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September 10, 2010

California Regional Water Quality Control
Board, Lahontan Region
Attn: Douglas F. Smith, P.G.
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Via Email - DFSmith@waterboards.ca.gov
and US Mail

Nevada Division of Environmental Protection
Attn: Jason Kuchnicki
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5429

Via Email – jkuchnic@ndep.nv.gov
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Re: Final Lake Tahoe Total Maximum Daily Load Report
Draft: June 2010

Gentlemen:

Thank you for the opportunity to comment on the Final Lake Tahoe Total Maximum Daily Load Report referenced above (TMDL Report).

Based on review of the Report and conversations with Lahontan staff, we understand it is not the Regulatory Agency's intent to restrict private development or redevelopment within a local jurisdiction in the event the local jurisdiction does not meet annual Lake Clarity Credit targets, although a particular project may not be eligible for its allocation of development resources under the anticipated TRPA Regional Plan Update in the event a local jurisdiction is non-compliant. In other words, a project that properly treats its stormwater is not held hostage to a local jurisdiction that has not met either its Lake Clarity Credit target or NPDES permit requirements. Please confirm the foregoing.

Under current standards, individual projects are required to satisfy the 20-year one hour storm design standard. We understand the current standard does not address fine sediment particle capture and the adoption of the TMDL will impose new design standards for future projects and redevelopment projects. What is the proposed design standard?

In Chapter 11, Section 11.3.1, at page 11-8, it is noted "... the Water Board and NDEP will monitor load reduction progress by reviewing annual stormwater program reports and, if necessary, will take enforcement action against any jurisdiction that fails to meet established Lake Clarity Credit requirements." Please confirm that "enforcement action" would not prohibit.

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private property owners from developing or redeveloping their property in a non-compliant local jurisdiction, provided their project properly treats its stormwater.

What is the effect of pine pollen on lake clarity? This annual deposit represents direct deposition to the Lake, as well as hydrologic transport. Is the capture of upland pine pollen a benefit to the Lake?

At Chapter 10, at Table 10-1, Fine Sediment Particle Load Allocations by Pollutant Source Category, at page 10-4, the Basin-Wide total load (Particle/Yr) is estimated at $4.8E+20$. A 32% reduction is forecast to meet the clarity challenge, however, we understand loads attributable to particular water sheds have not yet been determined. Please explain how a local jurisdiction can be required to reduce its loading by 32% when its actual load is unknown. Moreover, if the subsequent determination of each jurisdiction's load is significantly less than the loading forecast in Table 10-1, is it anticipated the load reduction target (clarity credits) will be adjusted?

Again, we appreciate the opportunity to review and comment on the TMDL Report and look forward to your response to the foregoing.

Sincerely

FELDMAN, SHAW & McLAUGHLIN, LLP

By:

Lewis S. Feldman

LSF/jps