



California Regional Water Quality Control Board Lahontan Region



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Arnold Schwarzenegger
Governor

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TO ALL:

SCOPING MEETING FOR PROPOSED BASIN PLAN AMENDMENT TO REMOVE THE PROHIBITION AGAINST NEW PIER CONSTRUCTION IN AREAS CONSIDERED SIGNIFICANT SPAWNING HABITAT OR AREAS IMMEDIATELY OFFSHORE OF IMPORTANT STREAM INLETS IN LAKE TAHOE

Lahontan Water Board staff are preparing a draft amendment to the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) to remove a Basin Plan Prohibition for new pier development in specific areas along the shoreline of Lake Tahoe (Hydrologic Unit Nos. 634.10 and 634.20). The proposed amendment would involve:

- Removing a Basin Plan Prohibition that would enable new pier construction to be authorized in areas mapped as significant fish spawning habitat or in areas immediately offshore of important stream inlets in Lake Tahoe.
- Revising the Basin Plan to incorporate minor revisions to the text regarding piers and references to the Lake Tahoe shorezone. Revisions will include updating control measures and programs to protect water quality related to shorezone activities.

The California Environmental Quality Act (CEQA) requires the Water Board to analyze impacts and mitigation measures that are a reasonably foreseeable consequence of adopting the Basin Plan amendment. The Water Board's planning program has been certified by the Secretary for Resources pursuant to Public Resources Code section 21080.5 of CEQA as being a substitute to the preparation of an Environmental Impact Report (EIR).

CEQA Section 21083.9 requires scoping meetings for projects of statewide, regional, or areawide significance. The purpose of a scoping meeting is to provide a forum for lead agencies, jurisdictional agencies, and interested parties to comment on the scope and content of the environmental information to be analyzed during the CEQA process.

Members of the public are invited to participate in a scoping meeting for this project on **Tuesday, November 17, 2009 from 1:00 p.m. - 3:00 p.m.** at the Lake Tahoe Community College in South Lake Tahoe.

California Environmental Protection Agency



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At the meeting staff will provide participants with several items: (1) an explanation of the existing basin plan prohibition regarding new pier construction, (2) the need for amending the prohibition, (3) a review of amendment options staff is considering to address the amendment need, (4) an opportunity to propose other amendment options, and (5) an opportunity to comment on the reasonably potential environmental impacts that may result from the amendment.

Attached to this notice you will find a project summary regarding the proposed amendment. Review of this enclosure will help you make substantive comments and suggestions on the content of the substitute environmental document (SED) at the scoping meeting.

The Lahontan Water Board (Water Board) intends to use the Tahoe Regional Planning Agency's (TRPA) Lake Tahoe Shorezone Ordinance Amendments Final Environmental Impact Statement (Shorezone EIS) to prepare its SED. The scope and focus of the Water Board's SED will be based on the TRPA Preferred Alternative presented in TRPA's October 8, 2008 Addendum to the Shorezone EIS. The Preferred Alternative identifies a buildout total of 128 new private and 10 new public piers to be constructed with a maximum of 5 private piers allowed for development annually. The Water Board's SED will identify similar significant environmental impacts and their associated mitigation measures with regard to TRPA's Preferred Alternative as analyzed in TRPA's Shorezone EIS. New piers may only be permitted provided all the mitigation measures identified in the TRPA's Shorezone Ordinance Amendments are incorporated into the proposed pier design and construction. Additionally, since the Water Board's authority is limited to water quality, the Water Board will rely on TRPA's regulatory authority to mitigate for non-water quality impacts including scenic and public access issues.

Interested parties may submit written comments regarding potential environmental impacts at the meeting, or mail them to the attention of Mary Fiore-Wagner at the address above, or via email at mfwagner@waterboards.ca.gov. Written comments must be received by **December 21, 2009** to be considered in preparation of the draft environmental document. Staff will review all written comments and complete a draft staff report, proposed Basin Plan Amendment and a CEQA environmental document for public review and comment. Water Board staff anticipate that these documents will be available in the spring of 2010.

If you would like more information about this meeting, please contact Mary Fiore-Wagner at (530) 542-5425, at the email address above, or visit the Water Board's website (<http://www.waterboards.ca.gov/lahontan/>). Following the scoping meetings, the scoping presentation will be posted on the website. If you would like to receive further correspondence related to this project, please register your name and email and check the box for "Basin Planning – Regionwide" at: http://www.waterboards.ca.gov/resources/email_subscriptions/reg6_subscribe.shtml

Any person who is disabled and requires special accommodations to participate in the public scoping meeting, please contact Laurie Applegate at (530) 542-5414 no later



than 10 days before the scheduled public scoping meeting. Please bring the above information to the attention of anyone you know who would be interested in this matter.



