California Regional Water Quality Control Board
Lahontan Region

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DESIGNATION AS REGULATED SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – TOWN OF TRUCKEE

Thank you for your August 2006 submittal of the Town of Truckee's current Erosion Control Measures (and Storm Water Program elements). We reviewed the document and have provided comments (enclosed). We commend the Town's voluntary efforts to control storm water and develop a comprehensive storm water management program. However, your current program requires augmentation to comply with the State of California's small municipality storm water permit requirements. I have decided to formally designate the Town to ensure long term compliance with the State's storm water program, increase protection of the Truckee River, and encourage cooperation and consistency with Placer County's storm water program in the Truckee River Watershed.

This letter is to notify you that the California Regional Water Quality Control Board, Lahontan Region (Water Board) is designating the Town of Truckee (Town) as a regulated Small Municipal Separate Storm Sewer System (MS4). This designation requires the Town to apply for coverage under a general National Pollutant Discharge Elimination System (NPDES) permit for Small MS4s.

As a regulated Small MS4, the Town is required to develop and implement a Storm Water Management Program (SWMP) to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) and meet applicable water quality objectives through an iterative implementation approach. The Water Board will also be requiring the Town to develop a comprehensive water quality monitoring program in conjunction with its SWMP. This requirement will be addressed in a separate letter.

Discussions of our authority and rationale for the designation, and the associated requirements are presented below.

Authority

In accordance with Section 13370 of the California Porter-Cologne Water Quality Act, the State Water Resources Control Board (State Water Board) and the Water Board are responsible for implementing regulations developed under the Federal Water Pollution Control Act, as amended (also referred to as the Clean Water Act). These regulations include the requirements of the NPDES program.

In 1990, the U.S. Environmental Protection Agency (USEPA) promulgated regulations for permitting storm water discharges from municipal separate storm sewer systems (MS4s) serving a population of 100,000 people or more. These regulations, known as Phase I regulations, require operators of such MS4s to obtain storm water NPDES permits. An MS4 is a conveyance or system of conveyances that are: (1) designed or used for collecting or conveying storm water; (2) not a combined sewer; and (3) not part of a Publicly Owned Treatment Works. Conveyances include roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains.

On December 8, 1999 the U.S. Environmental Protection Agency promulgated Phase II regulations that require the State Water Board to issue NPDES storm water permits to operators of "regulated Small MS4s" that discharge to waters of the U.S or to another MS4 regulated by an NPDES permit. Small MS4s include those that are owned or operated by the U.S., a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity (40 CFR § 122.26(b)(16)). Regulated Small MS4s are either automatically designated because they are located within an urbanized area defined by the U.S. Census Bureau, or specifically designated by the State or Regional Water Boards in accordance with established criteria.

Designation Criteria

In accordance with Section 123.35(b) of 40 CFR, the State Water Board developed criteria by which the State and Regional Water Boards may designate regulated Small MS4s that are not automatically required to obtain coverage under the Phase II MS4 NPDES permitting requirements. The designation criteria include the following parameters that affect water quality:

a. High population density – High population density means an area with greater than 1,000 residents per square mile. Also to be considered in this definition is a high density created by a non-residential population, such as tourists or commuters.

b. High growth or growth potential – If an area grew by more than 25 percent from 1990 to 2000, it is a high growth area. If an area anticipates a growth rate of more than 25 percent over a 10-year period ending prior to the end of the first permit term, it has high growth potential.

c. Significant contributor of pollutants to an interconnected permitted MS4 – A Small MS4 is interconnected with a separately permitted MS4 if storm water that has entered the Small MS4 is allowed to flow directly into a permitted MS4. In general, if the Small MS4 discharges more than 10 percent of its storm water to the permitted MS4, or its discharge makes up more than 10 percent of the other permitted MS4's total storm water volume, it is a significant contributor of pollutants to the permitted MS4. In specific cases, the MS4s involved or third parties may show that the 10 percent threshold is inappropriate for the MS4 in question.

d. Discharge to sensitive water bodies – Sensitive water bodies are receiving waters that are a priority to protect. They include the following:

- those listed as providing or known to provide habitat for threatened or endangered species;
- those used for recreation that are subject to beach closings or health warnings; or
- those listed as impaired pursuant to CWA section 303(d) due to constituents of concern in urban runoff (these include biochemical oxygen demand [BOD], sediment, pathogens, petroleum hydrocarbons, heavy metals, floatables, polycyclic aromatic hydrocarbons [PAHs], trash, and other constituents that are found in the MS4 discharge).

