

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF DECEMBER 11, 2008
South Lake Tahoe**

ITEM: 2

SUBJECT: RESOLUTION WAIVING WASTE DISCHARGE REQUIREMENTS FOR VEGETATION MANAGEMENT ACTIVITIES REGULATED BY THE TRPA AND AUTHORIZING THE LAHONTAN WATER BOARD'S EXECUTIVE OFFICER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE TRPA

CHRONOLOGY: February 2007: Water Board adopted Waiver of Waste Discharge Requirements for Discharges Related to Timber Harvest and Vegetation Management Activities in the Lahontan Region, Board Order No. R6T-2007-0008.

ISSUES:

- a) Should the Water Board adopt a resolution that: (1) waives the filing of a report of waste discharge and waste discharge requirements for discharges associated with vegetation management activities in the Lake Tahoe Region that are effectively regulated by the TRPA; (2) authorizes the Executive Officer to enter into a Memorandum of Understanding (MOU) with the Executive Director of the TRPA, and (3) certifies the associated Negative Declaration which analyzes the potential environmental effects of implementing the MOU and waiver?
- b) Are the conditions set forth in the proposed waiver and MOU sufficient to ensure that projects implemented under the MOU will not adversely affect water quality?

DISCUSSION: Recent Activities

October 11, 2008: This item was scheduled for Water Board consideration at its October 2008 meeting; however, the meeting was canceled to allow additional time for public review and input. Public and agency comments submitted for the October meeting, and Water Board staff's responses, are included as part of the record for this item, and are available on the Water Board's webpage at <http://www.waterboards.ca.gov/lahontan/>, or in the October 11, 2008 Board meeting agenda package (mailed in early October).

02-0001

October 28, 2008-November 24, 2008: Revised agenda materials for this item were circulated for an additional review and comment period. Comments received on the revised materials are enclosed. Water Board staff will provide responses to these comments at the December 11, 2008 meeting.

Background

The Water Board and the TRPA are both responsible for protecting water quality and beneficial uses of waters of the State within the Lake Tahoe Region. In fulfilling its responsibilities, the Water Board has developed and implemented a program for regulating timber harvest and vegetation management activities through a waiver of waste discharge requirements related to timber harvest and vegetation management activities. The Timber Waiver applies to projects throughout the Lahontan Region, including the Lake Tahoe Region.

Likewise, the TRPA regulates vegetation management activities in the Lake Tahoe Region through a tree removal permitting system and memoranda of understanding with land management agencies and fire districts. The programs of the Water Board and the TRPA focus on ensuring impacts to water quality are avoided, that beneficial uses of waters of the State are protected, and that all feasible mitigation measures are implemented. The vegetation management permitting systems of the Water Board and the TRPA are duplicative in that they implement and enforce the same or similar regulations and prohibitions. Under the current regulatory approach, project proponents must have approval from both agencies, typically under a Timber Waiver (Water Board), and as an exemption, qualified exemption, or substantial tree removal permit (TRPA).

In May 2008, following review of the *California-Nevada Tahoe Basin Fire Commission Report*, Governor Schwarzenegger issued a Proclamation regarding current forest fuels and regulatory conditions in the Lake Tahoe Region after the Angora fire. The Proclamation found that certain actions should be implemented to streamline and improve the planning and regulatory process for fuels management. Therefore, the Water Board and the TRPA are proposing this cooperative MOU approach to simplify the existing regulatory system of permitting fuel reduction projects in the Lake Tahoe Region.

02-0002

Project Description

The MOU will designate the TRPA as the lead agency for permitting, review, and enforcement for vegetation management activities in the Lake Tahoe Region, with certain conditions. The TRPA has the independent legal mandate and statutory authority to perform these functions, as described in the proposed resolution (findings G and H). The Water Board is not delegating or transferring any authority to the TRPA, as this is not possible under the Water Code.

The waiver and MOU are conditional, in that projects must be effectively regulated by the TRPA, including issuing permits as appropriate, conducting inspections, and taking enforcement action as necessary to ensure compliance with permits and applicable regulations. Further, the waiver and MOU do not limit the authority of either agency to ensure compliance with its environmental standards or to take enforcement action.

Additionally, the MOU contains several safeguards to ensure that it is effective in meeting its objectives. These safeguards include:

- notification requirements if a third party violates the term of any permit or project authorization (Agreement 7)
- consultation "triggers" for more complex activities that may benefit from interagency communication (Agreement 6)
- yearly information exchange regarding the projects that each agency has authorized to proceed under the MOU (Agreement 8)
- twice-yearly communication, training, and technical review to discuss any problems, issues or opportunities encountered during the administration and implementation of the MOU (Agreement 12)

These safeguards provide opportunities for adaptive management and communication necessary to ensure the objectives of the MOU are met, and that projects are effectively regulated under the waiver and MOU.

The MOU and waiver of waste discharge requirements identify three situations under which the Water Board may become a permitting agency. These are: (1) if the TRPA requests that the Water Board assume responsibility for permitting a project (typically due to staff resources or project complexity); (2) if a project-specific environmental document identified potentially significant impacts that are not mitigated to a less than significant level, either through

actions proposed by the project applicant or by permit conditions; or (3) when the Water Board determines that separate regulation is needed to ensure protection of water quality.

While the Water Board does not anticipate being a permitting agency, these provisions are included to ensure projects are not delayed due to resource limitations, to recognize that projects with significant environmental impacts were not analyzed in the environmental document prepared for the MOU and waiver, and to be transparent that the Water Board is not relinquishing its statutory authority to protect water quality.

Water Board staff has met with several stakeholders to explain the purpose of the proposed action. Following these meetings, staff made a number of revisions to the Resolution and MOU and produced a Fact Sheet (Enclosure 5) to clarify the provisions of the Resolution/waiver and MOU.

RECOMMENDATION:

Adopt the resolution as proposed, including certification of the Negative Declaration.

