California Regional Water Quality Control Board
Lahontan Region

Linda S. Adams
Acting Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Edmund G. Brown Jr.
Governor

March 18, 2011

TO ALL MARINA OWNERS AND OPERATORS, INTERESTED PERSONS AND AGENCIES:

RESPONSE TO COMMENTS ON TENTATIVE UPDATED GENERAL WASTE DISCHARGE REQUIREMENTS AND NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH MARINA OPERATIONS AND DISCHARGES FROM MAINTENANCE DREDGING IN THE LAKE TAHOE HYDROLOGIC UNIT – EL DORADO AND PLACER COUNTIES

Staff of the California Regional Water Quality Control Board, Lahontan Region (Water Board) has prepared the enclosed Summary of Comments and Water Board Responses to the Tentative Marina General Permit. The Proposed Board Order to reissue updated General Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for Storm Water Discharges Associated with Marina Operations and Discharges from Maintenance Dredging Activities in the Lake Tahoe Hydrologic Unit was sent out under separately on March 11, 2011. A description of the changes in the Proposed from the Tentative is provided in Enclosure C. As previously stated in the cover letter to the Proposed Order, you are invited to review the Proposed Order and provide written comments to the Water Board no later than **April 1, 2011**.

If you need further information regarding this matter, please contact me at 530-542-5435, or Alan Miller, Chief, North Basin Regulatory Unit, at 530-542-5430.

Tobi L. Tyler
Water Resource Control Engineer

Enclosures: A. Comment Form
B. Summary of Comments and Water Board Responses to Tentative Order
C. Summary of Changes in Proposed Order from Tentative Order

TT/adw/T: Agenda Items April/ MPG Response to Comments Cover Letter 3-18-11 TT.doc
[File: Marina General Permit, R6T-2011-Tentative]

Complete Form and Return

TO: California Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Blvd., South Lake Tahoe CA 96150

SUBJECT: Written comments on the Proposed Order for updated General WDRs and NPDES Permit for Storm Water Discharges Associated with Marina Operations and Discharges from Maintenance Dredging Activities in the Lake Tahoe Hydrologic Unit are due by **April 1, 2011**.

____ We concur with proposed requirements
____ We concur; comments attached
____ We do not concur; comments attached

_____ (Sign)
_____ (Type or print name)
_____ (Organization)
_____ (Address)
_____ (City and State)
_____ (Telephone)

SUMMARY OF COMMENTS AND WATER BOARD RESPONSES
TENTATIVE MARINA GENERAL PERMIT

Comment	Commenter	Response
1) In the last paragraph of Section I, certain non-storm water discharges to land are conditionally authorized. Irrigation of required BMP vegetative measures is not mentioned. Should it be?	Earl Hagedorn	Irrigation water would come under "potable water sources" in the list of non-storm water discharges.
2) Marinas at Lake Tahoe are small businesses with limited resources and a limited operating season within which they must economically succeed in order to contribute to the local economy and implement agency regulations. Because of this, I feel every effort should be made to recognize these constraints when proposing new regulations and compliance requirements. If marinas can comply without excessive burdens, it is more likely they will fully comply, reduce agency time devoted to enforcement and oversight, and achieve greater results.	Jay Kniep	The draft Marina General Permit (MGP) is based on the previous permit and on USEPA's Multi-Sector General Permit that is used throughout the U.S. The draft NPDES permit is consistent with what is applied throughout the U.S. and additional requirements because of Lake Tahoe's Outstanding National Resource Water designation. We recognize the small business nature of some of the marinas, but staff does not believe the draft permit is overly stringent. Water Board staff has considered the cost implications of complying with the updated MGP and does not find them to be significant relative to other operational costs.
3) Dredging is a significant issue for many marinas as it can determine if they are in business at all during a low water season. Typically, the Lake level becomes low at the end of one season, marinas close and hope the winter will provide adequate precipitation to raise the Lake for the next summer. It isn't until March that the extent of the snow pack is evident and a decision regarding dredging can be made. If dredging is required, it must be completed by the end of May to early June to allow the marina to be open for the operating season. This provides limited time to prepare applications, receive permits and complete the work. Allowing up to 5 years authorization for simple dredging is a distinct improvement allowing more flexibility for longer term planning.	Jay Kniep	The MGP has always allowed for up to five years of dredging as the length of time a water quality certification is valid is coincident with the U.S. Army Corps of Engineers' Clean Water Act section 404 permit, which is typically five years. The timing of the application for multi-year projects, however, may be less than five years because of the timing of the Nationwide Permit (NWP) process and five-year cycle under which these NWPs are renewed; i.e., new NWPs are up for renewal in 2012. Also, prior to dredging, the applicant must also receive authorization to proceed under the MGP, which is valid for five years. Therefore, though we allow up to five years, because of the permit validity constraints something less than five years is the normal circumstance.
4) These [dredging] decisions are more often short term and require immediate action. Unfortunately, winter (decision making time) is not when surveys for TYC or AIS can be conducted. If such surveys are	Jay Kniep	Water Board staff coordinate with staff of both Tahoe Regional Planning Agency (TRPA) and the California State Lands Commission (SLC) on dredging projects to ensure that Tahoe Yellow Cress (TYC) is protected and Aquatic Invasive Species