Additional criteria to qualify as a sensitive water body may exist and may be determined by the State or Regional Water Boards on a case-by-case basis.

e. Significant contributor of pollutants to waters of the U.S. – Specific conditions presented by the MS4 may lead to significant pollutant loading to waters of the U.S. that are otherwise unregulated or inadequately regulated. An example of such a condition may be the presence of a large transportation industry.

A regulated Small MS4 and the population that it serves need not meet all of the factors to be designated.

Basis for Designation

The Water Board is designating the Town as a regulated Small MS4. I have determined that the following designation factors apply to the Town.

1. High population density – High-density conditions exist due to non-resident population fluxes. The Town and the surrounding area is an all-season tourist destination that is increasing in popularity. These conditions increase traffic and the potential for storm water discharges to contain roadway-related pollutants such as sediment from road sand, oil and grease, and heavy metals.

2. High growth or growth potential – According to the U.S. Census Bureau, the growth rate from 1990 to 2000 in the Town was over 50 percent. Significant future development pressure also exists within the Town. The 1996 Town *General Plan* would allow for over 18,000 residential dwelling units and over 5.6 million square feet of commercial floor space at General Plan build-out (2025). The Town's 2005 Housing Element estimates a 2 % annual average growth rate over the period from 2004 to 2015. These conditions increase runoff and the potential for storm water discharges to contain excess sediment and other pollutants associated with development and land-disturbing activities.

3. Discharge to sensitive water body – Storm water runoff from lands under Town jurisdiction discharges to the Truckee River, which has historically provided important spawning habitat for Lahontan Cutthroat Trout (LCT). In 1970, the LCT was listed as a threatened species under the federal Endangered Species Act and the U.S. Fish and Wildlife Service (USFWS) is working to restore LCT in Pyramid Lake and its associated spawning grounds in the Truckee River. Control of excessive sedimentation is an important component of the LCT recovery effort. Additionally, water quality conditions in the Middle Truckee River are currently being evaluated by Water Board staff based on its inclusion for excessive sedimentation on the Clean Water Act 303(d) list of impaired waters.

4. Significant contributor of pollutants to waters of the U.S. – The Town is located in a watershed characterized by high elevation lands with steep slopes and erosion prone soils that are highly sensitive to land disturbance. There is significant development either existing or planned that is adjacent to the small creeks and the main-stem Truckee River. These developments have a high potential to discharge sediment laden storm water as well as other pollutants to the waterways. For example, municipal water treatment servicing the Reno, Nevada area has historically been forced to shut down temporarily because of high turbidity in the Truckee River downstream of the Town and other jurisdictions. Therefore, control of storm water runoff from existing and future development is important to protecting downstream conditions.

Application Requirements

In accordance with the State Water Board's Water Quality Order No. 2003-0005-DWQ, the Town **must** obtain coverage under NPDES General Permit No. CAS000004, Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (General Permit) **by June 30, 2007**. Detailed information on the application process and requirements of the permit may be found at the following State Water Board website: http://www.waterboards.ca.gov/stormwtr/municipal.html

To obtain coverage under the General Permit, the town must provide to the Water Board **by June 30, 2007** a Notice of Intent (NOI), a complete Storm Water Management Program (SWMP) document, and an appropriate fee. You will need to augment your current Storm Water program to meet the General Permit requirements (see enclosed comments). The SWMP submittal must include one hard copy document and one electronic copy in Word or PDF format. Based on the 2000 U.S. Census, the annual fee is $3,750 (population between 10,000 and 24,999).

Storm Water Management Program (SWMP)

The critical action to meet the permitting requirements is the development and implementation of an appropriate SWMP designed to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) and meet established water quality objectives for receiving waters. In accordance with the January 14, 2003, Ninth Circuit Court decision (*Environmental Defense Center v.* EPA), permit applicants obtain coverage under the General Permit only after the SWMP is approved by the Water Board or its Executive Officer.

Once the Water Board staff determines that the SWMP contains appropriate minimum control measures, it will post the SWMP on the Water Board's web site and will notify the public that they will have 60 days to comment on the SWMP. At the end of the comment period, I will either approve the SWMP because no adverse comments were received, or I will schedule a public hearing for the Water Board to consider approval of the SWMP.