ENCLOSURES:

1. Resolution
2. Memorandum of Understanding
3. CEQA Initial Study
4. Negative Declaration
5. Fact Sheet for MOU and Waiver
6. Public and Agency Comment Letters received by November 24, 2008

02-0004

ENCLOSURE 1

02-0005

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

RESOLUTION NO. R6T-2008-(PROPOSED)

**WAIVER OF FILING A REPORT OF WASTE DISCHARGE AND WAIVER OF WASTE
DISCHARGE REQUIREMENTS FOR VEGETATION MANAGEMENT ACTIVITIES
REGULATED BY THE TAHOE REGIONAL PLANNING AGENCY
AND
AUTHORIZING THE LAHONTAN WATER BOARD'S EXECUTIVE OFFICER TO
ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE TRPA**

INTRODUCTION

This resolution waives the need for proponents of vegetation management activities in the Lake Tahoe Basin to apply for or receive timber harvest or vegetation management permits from the California Regional Water Quality Control Board, Lahontan Region, (Water Board), before initiating work on their project. In order to take advantage of this waiver of filing a report of waste discharge (i.e., project application) with the Water Board or receiving waste discharge requirements (i.e., permit) from the Water Board, the project must be regulated by the Tahoe Regional Planning Agency (see Waiver and Conditions, paragraph 1, of this Resolution) under any of its authorizations (e.g., exempt, qualified exempt, or tree removal permits) and the project must not cause a significant adverse effect to the environment that cannot be mitigated to a level of insignificance (see Waiver and Conditions, paragraph 2, of this Resolution).

This waiver applies to the California portion of the Lake Tahoe Basin under mutual jurisdiction of the Water Board and the TRPA. The Lake Tahoe Basin includes lands in El Dorado and Placer Counties, California, which are tributary to Lake Tahoe. The California portion under the jurisdiction of both the TRPA and the Water Board does not include the Alpine County portion of the Lake Tahoe watershed, but does include part of the Truckee River Hydrologic Unit, between the Lake Tahoe outlet dam and the Bear Creek confluence.

FINDINGS

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region, (Water Board) finds:

- A. California Governor Arnold Schwarzenegger issued a Proclamation strongly encouraging the Lahontan Water Board and the TRPA to take expedited action to implement the recommendations of the California-Nevada Tahoe Basin Fire Commission that relate to the Lahontan Water Board and the TRPA.

02-0006

- B. The California-Nevada Tahoe Basin Fire Commission Report of May 2008 recommended the Governor of the state of California direct, within the framework of his legal authority, the Water Board to transfer to TRPA no later than October 1, 2008, by a suitable Memorandum of Understanding (MOU), all responsibility of the Water Board relating to fuel reduction projects performed within the Lake Tahoe Basin. The intent is to have an expedited single permitting process, eliminating the need for the Water Board to issue a second permit, and to achieve consistency in the application of environmental laws as it relates to these kinds of projects in the Lake Tahoe Basin.
- C. The Water Board and TRPA recognize that areas of overlapping authority and regulatory effort exist in the operations of the two agencies, and that it will be mutually beneficial to the Water Board, TRPA, and the regulated community to avoid unnecessary duplicative regulation.
- D. The Water Board and TRPA have developed a streamlined, cooperative approach toward effective regulation of vegetation management activities in the Lake Tahoe Basin by entering into a MOU designating the TRPA as the agency responsible for review and permitting vegetation management projects.
- E. Lake Tahoe is a designated Outstanding National Resource Water whose quality and beneficial uses are threatened by sediment, nutrient, and other pollutant loading from a variety of sources. Control of these sources is of major interest to the States of California and Nevada and the federal government.
- F. The Water Board is an agency of the state of California, empowered by the federal Clean Water Act, the Porter-Cologne Water Quality Control Act, and other federal and state laws to set water quality standards and to regulate activities in the California portion of the Lake Tahoe Basin which may have an adverse effect on water quality.
- G. TRPA is required by the Tahoe Regional Planning Compact (P.L. 96-551, 94 Stat. 3233, Cal. Govt. Code 66801; NRS 277.200) to regulate activities within the Lake Tahoe Region, which may have a substantial effect on natural resources of the Region. To protect these resources, the Compact directs TRPA to establish and ensure attainment of environmental standards, including water quality, soil conservation, and fisheries.
- H. The TRPA is the designated water quality planning agency under Section 208 of the Clean Water Act. The TRPA's "208 Plan" was certified by the states of California and Nevada and the USEPA, and establishes control measures to protect water quality including a tree removal permit system, stream environment zone and wetland protection policies, vegetation protection and management provisions, prohibitions against fill in 100-year floodplains, and use of Best Management Practices (BMPs). The TRPA's Regional Plan also provides for attaining and

maintaining the strictest water quality standards established by federal or state agencies as required by Article 5, section 5(d) P.L. 96-551, and the TRPA Code of Ordinances incorporates water quality standards as equally restrictive as those contained in the Water Quality Control Plan for the Lahontan Region (Lahontan Basin Plan).

- I. California Water Code Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than to a community sewer system, shall file with the appropriate Water Board a report of waste discharge (ROWD) containing such information and data as may be required by the Water Board.
- J. The Water Board has a statutory obligation to prescribe waste discharge requirements, except where the Water Board determines, after any necessary regional board meeting, that a waiver of waste discharge requirements for a specific type of discharge is consistent with any applicable state or regional water quality control plan and is in the public interest pursuant to California Water Code Section 13269.
- K. California Water Code Section 13269 includes the following provisions:
 - a. A waiver may not exceed five years in duration, but may be renewed by the regional board.
 - b. The waiver shall be conditional and may be terminated at any time by the regional board.
 - c. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except the regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.
 - d. Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions.
 - e. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors.
 - f. Monitoring results must be made available to the public.
 - g. The Water Board may include as a condition of a waiver the payment of an annual fee established by the State Water Resources Control Board (State Water Board). At the time of this hearing, the State Water Board has not established annual fee regulations with respect to vegetation management activities.

- L. The Water Board finds that waiving the filing of a ROWD and waste discharge requirements for the following types of vegetation management activities within the area of mutual jurisdiction of the TRPA and the Lahontan Water Board is in the public interest when such activities are effectively regulated by the TRPA:

Activities related to the management of vegetation for the purposes of:

- a. fuel reduction;
- b. forest thinning;
- c. environmental improvement (such as forest enhancement, riparian enhancement, and aspen stand enhancement);
- d. burned area rehabilitation;
- e. hazard tree removal;
- f. site preparation that involves disturbance of soil, burning of vegetation, or herbicide/pesticide application; or
- g. cutting or removal of trees and vegetation, together with all the work incidental thereto, including, but not limited to, construction, reconstruction, maintenance and decommissioning of roads, fuel breaks, stream crossings, landings, skid trails, or beds for the falling of trees.

Vegetation management activities do not include aquatic vegetation management, preparatory tree marking, surveying, or road flagging.

- M. The Water Board finds that waiving the filing of a report of waste discharge and/or waste discharge requirements for the categories of projects listed above would enable Water Board staff to use its resources effectively and to reduce duplicative regulatory requirements.
- N. Water Board staff has prepared a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) and state guidelines, and the Water Board has considered the Negative Declaration and determined there will be no significant adverse impacts to the environment from the waiver of filing a report of waste discharge and/or waste discharge requirements for the categories of projects specified herein that are regulated by the TRPA.
- O. The Water Board held a hearing on December 11, 2008 in South Lake Tahoe and considered all evidence concerning this matter.