Comment	Commenter	Response
prerequisites for a dredging application, the marina is either required to prepare them in anticipation at least a year in advance or risk not be able to dredge until it is very late, potentially too late, in the boating season. Because of the importance of TYC and AIS, numerous surveys have already been completed around the Basin and, in the case of TYC, a management plan adopted. This existing data can be incorporated into the permitting process (perhaps with a database similar to the dredging elevations table included in the proposed permit) instead of requiring individual marinas to "verify" what is already known. TYC and AIS are basin-wide issues and basin-wide solutions are required, as coordinated efforts among environmental agencies are demonstrating. Wouldn't it be more productive to have individual marina projects support and/or contribute to basin-wide programs instead of working alone? There seems to be some suggestion of this in the description of the project BMP Plan and DMP plan, but the intent is not clear.		(AIS) issues are not exacerbated by performing maintenance dredging operations. Both TYC and AIS are "moving targets" that need to be addressed by control measures on both a project level and a regional scale. TRPA is the agency in the forefront on AIS issues. Both SLC and TRPA are the lead on TYC issues, but each dredging project must be closely scrutinized to ensure beneficial uses are protected.
5) One provision of the new permit states that discharge of bilge water or cooling water from vessels is not covered. Are these discharges prohibited? Taken literally, this would prohibit operation of any motorized vessel. Nearly all motorized vessels use lake water for cooling. It is taken up via an intake, circulated to cool the engine and then "discharged" back into the Lake. This "discharge" is necessary to operate the boat without overheating the engine. How does the permit apply to this fact?	Jay Kniep	The Proposed MGP has been changed to allow cooling water discharges and a finding has been added that states: "Discharge of non-contact cooling water is not prohibited as heat from boat engines is not a significant pollutant with regard to Lake Tahoe."
6) Similarly, bilge water collects either from hull leaks, splashing from the Lake and/or rainfall. "Discharge" of bilge water is necessary to keep a vessel afloat. How	Jay Kniep	Wastes from bilge water are prohibited as they may contain oil and other pollutants. If absorbent materials are used on the bilge wastes or a filter is used that eliminates or reduces the

