impacts. The Category 4 and 6 applications were modified to include a section where applicants must discuss the environmental conditions of the project area. This will provide additional disclosure of the environmental resources affected by the project.</p> <p>The current and proposed Timber Waiver allows phased project implementation. This allows Water Board staff to focus limited staff resources on timber harvest and vegetation management activities that pose greater threats to water quality. Phased project implementation also allows project proponents to focus greater efforts on monitoring and planning for those areas of a large project that pose the greatest threat to water quality.</p>

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<p>The Forest Service in its Decision Memo supporting the Upper Echo Lake Hazardous Fuels Reduction project stated the Service's intent to secure a Category 6 waiver, which would require the Lahontan Board to consider the disposal of cut materials via pile burning. It would seem unlikely that the Lahontan Board would have issued that waiver given the landscape circumstances in the area of the project action. But now with trees cut, brush removed and soils exposed, and piles constructed on low-nutrient substrates, much of the north shores of Upper and Lower Echo Lakes are assured unprecedented ecological disturbances at multiple spatial scales that will combine to compromise water quality in the major tributary to Lake Tahoe and Lake Tahoe itself.</p> <p>The current use of the Timber Waiver program, as engaged by the Forest Service and implicitly tolerated by the Lahontan Board, encourages or allows misrepresentation of landscape conditions associated with highly sensitive watershed circumstances, especially those occurring in higher-elevation situations in the Lake Tahoe basin where stream zones are obscured by sheet runoff with snowmelt on impermeable substrates, and encourages or allows wholly unacceptable shifting of waiver categories after the implementation of an action. 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We therefore call your attention to two distinct but interrelated concerns that we hope the Lahontan Board will explicitly address in the overall context of water quality in the 2014 Timber Waiver.</p> <p>The ELEF requests that the Lahontan Board consider language in the 2014 Timber Waiver that contemplates the current circumstances on the Echo Lakes and anticipates that the U.S. Forest Service, having set precedent in the Echo Lakes Basin, will repeat actions that compromise the quality of waters entering Lake Tahoe. The Lahontan Board should introduce language into the draft Timber Waiver that assures that slash piles in the Echo Lakes basin and in similar situations in the Lake Tahoe basin cannot be burned in situ. If slash piles are burned in the Echo Lakes basin, especially along the northeast shore, which is essentially a large granite funnel steering combustion byproducts into the lakes as nutrients - especially carbon, nitrogen, and phosphorus - and fine sediments, these contaminants will find their way into Lake Tahoe in direct contradiction of the goals and purposes of the Basin's Bi-State Compact. Attachment "Q" in the draft waiver states - "Piles should be burned or removed as soon as possible giving preference to those within SEZs". ELEF believes that the Lahontan Board should</p>	<p>➤ ELEF-2: While the Echo Lakes contain extremely high quality water, the area is not pristine; there are residential buildings with grey water systems and various recreational activities (such as hiking, backpacking, skiing, boating, equestrian use, and fishing) which have potential to degrade soil and water quality conditions. The scope of activities allowed under the Timber Waiver is aligned with present and historic resource management and land use practices in the area.</p> <p>The Timber Waiver is intended to regulate a broad variety of vegetation management activities throughout the Water Board region. To ensure that projects do not cause negative impacts to water quality all projects enrolled under the existing and proposed Timber Waiver must adhere to all of the General Conditions contained within the permit. These General Conditions preclude projects from having a discharge into water bodies. Projects having an unauthorized discharge of waste into a water body are in violation of the Timber Waiver. The method of compliance with these General Conditions is determined by the project applicant. Specifically, proposed Timber Waiver Section C. General Conditions 2 and 6 address the discharge of waste into water bodies.</p> <p>General Condition 2 states: "Wastes, including but not limited to, petroleum products, soil, silt, sand, clay, rock, felled trees, slash, sawdust, bark, ash, pesticides, must not be discharged to surface waters or be deposited in locations where such material may discharge to surface waters. If discharge of wastes to surface waters occurs (not previously authorized by the Water Board), the discharger enrollee</p>

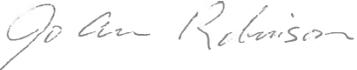
(ELEF-2 continued)

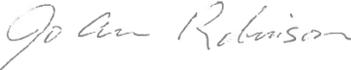
must notify the Water Board by telephone or email within 24 hours of detection of the discharge or the next business day, whichever comes first.”