THEREFORE BE IT RESOLVED:

WAIVER AND CONDITIONS

- 1. The Water Board waives the filing of a report of waste discharge and/or waste discharge requirements for all vegetation management activities and discharges (except for those projects identified in paragraph 2 below) in the areas of the mutual

jurisdiction of the TRPA and the Water Board if these activities are regulated by the TRPA.

2. The Water Board does **not** waive the filing of a report of waste discharge and waste discharge requirements for vegetation management activities with impacts that cannot be mitigated to less than significant levels. Such impacts are those identified in a California Environmental Quality Act environmental impact report, or a National Environmental Policy Act or TRPA environmental impact statement. Activities that cause such impacts were not considered in the Negative Declaration that the Water Board prepared as part of this action. Therefore, this waiver is not applicable to these activities unless a regulatory agency imposes conditions or requirements such that the impacts are mitigated to less than significant levels.
3. While very unlikely, some components of projects covered by this waiver of waste discharge requirements may be subject to regulation under Clean Water Act section 404 or any other federal permit or subject to a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act as a silvicultural point source as defined in 40 Code of Federal Regulations (CFR) section 122.27. This waiver is not a substitute for state water quality certification under section 401 of the federal Clean Water Act which is needed if a federal Clean Water Act section 404 is needed. Additionally, this waiver is not a substitute for an NPDES permit, should one be needed.
4. This waiver requires compliance with the Lahontan Basin Plan, TRPA's Regional Plan, and prohibits the creation of a pollution or nuisance.
5. This action waiving the filing of a report of waste discharge and waste discharge requirements is conditional as outlined in paragraphs 1 through 4, above, and the Executive Officer can recommend the Water Board adopt waste discharge requirements for any of the specific types of vegetation management activities or discharges, or any individual vegetation management activity or discharge, identified in Finding L above.

MOU AUTHORIZATION AND NEGATIVE DECLARATION CERTIFICATION

6. The Water Board authorizes and directs the Executive Officer to enter into a Memorandum of Understanding with the TRPA which describes the relationship between the Water Board and TRPA related to regulation projects subject to the waiver in paragraph 1 above. The Executive Officer is authorized to approve non-substantive changes in the MOU.
7. The Water Board certifies the Negative Declaration for this waiver and directs the Executive Officer to file all appropriate notices.

I, Harold J. Singer, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on December 11, 2008.

HAROLD J. SINGER
EXECUTIVE OFFICER

02-0011

ENCLOSURE 2

02-0012

MEMORANDUM OF UNDERSTANDING BETWEEN THE
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LAHONTAN
REGION, AND THE TAHOE REGIONAL PLANNING AGENCY
for
VEGETATION MANAGEMENT

INTRODUCTION

This Memorandum of Understanding (MOU) describes the roles and relationships between the Tahoe Regional Planning Agency (TRPA) and the California Regional Water Quality Control Board, Lahontan Region (Water Board) in regulating vegetation management activities in the area of the Lake Tahoe Basin under mutual jurisdiction of both agencies. The Water Board also adopted a waiver that exempts project proponents in the Lake Tahoe Basin from the need to apply for or receive timber harvest or vegetation management permits from the Water Board when such projects are regulated by the TRPA under this MOU.

The waiver is a separate document that provides the basis and conditions for the Water Board's reliance on the TRPA for permitting and review of vegetation management activities. Project proponents should review the waiver, titled *Waiver of Filing a Report of Waste Discharge and Waiver of Waste Discharge Requirements for Vegetation Management Activities Regulated by the Tahoe Regional Planning Agency*, available at <http://www.waterboards.ca.gov/lahontan/>.

The MOU and waiver apply to the California portion of the Lake Tahoe Basin under mutual jurisdiction of the Water Board and the TRPA. The Lake Tahoe Basin includes lands in El Dorado and Placer Counties, California, which are tributary to Lake Tahoe. The California portion under the jurisdiction of both the TRPA and the Water Board does not include the Alpine County portion of the Lake Tahoe watershed, but does include part of the Truckee River Hydrologic Unit, between the Lake Tahoe outlet dam and the Bear Creek confluence.

FINDINGS

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board), through direction to the Water Board Executive Officer, and the Tahoe Regional Planning Agency (TRPA) Governing Body, through direction to the TRPA Executive Director, have agreed to enter into this Vegetation Management Memorandum of Understanding (MOU); and

WHEREAS, California Governor Arnold Schwarzenegger issued a Proclamation strongly encouraging the Water Board and the TRPA to take expedited action to implement the recommendations of the California-Nevada Tahoe Basin Fire Commission; and

WHEREAS, the California-Nevada Tahoe Basin Fire Commission Report of May 2008 recommended the Governor of the State of California direct, within the framework of his legal authority, the Water Board to transfer to TRPA no later than October 1, 2008, by a suitable MOU, all responsibility of the Water Board relating to fuel reduction projects performed within the Lake Tahoe Basin. The intent is to have an expedited single permitting process, eliminating the need for the Water Board to issue a second permit, and to achieve consistency in the application of environmental laws as it relates to these kinds of projects in the Lake Tahoe Basin; and

WHEREAS, Lake Tahoe is a designated Outstanding National Resource Water whose quality and beneficial uses are threatened by sediment, nutrient, and other pollutant loading from a variety of sources. Control of these sources is of major interest to the States of California and Nevada and the federal government; and

WHEREAS, the Water Board is an agency of the State of California, empowered by the federal Clean Water Act, the Porter-Cologne Water Quality Control Act, and other federal and state laws to set water quality standards and to regulate activities in the California portion of the Lake Tahoe Basin which may have an adverse effect on water quality; and

WHEREAS, TRPA is required by the Tahoe Regional Planning Compact (P.L. 96-551, 94 Stat. 3233, Cal. Govt. Code section 66801 et seq.; NRS 277.200 et seq.) to regulate activities within the Lake Tahoe Region, which may have a substantial effect on natural resources of the Region. To protect these resources, the Compact directs TRPA to establish and ensure attainment of environmental standards for water quality, air quality, noise, recreation, soil conservation, wildlife habitat, vegetation preservation, scenic quality, and fisheries. The Compact also directs TRPA to define which activities are exempt from TRPA review and approval. TRPA defines exempt activities in Chapter 4 of its Code of Ordinances; and