Comment	Commenter	Response
does the permit apply to this fact? Boat inspections prior to launch and use of oil absorbing bilge pillows has resulted much cleaner bilges and bilge water consistent with the permit intent, but if bilge water is not discharged, the boat will sink.		wastes to non-detectable levels, than clean bilge water is not prohibited. Marinas have been required to have BMPs for bilge wastes in several (including the current) marina general permits. Due to the Basin Plan's prohibition on waste (see Basin Plan, page 5.2-1), this prohibition must apply and marina operators and owners must increase efforts to control and eliminate such discharges to reduce a significant source of pollutants.
7) Cooling water and bilge water are distinctly different from boat wash water and need to be treated appropriately by the permit.	Jay Kniep	See responses to comments in 5) and 6) above. They are treated differently and appropriately with the changes in the Proposed permit.
8) The distinction between what is under the control of the marina: storm water at the marina, boat washing/repair at the marina, storage of materials in the marina; fueling at the gas dock in the marina; and those of the boat operator: engine and bilge pump operation, use of sewage pumpouts, etc. The marina can encourage and make facilities available to boat operators but they cannot control all aspects of boater's behavior. Hopefully, the Board and permit adopted by the Board can recognize this.	Jay Kniep	Staff and Water Board members understand that marina operators and owners cannot control every action of every individual using the marina. However, the Industrial NPDES Storm Water Permit requires marina owners to, among other things, provide education to the public marina users, train staff to interact with the public, and provide certain facilities for the public using to marina to dispose of wastes properly. The permit requires owners and operators to implement "best practicable control technology currently available" (BPT) applicable to all pollutants, Best Conventional Pollutant Control Technology (BCT) for conventional pollutants, and Best Available Technology Economically Achievable (BAT) for toxic or non-conventional pollutants. The NPDES permit must also include additional requirements necessary to implement applicable water quality standards.
9) The permit should recognize that marina staff are not water quality or water chemistry experts. It is reasonable to expect them to visually inspect their facilities, enforce rules and, take and submit samples to testing laboratories for analyses. The proposed new permit includes significantly more sampling and testing requirements. The proposed permit also seems to suggest that operators will also now need to	Jay Kniep	The owners and operators do not need to be water quality or water chemistry experts themselves, but they will likely need to hire appropriate expertise if they do not possess the qualifications. A cornerstone of water quality protection in California is self-monitoring and reporting by Dischargers as an appropriate means to regulate activities while controlling public costs. It is therefore standard practice for the State government to require that Dischargers perform the

Comment	Commenter	Response
understand why the testing results are what they are and assess the marina's impact on local water quality. It would seem to me that this assessment is the job of the regulator. It would also seem that testing for a few specific "indicator" pollutants could provide the same information as the exhaustive list of tests, each of which has a cost associated with it.		monitoring that their permits require to demonstrate compliance.
10) The proposed time frame for the preparation of the numerous new and revised plans required is short. The Board is scheduled to adopt the new permit in April and new plans are required 60 days later. During the same time, the marina must prepare to open and have everything in place for the limited boating season which starts at the same time. I believe better and more thoughtful (more effective) plans could be developed if more time was allowed and the deadline occurred at a less hectic time for marinas. In order to maintain progress, perhaps revisions to existing plans could be required quickly and the new plans deferred until later. To my knowledge, no one has prepared these plans yet and the effort required is not known. I am just now becoming aware of these new requirements and hope that next week's workshop will give me a much better idea of what is required/expected. However, no real effort will be expended (funded) by a marina until the Board acts and it becomes a "real" requirement.	Jay Kniep	Most of the requirements are not new, although they may have a slightly different name. For example, the Discharge Monitoring Plan in the draft is similar to MRP in the current permit. The Marina Pollution Prevention Plan is not entirely new since the current permit requires BMPs for such things as fueling the sewage pump-out. We are now requiring information on specific BMPs implemented with regard to these specific marina sources of pollution. The other thing that is new is the Marina Surface Water Monitoring Plan and the draft permit allows for one year for this to be submitted. In addition, this plan is not entirely new because the previous general permit issued in 2000 required surface water monitoring. Staff does not agree that 60 days is too short a time to implement the SWPPP, DMP and MPPP requirements.
After spending some time looking over the tentative order it is not clear to us exactly what you want. Can you condense this to summarize what it all means instead of a 125+ page report? What are the new requirements now compared to what we have always done in years past? This would really help us out to understand what we need to do now.	Mac Scott Sierra Boat Co. Safety Officer & Service Dept.	It is important that marina owners and operators read and fully understand the draft permit in its entirety. Staff went over some of the major changes in the permit and responded to some of the comments at the March 4, 2011 workshop. But, staff is hesitant to provide a summary since it is incumbent on the owners and operators to completely understand all the requirements in the permit. One thing that may help is to