The SWMP must describe how pollutants in storm water will be controlled and address the following six program areas (Minimum Control Measures – see WQO No. 2003-0005-DWQ for more details regarding the minimum requirements):

1. Public Education
   The Permittee must educate the public in its permitted jurisdiction about the importance of the storm water program and the public's role in the program.

2. Public Participation
   The Permittee must comply with all State and local notice requirements when implementing a public involvement/participation program.

3. Illicit Discharge Detection and Elimination
   The Permittee must adopt and enforce ordinances or take equivalent measures that prohibit illicit discharges. The Permittee must also implement a program to detect illicit discharges.

4. Construction Site Storm Water Runoff Control
   The Permittee must develop a program to control the discharge of pollutants from construction sites greater than or equal to one acre in size within its permitted jurisdiction. The program must include inspections of construction sites and enforcement actions against violators.

5. Post Construction Storm Water Management
   The Permittee must require long-term post-construction BMPs that protect water quality and control runoff flow, to be incorporated into development and significant redevelopment projects. Post-construction programs are most efficient when they stress (i) low impact design; (ii) source controls; and (iii) treatment controls. Information on this management measure may be found on the State Water Board's website at http://www.waterboards.ca.gov/stormwtr/post_construction.html and at http://www.nrdc.org/water/pollution/storm/chap12.asp

6. Pollution Prevention/Good Housekeeping for Municipal Operations
   The Permittee must examine its own activities and develop a program to prevent the discharge of pollutants from these activities. At a minimum, the program must educate staff on pollution prevention, and minimize pollutant sources.

Additionally, the storm water control program developed by the Town must comply with specific provisions described in Attachment 4 of Water Quality Order No. 2003-0005-DWQ because it is a high growth area. Detailed information regarding provisions included in Attachment 4 may be found at the following website: http://www.waterboards.ca.gov/stormwtr/docs/final_attachment4.pdf

The Town is responsible for the adoption and enforcement of ordinances and/or policies, implementation of identified control measures/BMPs needed to prevent or reduce pollutants in storm water, and for allocation of funds for the capital, operation and maintenance, and enforcement expenditures necessary to implement and enforce

such control measures/BMPs within its jurisdiction. Therefore, the SWMP must include a discussion that demonstrates with reasonable assurance how the SWMP will be appropriately implemented.

It is the intent that the SWMP submitted with the NOI contain sufficient information such that Water Board staff and interested parties understand the control practices that will be implemented or will be developed and implemented over the course of the term of the permit. It is anticipated that the SWMP submitted may be revised or modified based on review of staff or on comments provided by interested parties.

In August, 2006, the Town submitted a document titled "*Erosion Control Measures in the Town.*" Water Board staff comments on this document are enclosed and should be considered when preparing subsequent drafts of the SWMP.

We encourage you to work with key stakeholders including Placer County, the California Department of Transportation, and Water Board staff in developing the SWMP. If you have any questions, please contact Dale Payne at (530) 542-5464, or Alan Miller at (530) 542-5430.

Harold J. Singer

HAROLD J. SINGER
EXECUTIVE OFFICER

Enclosure: Comments on Erosion Control Measures in the Town of Truckee

cc (w/enclosure): Regional Board Members
Dan Wilkens, Town of Truckee, Public Works
Bob Costa, Placer County Public Works
Lisa Wallace, Truckee River Watershed Council
Jody Jones, Caltrans District 3

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[File Under: Town of Truckee MS4]

COMMENTS ON
EROSION CONTROL MEASURES IN THE TOWN OF TRUCKEE

Lahontan Regional Water Quality Control Board (Water Board) staff reviewed the document "Erosion Control Measures in the Town of Truckee." Our comments and suggestions following each section are noted below.

Public Education and Outreach on Storm Water Impacts

Many public outreach programs are covered in this section of the Erosion Control Guidelines, Rules, and Procedures (EC Guidelines) for the Town of Truckee that inform the public of water quality issues. These programs appear to be informative and educational and aim for public awareness pertaining to water quality, green building, public transportation, and recycling in the Truckee River watershed.