WHEREAS, the Water Board and TRPA are both responsible for implementing the bi-state Water Quality Management Plan for the Lake Tahoe Region ("208 Plan") and TRPA is recognized as one of the implementing agencies for certain California Water Quality Control Plan provisions applicable to the Lake Tahoe Basin. These provisions require compliance with water quality standards and the installation of BMPs for the control of erosion and stormwater on all improved properties in the California portion of the Lake Tahoe Basin, and prohibit disturbance of Stream Environment Zones (SEZs), with limited exceptions; and

WHEREAS, the Water Board and TRPA are interested in developing a streamlined, cooperative approach toward regulating vegetation management activities in the Lake Tahoe Basin; and

WHEREAS, the Water Board and TRPA recognize that areas of overlapping authority and regulatory effort exist in the operations of the two agencies, and that it will be mutually beneficial to the Water Board, TRPA, and the regulated community to avoid unnecessary duplicative regulation, and

WHEREAS, "vegetation management activities" include all activities related to the management of vegetation for the purposes of fuel reduction; forest thinning; and/or environmental improvement (such as forest enhancement, riparian enhancement, and aspen stand enhancement); cutting or removal of trees and vegetation, together with all the work incidental thereto, including, but not limited to, construction, reconstruction, maintenance, and decommissioning of roads, fuel breaks, stream crossings, landings, skid trails, or beds for the falling of trees; burned area rehabilitation, hazard tree removal; site preparation that involves disturbance of soil, burning of vegetation, or herbicide/pesticide application. Vegetation management activities do not include aquatic vegetation management, preparatory tree marking, surveying, or road flagging; and

WHEREAS, the Water Board finds that this MOU provides assurance that vegetation management activities conducted in the California portion of the Lake Tahoe Basin will be permitted by the TRPA in a manner that is protective of water quality such that separate permitting by the Water Board will not be necessary. Therefore, this MOU provides the basis for the Water Board to adopt a waiver of the need to file a report of waste discharge and/or receive waste discharge requirements for discharges associated with vegetation management activities regulated by TRPA.

AGREEMENTS

NOW THEREFORE, the Water Board and TRPA agree as follows:

Review and Permitting

1. TRPA will have responsibility for reviewing vegetation management activity proposals, issuing permits as appropriate, conducting inspections, and taking enforcement action as necessary to ensure compliance with permits and applicable regulations. This includes exempt and qualified exempt activities, as defined in the TRPA Code of Ordinances.
2. TRPA, as the agency responsible for project review and permitting, may request that the Water Board assume responsibility for permitting specific projects or provide assistance to TRPA for any actions described in Paragraph No. 1 above due to staff resource limitations, project complexity or other similar situations. The primary goal of any transfer of responsibility is to ensure timely permitting of projects.

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3. The agency issuing a permit for the vegetation management activity, whether TRPA or the Water Board, will be solely responsible for approval of exemptions to prohibitions related to SEZ disturbance. Granting of such exemptions will not be delegated to an agency not a party to this MOU. Exemptions shall be considered in accordance with the TRPA Code of Ordinances or the Water Quality Control Plan for the Lahontan Region (Basin Plan), depending on the agency issuing the permit.
4. The agency issuing a permit to conduct vegetation management activities will conduct any required pre-project and final inspections, and will be responsible for granting a variance to the October 15 – May 1 soil disturbance prohibition period, if applicable.
5. This MOU does not cover vegetation management projects with impacts that cannot be mitigated to less than significant levels. Such impacts are those identified in a California Environmental Quality Act environmental impact report, or a National Environmental Policy Act or TRPA environmental impact statement. If another regulatory agency imposes conditions or requirements such that the impacts are mitigated to less than significant levels, then the project may proceed under the provisions of this MOU.

Notification and Coordination

6. Consistent with the provisions of Paragraph No. 2 above, TRPA will notify and may consult the Water Board, during the application review period for vegetation management activities that propose any one or more of the following items:
 - a) Permanent crossings bridging a perennial reach of a watercourse.
 - b) Temporary "wet" crossings (vehicles crossing through a channel when water is present).
 - c) Herbicide/pesticide use, excluding use of Borax/Sporax.
 - d) New permanent road construction over 3,000 linear feet, temporary road construction that will not be decommissioned prior to October 15 of each year.
 - e) Treatment areas of more than five hundred (500) total acres or one hundred (100) acres of verified stream environment zone lands.
 - f) Equipment operations on slopes over 30 percent.

Such consultation may include, but not be limited to, technology sharing, and discussion of Best Management Practices and appropriate control and mitigation measures as represented through the permit conditions. Consultation activities will occur in a manner that does not alter the normal permitting time that the lead permitting agency is committed to follow and

lack of timely response by the other agency will not delay project permitting.

7. TRPA and the Water Board shall notify each other within five (5) business days of confirming that any person or entity has violated the terms of any permit or project authorization or violated other applicable rules governing vegetation management activities, as covered in the TRPA Code of Ordinances or in the Water Board's Basin Plan.
8. By February 1 of each year, each agency must submit to the other agency a list of all vegetation management activities which that agency authorized to proceed under this MOU during the preceding calendar year (January through December), and provide, as appropriate, activity details including, but not limited to: project proponent, project location, and any compliance issues associated with the project. The list of projects maintained by the Tahoe Fire and Fuels Team can be used to satisfy this provision. TRPA and Lahontan will meet at least semi-annually to review, at a programmatic level, activities and actions taken pursuant to this MOU.

Dispute Resolution Procedures

9. Any dispute between TRPA and the Water Board over the interpretation or implementation of this MOU, including but not limited to implementation of the actions covered by this MOU, shall be resolved expeditiously and at the lowest staff level possible. However, if a dispute cannot be resolved by the Water Board executive officer and the TRPA executive director, each agency is free to proceed with actions it believes are appropriate and legal.

General Provisions

10. Nothing in this MOU shall be construed to limit the authority of either the Water Board or TRPA to ensure compliance with its environmental standards and regulations or to take enforcement action.
11. This MOU is strictly between TRPA and the Water Board for the mutual jurisdictional area in the state of California and cannot be superseded by a different MOU or other agreement with a different person or entity.
12. Staff of the Water Board and TRPA shall cooperatively provide training, technical review, and comments to each other, as appropriate, and shall discuss, on at least a semi-annual basis, any issues, problems, and opportunities encountered during administration and implementation of this MOU.