Comment	Commenter	Response
		understand the different parts of the permit. Large portions of text are associated with the Fact Sheet, and the associated Findings in the first part of the Board Order. These describe the permit authorities and why various things are required, and are not generally enforceable as requirements. Following the Findings, the Board Order contains the wording ". . . IT IS HEREBY ORDERED. . . "; the enforceable requirements follow that wording, and include all the cited attachments and monitoring provisions.
11) This document does not address the fact that wind events resuspend sediments all along the shore and in most marinas with the exception of perhaps the Tahoe Keys. This concerns me because as we make efforts to minimize sediment suspension during dredging we are trying to attain standards that are not compatible with reality during a wind event in other words your permit discusses the resuspension of sediment during dredging when in actuality it occurs all the time anyway. I understand the need to protect the undisturbed waters during dredging but the resuspension (for instance by moving a rock) is no more than what would happen during a wind event most likely even less.	Jim Phelan, Tahoe City Marina	We recognize that natural meteorological events can cause resuspension of sediments. However, we do not regulate natural events such as wind-driven resuspension of sediments. We do, however, regulate human activity that could create sediment resuspension. Depending on the level of activity (e.g., amount of rocks to be moved), containment around the activity using turbidity curtains may be necessary. The activities must be fully described in the application so that staff can use best professional judgment to determine the level of containment needed. Marinas dredgers are likely not going to go the effort of moving just one rock at a time, therefore, containment may be required.
12) I would still like to see some kind of effort towards a study to 'recycle' marina sediments where appropriate.	Jim Phelan, Tahoe City Marina	Both the current and the proposed permit allow for beach replenishment. However, prior to permitting beach replenishment, we need to ensure that the sediment to be reused or recycled is clean, i.e., free of pollutants.
13) This MPPP is something new?	Jim Phelan, Tahoe City Marina	It is new to the extent that we are now requiring owners/operators to inform us on what BMPs the marina is using for marina-specific industrial waste streams. The current and previous permits included lists of BMPs for fueling and sewage-pumpouts. The revised permit will now require

Comment	Commenter	Response
		that you tell us what specific BMPs you are implementing to reduce and minimize pollutants from vessels and marina operations.
14) [Section] 2.e & f, can this be put into packet form to help us to get all we need in a one stop scenario instead of going all over to attempt to get everything?	Jim Phelan, Tahoe City Marina	A one-stop permitting "shop" is unrealistic and unachievable considering various agency mandates and requirements associated with marina activity. The various permitting agencies coordinate on shorezone projects at Lake Tahoe through the Interagency Shorezone Coordination Group, which holds meetings at the offices of TRPA generally once per month.
15) [Section] II.A.2.g pg 7 I was curious as to what exactly this meant.	Jim Phelan, Tahoe City Marina	This is the finding that multiple-year dredging operations may be permitted. All dredging operations require a Clean Water Act section 401 water quality certification (WQC) and Notice of Applicability (NOA) for coverage under the MGP prior to dredging is allowed to commence. The WQC and NOA are usually issued together in one letter, which is signed by the Water Board's Executive Officer.
16) [Section] II.C.1.b pg 9 this seems conflicting with current code and most definitely is in conflict with your IV.F pg 22.	Jim Phelan, Tahoe City Marina	The language in the Tentative on page 9 was a mistake and has been changed to the following: "Operation and maintenance of marina facilities may include construction or demolition activity, such as clearing, grading, grubbing or excavation, as long as it: (1) is performed on marina property, and (2) disturbs less than one acre of land and (3) **does not occur** between October 15 of any year and May 1 of the following year if it involves the removal of vegetation or disturbance of ground surface, unless a variance is provided by the Executive Officer. Construction activity may include linear underground or overhead utility projects."
17) [Section] II.C.2.c pg 9 "...cooling water originating from vessels." Is impossible to comply with as all vessels discharge their cooling water back into the Lake. Also see IV.C	Jim Phelan, Tahoe City Marina	See response above to comment 5.
18) Why is there a one acre parameter established?	Jim Phelan, Tahoe City	One acre is the area at which NPDES Construction Storm Water General Permit coverage is required. This is a national