Douglas F. Smith
TMDL/Basin Planning Unit Chief

Enclosure: Summary of the Proposed Basin Plan Amendment

cc: (w/enclosure): Peter Martin, State Board – Division of Water Quality
David Coupe, State Board - OCC

cc: Mailist

MFW/adw/S:TMDL/Pier BPA/2009 Scoping Letter-Piers BPA.doc



PROJECT SUMMARY

PROPOSED BASIN PLAN AMENDMENT TO REMOVE THE PROHIBITION AGAINST NEW PIER CONSTRUCTION IN AREAS CONSIDERED SIGNIFICANT SPAWNING HABITAT OR AREAS IMMEDIATELY OFFSHORE OF IMPORTANT STREAM INLETS LAKE TAHOE, EL DORADO AND PLACER COUNTIES

The Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan) and TRPA's Adopted Code of Ordinances (Code) are typically consistent with regard to regulations developed to protect natural resources in the Lake Tahoe Basin. Both the Basin Plan and the Code contain provisions that effectively prohibit certain activities that may impact resources like water quality, aquatic ecosystems, and aquatic habitats necessary for reproduction and early development of fish. By 1980, in recognition of the potential adverse impacts of continued proliferation of piers and other mooring structures in Lake Tahoe, the U.S. Fish and Wildlife Service, the California Department of Fish and Game, and the Nevada Department of Wildlife adopted policies recommending against the approval of new facilities within sensitive fish habitat. Based on these recommendations TRPA's Code included ordinances to protect the shorezone by prohibiting the construction of new shorezone structures (i.e., piers, boat ramps, buoys, etc.) in areas considered prime fish habitat. Also based on the recommendations and to be consistent with TRPA, the Water Board's Basin Plan incorporated the following prohibition:

The discharge of threatened discharge, attributable to new pier construction, of solid, liquid wastes, including soil, silt, sand, clay, rock, metal, plastic, or other organic, mineral, or earthen materials, to significant spawning habitats or to areas immediately offshore of important stream inlets in Lake Tahoe is prohibited.

TRPA's prohibition of new pier construction in prime fish habitat remained in place until the completion of scientific studies determined that protective measure can be taken to reduce and avoid the impacts of a new pier in Lake Tahoe. The findings of these studies prompted TRPA to reconsider its location standards for shorezone structures. TRPA's recently adopted Shorezone Ordinance Amendments (October 2008) do not prohibit new pier development in spawning areas provided the loss of available habitat is re-established at a rate of 1.5 to 1. A similar amendment is needed for the Basin Plan to be consistent with the TRPA Code.

The proposed Basin Plan amendment would remove the above-mentioned prohibition noted in Chapter 5, Section 5.2, Page 5.2-3 and again in Section 5.15, Page 5.15-7. No other prohibitions will be affected by the amendment; however, the amendment will incorporate minor revisions to the discussions throughout Chapters 4 and 5 of the Basin Plan regarding piers and references to the Lake Tahoe shorezone.

Removal of the above-mentioned prohibition is being proposed because scientific studies concluded that construction of shorezone structures and the activities supported by these structures (e.g., motorized watercraft activity) do not significantly affect aquatic habitats and the health of aquatic organisms. Therefore, Water Board staff believe it is reasonable to remove the prohibition of new pier construction from certain areas.

The research studies that provide the scientific justification for the Water Board's amendment include five Lake Tahoe specific studies. The first three studies conducted between 1989 and 1991 assessed the effects resulting from the construction and use of shorezone structures (piers, boat ramps, mooring buoys, etc.) on fish habitat and spawning areas in Lake Tahoe and the mouths of its tributaries. A fourth study that evaluated the effects of littoral structures on in-lake spawning was completed in 1996.

The fifth study (Environmental Assessment of Polycyclic Aromatic Hydrocarbons or PAHs) focused on the chemical impacts associated with motorized boating; an activity that may increase if additional shorezone structures are developed. The Environmental Assessment of PAHs studied the potential impacts to aquatic organisms from PAHs that are released during marine engine combustion processes.

TRPA's Shorezone Ordinances Amendments, adopted in October 2008, which do not prohibit shorezone structures in prime fish habitat, and the Water Board's proposal to also not prohibit new piers in spawning areas are premised upon the findings of the above-mentioned scientific studies. The studies indicate that the direct, indirect, and cumulative impacts associated with the construction and presence of shorezone structures and the activities supported by the structures (e.g., motorized boating) do not cause significant environmental impacts that cannot be mitigated. Provided effective mitigation measures are incorporated into the design, construction, and uses associated with a pier, it is acceptable to not prohibit construction of these structures along Lake Tahoe's shoreline.

The Notice of this California Environmental Quality Act (CEQA) Scoping Meeting begins the Water Board's Basin Plan Amendment Process. Though the TRPA included the public in several scoping meetings during TRPA's environmental process, the Water Board must conduct its own scoping process. The scoping meeting provides an effective way to obtain information about the scope of the substitute environmental document as well as identify and resolve the concerns of interested agencies and public. The Water Board's Scoping Meeting will be limited to the subject of the Basin Plan Amendment, and not include a review of all of the issues, including public access and scenic issues, that were included in the TRPA's environmental document.

Description of the Proposed Activity

The project, under CEQA being evaluated by the Water Board involves lifting a prohibition against new pier construction in Lake Tahoe (project area). The proposed project will not prohibit the construction of new piers along the shoreline of Lake Tahoe in areas mapped as significant spawning habitat or immediately offshore of important stream outlets. As part of each new pier construction authorization or permitting, responsible parties must incorporate all of the applicable mitigation measures that apply to new pier construction as presented in TRPA's Code in the amended Shorezone Ordinances adopted in October 2008. Required mitigation for new pier construction includes complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, and up-front fisheries habitat restoration. Proposed new pier projects that do not incorporate all applicable mitigation measures will not be authorized by either the Water Board or TRPA.