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13. A staff person and an alternate from each agency shall be designated as the liaison for the implementation of this MOU. Each agency must dedicate staff to adequately implement the provisions of this MOU.
14. This MOU takes effect upon the signature of the Water Board executive officer and the TRPA executive director and remains in effect until terminated. This MOU may be amended upon written request of either the TRPA or Water Board and the subsequent written concurrence of the other. Either the TRPA or Water Board may terminate this MOU with a 60-day written notice to the other. Both TRPA and the Water Board hereby agree to cooperate in good faith to carry out the provisions of this MOU to achieve the objectives set forth herein.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LAHONTAN REGION

Dated: _____
Harold J. Singer
Executive Officer

TAHOE REGIONAL PLANNING AGENCY

Dated: _____
John Singlaub
Executive Director

02-0018

ENCLOSURE 3

02-0019

California Environmental Quality Act
(CEQA)

INITIAL STUDY

Supporting the Preparation of a Negative Declaration

for

A Resolution Waiving Waste Discharge Requirements
for Vegetation Management Activities
Regulated by the Tahoe Regional Planning Agency (TRPA)
and

Authorizing the Lahontan Water Board's Executive Officer to Enter into a
Memorandum of Understanding with the TRPA

December 11, 2008

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PROJECT DESCRIPTION

The California Regional Water Quality Control Board, Lahontan Region (Water Board) is considering the adoption of a resolution waiving the filing of a report of waste discharge and waste discharge requirements for discharges associated with vegetation management activities in the Lake Tahoe Region, and authorizing the Water Board's Executive Officer to enter into a Memorandum of Understanding (MOU) with the Executive Director of the Tahoe Regional Planning Agency (TRPA). The MOU will designate the TRPA as the lead agency for permitting, review, and enforcement for vegetation management activities in the Lake Tahoe Region, with certain conditions.

The definition of **vegetation management activities** for the purpose of this project is:

Activities related to the management of vegetation for the purposes of: fuel reduction; forest thinning; environmental improvement (such as forest enhancement, riparian enhancement, and aspen stand enhancement); burned area rehabilitation; hazard tree removal; site preparation that involves disturbance of soil, burning of vegetation, or herbicide/pesticide application; or cutting or removal of trees and vegetation, together with all the work incidental thereto, including, but not limited to, construction, reconstruction, maintenance, and decommissioning of roads, fuel breaks, stream crossings, landings, skid trails, or beds for the falling of trees. Vegetation management activities do not include aquatic vegetation management, preparatory tree marking, surveying, or road flagging.

The Water Board and the TRPA are both responsible for protecting water quality and beneficial uses of waters of the State within the Lake Tahoe Region by regulating activities which may have an adverse effect on these resources. In fulfilling its responsibilities, the Water Board has developed and implemented a program for regulating timber harvest and vegetation management activities through a waiver of waste discharge requirements related to timber harvest and vegetation management activities (Timber Waiver [Water Board Order No. R6T-2007-0008]). The Timber Waiver applies to projects throughout the Lahontan Region, including the Lake Tahoe Region.

Likewise, the TRPA regulates vegetation management activities in the Lake Tahoe Region through a tree removal permitting system and memoranda of understanding with land management agencies and fire districts. The programs of both agencies focus on ensuring impacts to water quality are avoided, the beneficial uses of waters of the State are protected, and that all feasible mitigation measures are implemented.

However, the vegetation management permitting systems of the Water Board and the TRPA are duplicative in that they implement and enforce the same or similar regulations and prohibitions. Under the current regulatory approach, project proponents

must have approval from both agencies, typically under a Timber Waiver (Water Board) and as an exempt or qualified exempt project, or under a tree removal permit (TRPA).

PURPOSE OF AND NEED FOR PROJECT

The purpose of the proposed project is to simplify the existing regulatory system of permitting of fuel reduction projects in the Lake Tahoe Region.

The need for the project was identified in several recent documents: the *Community Wildfire Protection Plan for the California portion of the Lake Tahoe Basin* (November 2004), the *Lake Tahoe Basin Multi-jurisdictional Fire Reduction and Wildfire Prevention Strategy 10-year Plan* (December 2007), and the *California-Nevada Tahoe Basin Fire Commission Report* (May 2008). The latter two documents were developed following the June - July 2007 Angora fire in South Lake Tahoe, which damaged or destroyed hundreds of structures and utilities and burned over 3,000 acres of forested land within the project area.

The *Community Wildfire Protection Plan for the California Portion of the Lake Tahoe Basin* (CWPP) identified significant wildfire hazards that exist in and around the communities of Lake Tahoe, and proposed fuel reduction projects for their mitigation. On the California side of the Lake Tahoe Basin, a total of approximately 18,350 acres were proposed for defensible space treatments across multiple land ownerships.

The *Lake Tahoe Basin Multi-jurisdictional Fire Reduction and Wildfire Prevention Strategy 10-year Plan* (10-year plan) reported that most communities in the Tahoe Basin, as part of the National Fire Plan, were designated in the Federal Register (66 FR 751, January 4, 2001) as high risk for damage from wildfire. Based on this and other legislation, and because of the recent Angora fire, the 10-year plan proposes a continued public involvement strategy to work with homeowners on making their residences fire safe. In addition, the plan proposes 68,000 acres of vegetative fuel treatments across multiple jurisdictions to create defensible space and reduce fuels in the general forest. The treatments are prioritized to protect communities and people in areas that are most at risk.

On May 27, 2008, following review of the *California-Nevada Tahoe Basin Fire Commission Report* (Fire Commission report), Governor Arnold Schwarzenegger issued a Proclamation regarding current forest fuels and regulatory conditions in the Lake Tahoe Region following the Angora fire. The Proclamation found that a state of emergency exists within the Tahoe Basin counties of Placer and El Dorado relative to wildfire risk, and that certain actions should be implemented to improve fire suppression, fuels management, planning, and regulatory streamlining. The Governor's Proclamation found that the current regulatory environment within the Tahoe Basin for fuels treatment projects:

" . . . is confusing, overly complex and often incompatible with the immediate need to mitigate the threat of catastrophic wildfire, and that such regulation and procedures require the immediate attention of agencies and authorities having jurisdiction over the health and conditions of the forests in the Basin, including but not limited to the TRPA, in order to eliminate or otherwise reduce the adverse effects of confusing, overlapping, or unnecessarily restrictive regulations and regulatory procedures"

Therefore, the Water Board and the TRPA are proposing this cooperative approach to regulating vegetation management activities to fulfill the purpose and need for the project, as outlined above.

CONSISTENCY WITH PLANS AND POLICIES FOR WATER QUALITY PROTECTION

The Water Board proposes to make a determination that waiving the filing of a report of waste discharge and waste discharge requirements for discharges associated with these types of projects, when effectively regulated by the TRPA, will not adversely affect the waters of the State and is in the public interest, consistent with the requirements of California Water Code (CWC) section 13269. To ensure that this waiver is in the public interest and consistent with the Water Quality Control Plan for the Lahontan Region (Basin Plan), the Water Board will outline conditions of applicability of the waiver within the Vegetation Management MOU consistent with CWC section 13269, subdivision (a)(1). Further, the MOU will contain certain provisions to ensure the public's interest is protected.