Comment	Commenter	Response
	Marina	standard.
19) Item III. A Discharge Description, pg 13. I believe this letter should be 'B' instead of A. Also I was wondering if marina's were allowed to use these evaporation basins.	Jim Phelan, Tahoe City Marina	This has been corrected in the Proposed Order. Yes, the Discharger is allowed to evaporation basins and must comply with effluent limits in the Order and provide monitoring results based on Attachment E.
20) AC pg 21 are we really going to be required to purchase and maintain a rain gauge? I think this may be a little much.	Jim Phelan, Tahoe City Marina	Yes. We need verification in case the marina operator claims that it has not received enough rain to sample during the entire year based on prior permitting experience.
21) Through the document there are references to Run on but nothing as to what can be done about it. This is of great concern to me because run on may create the need for by pass, exceedence of capacity, or contribution of undesired constituents which might create compliance issues.	Jim Phelan, Tahoe City Marina	We cannot specify the manner of compliance or tell you which BMPs you must use. The requirement is that you use the BMPs that are meet BAT/BCP standards, which may adjust with time as technology improves. It is up to the owner/operator to investigate what is BAT/BCP or hire a consultant to help them with this task.
22) VI.A.4.a pg 28 typically algal growth is greater in shallow water and near stream inlets so this standard may be unreasonable.	Jim Phelan, Tahoe City Marina	This is a specific water quality objective directly from the Basin Plan (page 5.1-9) and cannot be changed except with a Basin Plan amendment.
23) VI.A.4.h & z pg 29 and 32 Again, resuspension of sediments during wind events may make this impossible.	Jim Phelan, Tahoe City Marina	See above response to comment 11.
24) VI.A.$.s pg 30 How can marinas control this?	Jim Phelan, Tahoe City Marina	Through BMPs. Also, see above response to comment 22.
25) VII.C.3.a.iv.b pg 38 I am not sure I agree with this stipulation.	Jim Phelan, Tahoe City Marina	See above response to comment 20.
26) References throughout concerning the discharge of chlorinated water seem unachievable.	Jim Phelan, Tahoe City Marina	The marinas must implement BMPs to reduce and minimize chlorinated tap water from discharging to surface water to comply with prohibitions. Chlorine is lethal to aquatic organisms. BMPs must be used for the protection of aquatic life.
27) Are snow storms considered storm events for the purposes of this document?	Jim Phelan, Tahoe City Marina	Yes, if the snow storm event produces runoff. Storm water is defined in Attachment A as: storm water runoff, *snow melt runoff*, and surface runoff and drainage. It excludes infiltration

Comment	Commenter	Response
		and runoff from agricultural land.
28) Attachment B-2 refers to a 'qualified person' is there a definition for such a person i.e. what are the qualifiers?	Jim Phelan, Tahoe City Marina	The Proposed Order has added a definition of Qualified Person or Personnel. Please see Attachment A for the definition. Minimum requirements for those developing and implementing project SWPPPs are needed to ensure work is completed by qualified individuals.
29) Attachment D item G. This is one of the areas of concern in a run on situation.	Jim Phelan, Tahoe City Marina	These are Standard Provisions that apply to all NPDES permits by federal regulations; we can not change them.
30) Throughout the document there seems to be several references to situations not encountered in Marina operations.	Jim Phelan, Tahoe City Marina	Comment needs to be more specific for an adequate response.
31) Attachment E Can a short form schedule be developed for this? Also III.A.2 is asking a bit much and I would like an opportunity to tone it down some.	Jim Phelan, Tahoe City Marina	The Proposed Order includes a Summary of Storm Water Monitoring Requirements, Table E-2, and has provided forms in the Appendices of Attachment E. The Order also has provided an Annual Report Form in Attachment K. Regarding Section III.A.2 in Attachment E, please see above response to comment 20.
32) I am confused as to what "discharge" requirements are for when stormwater enters the storm water conveyance and DI system verses what requirements are for discharge to surface water, i.e. are we trying to maintain standards prior to treatment and if so how can we possibly do that (parking lot run off)?	Jim Phelan, Tahoe City Marina	If the stormwater conveyance or DI system will ultimately discharge to surface water (either the lake or stream discharging to the lake), then the lower set of limits apply. If there is no discharge to surface water, then the higher set of effluent limits apply. Water quality effluent limits apply to both land and water as we have done in the current permit and previous permits for the marinas.
33) It would be helpful to have instruction sheets for the Labs for the various types of monitoring that you are requiring of us (cheat sheet).	Jim Phelan, Tahoe City Marina	See response to Comment 31.
34) It would be helpful to have sampling protocol provided to us for the amount, acid treatment and gathering method for sampling events (cheat sheet).	Jim Phelan, Tahoe City Marina	Lake Tahoe is an Outstanding National Resource Water and marinas operating here at the lake must comply with NPDES Industrial storm water regulations. If you need help implementing BMPs or complying with permit, then you may need to hire a consultant to help you with this.
35) Attachment F seems mostly redundant to much of	Jim Phelan	A Fact Sheet is required of all NPDES permits.