General Condition 6 states: “Timber harvest and vegetation management activities subject to this Timber Waiver must not create a pollution, contamination, or nuisance, as defined by Water Code section 13050, subdivisions (k), (l), and (m).”

In addition, the following language from the proposed 2014 Timber Waiver Category 4 (condition 15a) stating “areas burned within WBBZs must be left in a condition such that ash, soils, and/or debris will not discharge to a waterbody,” will be added to Category 2 (condition 7) and Attachment Q (Item i) where it will also apply to SEZs.

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<p>deny the Prohibition Exemption when specific compelling circumstances exist or can be anticipated from a cursory assessment of physical and biotic landscape circumstances. The slash piles now standing on and immediately adjacent to open, continuous granite substrates threaten water quality in the Echo Lakes, Echo Creek, and below them in the watershed. They must be removed as soon as practicable; they cannot be burned in situ.</p> <p>In addition the Lahontan Board should consider the implications of soil disturbance and pile burning as those actions affect the status of invasive plant species in the Lake Tahoe basin. A strong negative correlation exists between weedy species occurrences and elevation in the Sierra Nevada; with largely undisturbed situations above 7000 feet in the central part of the mountain range remaining weed free, in contrast to disturbed areas at lower elevation, which have been greatly invaded and now experience species composition increasingly weighted to non-natives. The resistance of higher-elevation landscapes to weedy non-native species is in part attributable to the shallow, virtually nutrient-free soils that co-occur with open granite situations; those areas lack the nutrients that stimulate the establishment, growth, and spread of non-native plant species. Burning of piles and debris on such soils "nutrifies" them, making them newly susceptible to invasion by weeds that can permanently dominate those soils and outcompete and exclude native species adapted to low-nutrient circumstances. Pile burning on high-elevation, decomposed granite and other distinct low-nutrient edaphic circumstances functionally assures localized non-native plant species invasion into the last areas of Lake Tahoe that have remained weed free.</p> <p>As an aside, notice was taken of the deletion of slash pile height and width limits. These standards should be restored to decrease the chance of controlled burns becoming uncontrolled burns.</p> <p>Thank you for consideration.</p> <p>Respectfully,</p>  <p>Jo Robinson ELEF Board Member P.O. Box 550908 South Lake Tahoe, CA 96155 ph 408-857-2074 robinsondj@aol.com</p>	<p>ELEF-3: As described in the proposed 2014 Timber Waiver Finding 18 (2009 Timber Waiver Finding 15), the Water Board Executive Officer retains the right terminate the applicability of the Timber Waiver for any activity that could affect the quality of waters of the State of California. The following language has been added to the 2014 Timber Waiver as a new General Provision 4 and to Attachment N (Section 3):</p> <p>“This Timber Waiver shall not create a vested right to discharge waste and all such discharges shall be considered a privilege, as provided for in Water Code section 13263, subdivision (g). The Water Board Executive Officer may terminate the applicability of the Timber Waiver described herein to any activity at any time when such termination is in the public interest and/or the activity could affect the quality of the waters of the state for beneficial uses.”</p>