The resolution waiving the filing of a report of waste discharge and waste discharge requirements requires, as will the MOU with the TRPA, compliance with all applicable provisions of the Basin Plan. If the Water Board or TRPA finds that the MOU is not effective at protecting water quality, the MOU can be terminated by either party with a 60-day notice. Any activity for which waste discharge requirements has been waived by the Water Board may be considered a project requiring waste discharge requirements, or enrollment under the Timber Waiver, if the Board determines that the TRPA has failed to adequately regulate the activity, or the activity may have an adverse effect on water quality.

A provision of the Vegetation Management MOU will specify conditions under which Water Board staff would be consulted about proposed vegetation management activities within the Lake Tahoe Region for projects that may have a potentially significant impact to water quality or beneficial uses of waters of the State. The opportunity for Water Board staff's involvement would be based on a list of project thresholds. The proposed thresholds are:

- 1) Permanent crossings bridging a perennial reach of a watercourse.
- 2) Temporary "wet" crossings (vehicles crossing through a channel when water is present).

- 3) Herbicide/pesticide use, excluding use of Borax/Sporax.
- 4) New permanent road construction over 3000 linear feet, temporary road construction that will not be decommissioned prior to the winter, or new or temporary road construction on slopes over 30 percent.
- 5) Treatment areas of more than five hundred (500) total acres or one hundred (100) acres of verified stream environment zone lands.
- 6) Equipment operations on slopes over 30 percent.

If any of these thresholds are exceeded by a proposed project, then TRPA staff would consult with Water Board staff early in the application or project consultation period of the vegetation management project proposal. Further, the Water Board's role as a responsible agency on the review team for timber harvest plans (as defined in the California Forest Practice Rules) on private lands in the project area will remain unchanged.

CWC section 13269 (a)(3) requires that waivers contain monitoring requirements to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. The state board or a regional board may waive the monitoring requirements for discharges that it determines do not pose a significant threat to water quality. The proposed waiver and MOU are consistent with these monitoring requirements.

TRPA's Code of Ordinances (Chapter 71) specifies that TRPA shall conduct pre-approval field review, pre-harvest field review, and post-harvest field review for substantial tree removal projects on private parcels. For substantial tree removal on USFS-administered parcels, TRPA conducts monitoring and evaluation. For other public parcels, the process is the same as for private parcels. "Substantial tree removal" is defined in the Code of Ordinances as activities on project areas of twenty acres or more and proposing the removal of more than 100 live trees ten inches diameter at breast height (dbh) or larger, or proposing the removal of more than 100 live trees ten inches dbh or larger within land capability districts 1a, 1b, 1c, 2, or 3 regardless of the project area, or proposing tree removal that, as determined by TRPA after a joint inspection with appropriate state or federal Forestry staff, does not meet the minimum acceptable stocking standards set forth in Subsection 71.4.B. of the Code.

TRPA also requires monitoring of projects conducted in SEZs using "innovative technology" vehicles and/or "innovative techniques" for the purpose of fire hazard reduction, provided that no significant soil disturbance or significant vegetation damage will result from the use of equipment. TRPA conducts a pre-operation inspection of the site to decide if vehicle use is appropriate for the given situation, to verify the boundaries of the SEZ, and to identify other areas of concern. Projects must be monitored to ensure that the SEZ has not sustained any significant damage to soil or vegetation. Along with the project proposal, adaptive management concepts should be applied to the monitoring plan. A monitoring plan must be submitted with all project proposals, including at a minimum: a list of sites and attributes to be monitored; specification of who will be responsible for conducting the monitoring and report; and a monitoring and reporting schedule.

In addition, Chapter 32 of TRPA's Code of Ordinances specifies that pursuant to the Goals and Policies, TRPA shall carry out a monitoring program, including a long-term strategy and short-term monitoring workplan. The monitoring program shall evaluate environmental quality, indicators, compliance measures, interim targets, and other related items by the specific methods set forth in the monitoring program.

The MOU also specifies several conditions to ensure that Water Board and TRPA staff persons communicate regarding the effectiveness of the waiver and MOU in protecting water quality. These conditions include notification requirements if a third party violates the term of any permit or project authorization; "triggers" for more complex projects that may benefit from interagency consultation; yearly information exchange regarding the projects that each agency has authorized to proceed under the MOU; and twice yearly communication, training, and technical review to discuss any problems, issues or opportunities encountered during the administration and implementation of the MOU. These conditions provide opportunities for adaptive management and communication necessary to ensure the objectives of the MOU are met, and that projects are effectively regulated under the waiver and MOU. The above-described monitoring activities demonstrate that the proposed project is consistent with CWC section 13269 (a)(2).

Waiving waste discharge requirements and entering into an MOU with the TRPA does not limit the enforcement authority of the Water Board, and the Water Board may take enforcement action as necessary to ensure compliance with its environmental standards and regulations. Under the proposed MOU, the Water Board does not waive filing of a report of waste discharge and waste discharge requirements for vegetation management activities with impacts that cannot be mitigated to less than significant levels, such as those identified in a California Environmental Quality Act environmental impact report, or a National Environmental Policy Act or TRPA environmental impact statement.

The TRPA is mandated by Public Law (P.L.) 96-551 (the Tahoe Regional Planning Compact), to protect the quality of water at Lake Tahoe and has adopted thresholds and ordinances aimed specifically at protecting and improving water quality. The TRPA is the designated water quality planning agency under Section 208 of the Clean Water Act. The TRPA's "208 Plan" was certified by the states of California and Nevada and the USEPA, and establishes control measures to protect water quality including a tree removal permit system, stream environment zone and wetland protection policies, vegetation protection and management provisions, and use of Best Management Practices (BMPs). The TRPA's Regional Plan also provides for attaining and maintaining the strictest water quality standards established by federal or state agencies as required by Article 5, section 5(d) P.L. 96-551, and the TRPA Code of Ordinances incorporates water quality standards as equally restrictive as those contained in the Lahontan Basin Plan.

TRPA's Code of Ordinances outlines the procedures by which TRPA regulates vegetation management activities. For example, Chapter 20 contains discharge prohibitions against permanent disturbance in SEZs that are equal to those contained in Chapter 5 of the Lahontan Basin Plan. Exemption criteria and mitigation requirements necessary for certain projects to proceed in these areas are essentially the same as those contained in the Basin Plan. TRPA's prohibitions against the discharge of solid or liquid waste to surface waters are also equivalent to those found in the Lahontan Basin Plan. TRPA's Code of Ordinances, Chapter 71, contains project review, approval and monitoring requirements, and standards for tree removal, management techniques, cutting practices, logging road and skid trail construction, slash disposal, and prescribed burning. TRPA implements these procedures to comply with the 208 Plan and fulfill its natural resource protection mandates, including water quality, habitat, and soils protection.