Incorporation of Low Impact Development (LID) principles into ordinances could be initiated by development of a program to educate the public of the benefits of this method. A program of this type to encourage the public to adopt these methods should consider including the benefits of roof top, roadway, and parking lot disconnection from storm drain systems, and encouragement of onsite storm water retention, utilization of existing natural features onsite, and incorporation of rain gutters, swales, terraces, infiltration and basins. An incentive program for reduction of runoff from home and business sites might be considered. A model community for limiting runoff is the city of Lacey, Washington, which implemented a Zero Effect Drainage Discharge Ordinance (see www.wa.gov/lacey/main_menu/main_set.html for more information).

Public Involvement/Participation

The Town of Truckee currently complies with the MS4 Phase II permit requirements regarding public notification of Best Management Practices (BMPs) in preventing runoff during construction activities. Many well-advertised BMP workshops have been offered to the public at large and to people in the landscape and construction industries. Temporary BMP implementation could be strengthened by requiring contractors to attend a specific number or types of workshops, and require contractors that are out of compliance to attend additional workshops.

These workshops should also include use of BMPs for permanent onsite storm water retention and infiltration systems. A BMP retrofit program similar to the Tahoe Regional Planning Agency's (TRPA) program should be considered. TRPA's program offers workshops, presentations, as well as free site evaluations to determine correct BMP installation for a specific site (see www.trpa.org for more information). An incentive program for installation of permanent erosion control measures by property and business owners may be another option.

Another source to consider is the State of California Handbook for BMPs which has many permanent erosion control designs that could be implemented as part of the requirements for home and business owners (see www.cabmphandbooks.com for plans and details).

Illicit Discharge Detection and Elimination

This section offers no mention of non-storm water discharge categories found in the MS4 permit. Section D, subsection C, part 6 of the MS4 permit includes a list of 17 non-storm water discharge categories. See permit for details (http://www.waterboards.ca.gov/stormwtr/docs/final_sm_ms4_fact_order.pdf). The EC Guidelines state that permanent BMPs will be maintained, but no specification of those responsible for maintenance is discussed. More detail is needed regarding this aspect to fully understand accountability for maintenance procedures. Greater detail regarding procedures to follow up on potential illicit discharges including enforcement, tracking, and documentation of discharges should be included in the EC Guidelines. Preparation of a detailed storm water map of new construction sites including existing drainage pathways, and elevation contours could assist in documentation of construction sites (see the Virginia Storm Water Management Model Ordinance, Appendix C, at www.state.va.us/dcr/sw/docs/swm/SWM_Ord.PDF for more information). Creation of a public hotline and neighborhood watch for illicit discharges could prove helpful in keeping on top of these issues. Additionally, flyers and postings may assist this program in reaching the public and increasing awareness.

Construction Site Storm Water Runoff Control

Requirements of the MS4 permit were mostly met in this section. Additional information should include a priority list for construction projects based on their impact to water quality, and a program to document and track inspections. Creation of a checklist for construction inspections and better site design may assist with this program (see the Virginia Storm Water Management Model Ordinance, at www.state.va.us/dcr/sw/docs/swm/SWM_Ord.PDF for more information). This list could also include appropriate action, including fines, for improper or non-existent BMPs at construction sites. Currently sanctions consist of stop-work abatement until BMPs are installed. Implementing a monetary penalty system for continual non-compliance or multiple offenses could be very effective in maintaining compliance.

Post-Construction Storm Water Management In New Development and Redevelopment

All requirements pertaining to the MS4 Phase II permit were included in this section. However, more detailed pre- and post-construction site analysis may be helpful to maintain storm water management. Currently, the Town of Truckee requires all proposed construction and grading operations to appropriately

protect steams and drainages and avoid construction on steep slopes. Conducting a pre-construction site evaluation on construction project sites including runoff and groundwater analysis to evaluate undisturbed site conditions, and maintain adequate site protection with BMPs could be a useful tool. Following construction, an evaluation should similarly be conducted to determine physical and chemical conditions and compared to pre-construction conditions. Where applicable, permanent BMP structures should be required in the grading or landscaping plans to ensure water quality. In order to ensure that BMPs are functioning properly, a plan for BMP maintenance should be considered after the one-year-guarantee period has passed. An agreement for annual self-inspection initiated by the property owner or responsible party may be a consideration.

Pollution Prevention/Good Housekeeping For Municipal Operations

Measures that are required under the MS4 permit were addressed in good detail in this section. Appropriate snow storage areas to eliminate water quality problems were not discussed, and is needed in the Truckee Watershed (see www.dec.state.ak.us/eh/sw for more information).