Comment	Commenter	Response
the rest of the document.		
36) Attachment H I believe item 14 is mis-stated as I believe this regulation applies only to 2 stroke engines not all engines.	Jim Phelan, Tahoe City Marina	All the categories listed in section 14 of Attachment H refer to two-stroke engines, so staff is unsure what is meant by the comment.
37) I would ask that the board strongly consider accepting more comments, after the workshop, so concerns can be addressed.	Bob Hassett	The Proposed Order has been sent out with a cover letter that states more comments may be submitted by April 1, 2011. Marina operators/owners may present comments up to and during the Board Meeting on April 13 and 14, 2011.
38) One of my first concerns is the requirement for no discharge from bilges or cooling water. The boat needs cooling water to operate and must discharge the water afterward. The new requirements during boat inspections leads to a clean bilge. Not being able to ever discharge water from the bilge could lead to more sunk boats, creating a hazardous situation.	Bob Hassett	See response to Comments 5 and 6.
39) The plan will not be adopted until April. Two months to revise and implement a number of new plans will be very challenging. This is during a time of year when we are extremely busy just getting ready for the summer. This year has the potential to be impacted even more, by a large and late snowpack.	Bob Hassett	See response to Comment 10.
Just as the State of California is financially challenged, so are businesses. This new permit will impose a large financial impact in tough times. The increased cost for water sampling analysis, labor, rain gauges, and bilge pumps will be very difficult to deal with. Businesses have not even been given the time to budget for these additional expenses. At a time when the State is cutting expenses, it is inappropriate to increase costs and requirements on business. This will only lead to more failing businesses with a decrease in revenue to the state.	Bob Hassett	See response to Comment 2.

Summary of Changes in Proposed Order from Tentative Order

Changes included in the Proposed Order of the Marina General Permit from Tentative Order:

1. Landscape irrigation was added to list of non-storm water discharges to land that are conditionally authorized.

2. Non-contact cooling water was deleted from prohibited list of discharges and a finding was made on page 5 as follows: "Discharge of non-contact cooling water is not prohibited as heat from boat engines is not a significant pollutant with regard to Lake Tahoe."

3. The following change was made to section II.C.1.b.:
   Operation and maintenance of marina facilities may include construction or demolition activity, such as clearing, grading, grubbing or excavation, as long as it: (1) is performed on marina property, and (2) disturbs less than one acre of land and (3) does not ~~only~~ occur~~s~~ between October 15 of any year and May 1 of the following year if it involves the removal of vegetation or disturbance of ground surface, unless a variance is provided by the Executive Officer. Construction activity may include linear underground or overhead utility projects.

4. The following clarification was added to Table 3:

Parameter	Units	Effluent Limitations		
		Reporting Level	Max. Concentration for Discharge to Land Treatment Systems[1]	Max. Concentration for Discharge to Surface Waters[2]
Total Nitrogen (as N)	mg/L	0.02	5	0.5
Total Phosphorus (as P)	mg/L	0.008	1	0.1
Total Iron	mg/L	0.005	4	0.5
Turbidity	NTU	0.5	200	20
Grease and Oil	mg/L	1.0	40	2
pH	SU		see footnote 3	see footnote 3

1. With no discharge to surface water
2. Or collection/treatment systems that could discharge to surface water
3. pH must be within the range of 6-9 standard pH units.

5. Section VII.C.3.a.iv was changed as follows:
   Include in the SWPPP documentation of training provided to the Storm Water Pollution Prevention Team. Documentation must include a signed ~~affidavit~~ sworn statement of fact from trainers and trainees.

6. A definition for "Non-contact cooling water" and "Qualified Person or Personnel" was added to Attachment A, Definitions.