Under the proposed Vegetation Management MOU, the TRPA will have responsibility for reviewing projects, issuing permits, conducting inspections and taking enforcement action as necessary to ensure compliance with permits and applicable regulations, including its Code of Ordinances, "208 Plan," and the Basin Plan. The TRPA's enforcement mechanisms include issuing notices of correction, notices of violation, and cease and desist orders. The Executive Director of the TRPA can revoke project permits in certain cases. The TRPA Governing Board can authorize legal counsel to pursue judicial remedies, including declaratory and injunctive relief, and civil penalties pursuant to Article VI (1) of the TRPA Compact.

The MOU approach between the Water Board and the TRPA is currently used to regulate various construction, BMP, and groundwater cleanup projects in the Lake Tahoe Region, and has been shown to be effective in doing so. In 2003, the Water Board and TRPA executed an MOU defining a cooperative approach toward implementation of water quality plan provisions related to prevention of water pollution; control of erosion, sediment, storm water and wastewater; and cleanup activities for ground water contamination. Primary and secondary permitting, review, and enforcement responsibilities are outlined, with coordination requirements to track the effectiveness of the 2003 MOU in protecting water quality. The 2003 MOU is mutually beneficial to the Water Board, TRPA and the regulated public to avoid unneeded duplicative regulation, while still protecting water quality.

This MOU does not limit or change the existing permitting authorities or responsibilities of other agencies. For example, on private timberlands, CAL FIRE is the lead agency for conducting CEQA and issuing permits to timberland owners and operators performing vegetation management activities within the project area. On lands managed by the US Forest Service, approval to conduct timber harvest and vegetation management activities is only granted after the US Forest Service has prepared environmental documents to comply with the National Environmental Policy Act (NEPA). On lands owned and/or managed by the State of California (i.e., California Department of Parks and Recreation, and the California Tahoe Conservancy, California Department of Transportation), approval to conduct timber harvest and vegetation

management activities is granted only after environmental analysis in compliance with the California Environmental Quality Act (CEQA) is completed.

As described above, the proposed project is consistent with applicable plans and policies regarding water quality protection in the mutual jurisdiction of the Water Board and the TRPA.

ENVIRONMENTAL SETTING

The project area is the California portion of the Lake Tahoe Region under mutual jurisdiction of the Water Board and the TRPA (Figure 1). The "Lake Tahoe Region" is defined by P.L. 96-551, and includes lands in El Dorado and Placer Counties, California, which are tributary to Lake Tahoe. The California portion under the jurisdiction of both the TRPA and the Water Board does not include the Alpine County portion of the Lake Tahoe watershed, but does include part of the Truckee River Hydrologic Unit, between the Lake Tahoe outlet dam and the Bear Creek confluence. References to the Lake Tahoe Basin in this document are synonymous with the project area described above.

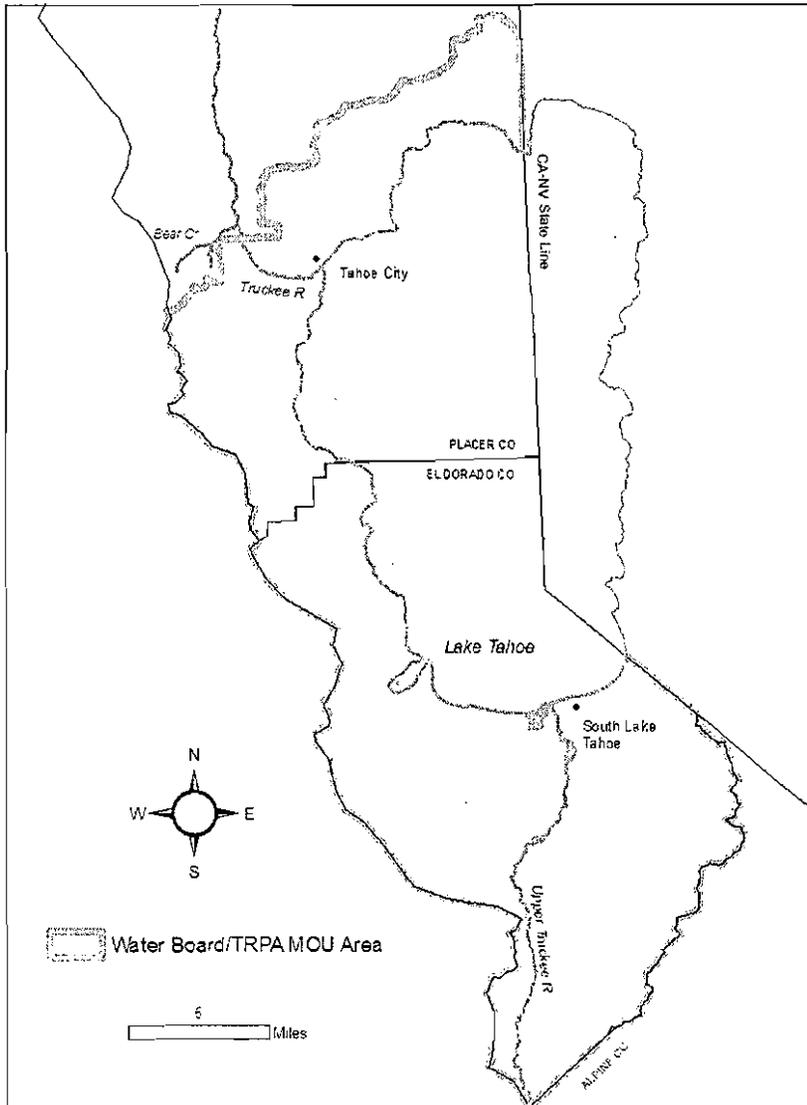


Figure 1. MOU Area

The Lake Tahoe Region is comprised of about 500 square miles of land within both California and Nevada, of which approximately 70 percent is within California. Approximately 40 percent of the Lake Tahoe watershed is occupied by Lake Tahoe itself. The majority of the land surface within the Lake Tahoe Region is forested land, mainly owned and managed by the US Forest Service - Lake Tahoe Basin Management Unit (LTBMU). Other large land managers within California portion of the Lake Tahoe Region include the California Department of Parks and Recreation, the California Tahoe Conservancy, and private ski resort companies. Land uses within the Lake Tahoe Region are primarily residential, commercial, recreation and open space. The Lake Tahoe Region has a legacy of commercial forestry, grazing and limited mining.