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Comment	Response
<p style="text-align: center;">Philip E. Nemir Forestry & Appraisal Services P.O. Box 1717 Susanville, CA 96130 philnemir@hotmail.com (530-257-2294)</p> <p style="text-align: right;">February 27, 2014</p> <p>California Regional Water Quality Control Board Lahontan Region 2501 Lake Tahoe Blvd South Lake Tahoe, CA 96150 Sent via email to: douglas.cushman@waterboards.ca.gov</p> <p><u>SUBJECT: Revisions to Timber Waiver</u></p> <p>Dear Members of the Water Quality Control Board:</p> <p>First, let me thank the Board and its Staff for working to improve the Timber Waiver process. I have the following comments:</p> <ol style="list-style-type: none"> 1. As I raised five years ago, I believe that the Waiver form should be included as part of the regular THP or NTMP process for Category 5 projects since the Water Board is already involved in plan review. It is much more efficient and logical to include the Waiver at the same time as the Plan is approved. The waiver should last for length of the Plan. 2. The "winter period" should take into account that operations are more feasible for a longer duration at lower elevations. Thus, at elevations below 5,500 feet outside of the Tahoe area, a winter operating period of December 1st to March 1st makes more sense. As I have pointed out in the past, the "winter period" established in the Forest Practice Act was defined 41 years ago and does not reflect the significant change in climate that has occurred since then. 3. The term "Waterbody Buffer Zone" should be replaced by "Watercourse and Lake Protection Zone" to simplify the waiver. 4. Timber Waiver Category 1, Condition 4. This is too restrictive and would not allow use of graveled roads suitable for winter use, or roads that do not have saturated soils. The language "where vehicle tires or tracks remain dry" should be removed. 	<p>→ Nemir-1: The Regional Water Board has mandates from the California legislature and the State Water Board to regulate vegetation management activities in the Lahontan Region. The proposed 2014 Timber Waiver includes many updates to streamline processes and reporting requirements.</p> <p>→ Nemir-2: The Winter Period for the Lake Tahoe, Little Truckee River, and Truckee River Hydrologic Units is October 15 – May 1, which is in the Lahontan Water Board's Basin Plan. Outside of the these watersheds, the Winter Period of November 15 – April 1 has been unchanged in previous version of the Timber Waiver and there is no compelling reason to change those dates at this time.</p> <p>→ Nemir-3: The Timber Waiver applies to both private and federal forest lands within the Lahontan Region. The term "Watercourse and Lake Protection Zone" is from the California Forest Practice Rules, which are not applicable to federal forest lands. Water Body Buffer Zone is defined in Timber Waiver Attachment B.</p> <p>→ Nemir-4: Timber Waiver Category 1 is for projects that have been determined to have little to no threat to water quality, as compared to projects enrolled under Categories 2-6. The Timber Waiver allows projects to enroll under Category 1 without submitting any paperwork or monitoring information. Winter operations or activities that involve vehicle use in areas where tracks or tires would be in contact with surface water are activities the Timber Waiver considers to be a higher threat to water quality, and those activities are covered under Timber Waiver categories 4, 5, or 6.</p>

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<p>5. Timber Waiver Category 4, Eligibility Criteria 4. Limiting use of dry crossings of Class III watercourses to one per 1,560 feet is too restrictive. At least 3 per ¼ mile is reasonable.</p> <p>6. Timber Waiver Category 6, Condition 17. Not all Class I watercourses support fish. Some may have the designation because they provide domestic water. Language should be re-instated as follows, “that support fish.”</p> <p>7. Attachment A, “Operable”. Limiting ruts to 3” maximum is too restrictive. A depth of “6” inches is more reasonable.</p> <p>In conclusion, it is my opinion that the Timber Waiver provides an unnecessary burden on small non-industrial forest landowners already obligated to comply with California Forest Practice Rules, and at a minimum, any ownership of less than 2,500 acres should be exempt. The CFPR provide more than adequate environmental protection of soils and water quality. Basically, the Timber Waiver is not needed for smaller ownerships.</p> <p>Thanks for consideration of my comments.</p> <p>Sincerely,</p> <p><i>Philip E. Nemir</i></p> <p>Philip E. Nemir Registered Professional Forester No. 1666</p>	<p>Nemir-5: The proposed Timber Waiver has changed the Category 4 Criteria 4 from one crossing per ½ mile to one crossing per ¼ mile. Monitoring for Category 4 projects is limited to implementation monitoring. Timber Waiver Category 6 allows greater flexibility to project implementers to cross watercourses if they have described in the harvest plan or Timber Waiver application, the project modifications and/or mitigation measures that will be implemented to avoid any adverse impacts to water quality.</p> <p>Nemir-6: This change has been made.</p> <p>Nemir-7: Permanent disturbance to riparian roots and deeper soils is likely to occur if heavy equipment operates on overly wet soils. Since the majority of plant roots and soil biota are usually deeper than the top few inches, setting the rut limit to no more than three inches deep will provide protection for the soils and plants.</p>