Lake Tahoe is a designated Outstanding Natural Resource Water, renowned for its extraordinary clarity and deep blue color. Since the 1960s, Lake Tahoe has become impaired by declining transparency and increased phytoplankton productivity due to increased sediment and nutrient loading attributable to human activities. Under federal and state antidegradation regulations and guidelines, no further degradation of Lake Tahoe can be permitted, except for limited and temporary circumstances.

BASELINE CONDITIONS FOR PROPOSED PROJECT

CEQA requires a Lead Agency to prepare an Initial Study to determine whether a project may have a significant effect on the environment (Cal. Code Regs., tit. 14, section 15063(a)). A "significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance (Cal. Code Regs., tit. 14, section 15382).

To assess whether the proposed MOU may have a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, it is necessary to describe existing or baseline conditions before the MOU is adopted. For many projects subject to CEQA, baseline conditions are represented by the statement "no project", since the proposed project has not been built, or the proposed activity is not ongoing. In these cases, the magnitude of change may be substantial.

For this project, baseline conditions are not represented by the statement "no project", since all of the land management and most of the local fire agencies have been actively treating hazardous fuels near communities for many years. The National Fire Plan (2001) identified eight communities in the California portion of the Lake Tahoe Basin as "communities at risk." In response, over 14,000 acres of fuel reduction treatments have been completed in the Lake Tahoe Basin since 2000 (including the Nevada portion of the Lake Tahoe Basin, outside this MOU project area), averaging 1,856 acres annually in 2005–2006. Many urban lots have been treated as well, with the help of 21 local "Fire Safe" chapters formed through the Tahoe Regional Office of the Nevada Fire Safe Council.

In addition to the already completed vegetation management projects described above, a large number of fuels treatment and maintenance treatment projects are currently proposed. In all, over 6,000 fuel reduction treatments are proposed in the 10-year plan. Treatment sizes range from 0.1-acre urban lots to 500-acre general forest treatments. Combined, these represent approximately 68,000 acres of fuel reduction treatments proposed and prioritized for the next 10 years. These projects represent another baseline condition, as they were already identified prior to consideration of this proposed MOU.

Implementation of the proposed Vegetation Management MOU will not change the scope, methods, number or extent of projects proposed in the 10-year plan; nor will it change the fact that fuels management projects have, and will continue, to occur in the project area. We considered, however, whether simplifying the permitting process for vegetation management in the project area (via the MOU) has the potential to accelerate the implementation schedule of the 10-year plan and result in a significant effect on the environment. Whether substantial evidence exists to indicate that implementation of the MOU would have a significant effect on the environment is discussed in the next section.

DISCUSSION OF POTENTIAL EFFECTS OF PROPOSED PROJECT

This Initial Study is prepared to determine whether the project may have a significant effect on the environment. If the Water Board finds there is no substantial evidence that the project may have a significant effect on the environment, a Negative Declaration may be adopted. A significant effect on the environment is defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance (Cal. Code Regs., tit. 14 section 15382).

"Substantial evidence" as used in the CEQA Guidelines, means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached" (Cal. Code Regs., tit. 14, section 15384(a)). Substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or evidence which is clearly erroneous or inaccurate, does not constitute substantial evidence (Cal. Code Regs., tit. 14, section 15384(a)).

As described above, implementation of the Vegetation Management MOU will not change the regulatory requirements, statutory authorities, or enforcement abilities of the Water Board or the TRPA. However, the stated purpose of this project is to simplify the existing vegetation management permitting system. As a result of this simplified process, a potential outcome is that vegetation management activities (e.g., as proposed in the 10-year plan) could be carried out more rapidly than current implementation plans indicate.

This expedited schedule could result in changes to the environment due to more projects occurring over a condensed time frame. Such changes would be limited to air quality impacts, due to the potential for more acres of prescription burns occurring at one time. It is important to note that due to the limits on allowable burn days, and amount of burning allowed on those days, even if projects were implemented more quickly, it is not clear that this would result in more prescribed burning at one time. However, Water Board staff recognizes the potential exists. Other CEQA

environmental factors (e.g., soils, biological and cultural resources, water quality) would not be adversely affected by an expedited implementation schedule, because impacts would remain unchanged whether projects were implemented on an expedited schedule or not. For example, vegetation management projects can be planned and implemented to avoid or minimize impacts to water quality, cultural, biological or soils resources, and these steps can be taken whether the projects are carried out expeditiously or not, but there is not a way to avoid producing smoke from a prescribed burn.

To determine whether there is substantial evidence to support that implementation of the MOU could result in substantially expedited fuels treatments over the current schedule, we reviewed the 10-year plan to determine what factors were considered in developing the proposed project implementation schedule, and whether permit simplification would cause a significant or potentially significant effect on the environment. We focused on the 10-year plan because it represents the bulk of projects that are likely to be implemented under the proposed MOU.

Review of the 10-year plan indicates that scheduling considerations included:

- funding levels
- treatment costs
- number of acres
- treatment type
- project design
- environmental compliance
- contracting processes

Additional considerations, based on Water Board staff experience, include:

- number of agency staff to review and permit projects
- available personnel to implement projects
- availability of equipment and equipment operators
- limited operating season due to weather conditions
- number of burn days allowed during the project season

Regarding environmental compliance issues, the 10-year plan illustrates the "regulatory influences" on vegetation management in the Lake Tahoe Basin (Figure 21, page 45). For California projects, the permitting requirements of the Lahontan Water Board represent just one of seven potential regulations or guidelines that apply to projects.

Environmental compliance is only one of the twelve bulleted elements that may influence the rate of implementation of vegetation management projects. The Water Board's permitting requirements constitute only one of seven potential regulations that may apply to projects. Therefore, it does not appear that the Water Board's permitting requirements alone would substantially influence the rate of project implementation. Funding and staffing levels, and more important to the issue of increased smoke, the

number of allowable burn days, are more substantial factors that limit the rate of project implementation. Based on this analysis, Water Board staff concludes there is no substantial evidence of a significant effect on the environment as a result of adoption of the MOU that would accelerate vegetation management project implementation in the Tahoe Basin over the currently proposed schedule.

In sum, fuels treatments have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan were identified prior to this proposed Vegetation Management MOU. Adoption of the MOU will not affect whether or not vegetation management occurs in the project area; rather, it assigns primary vegetation management permitting responsibility to the TRPA.

The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. We considered that implementation of the MOU could result in vegetation management activities occurring more quickly than currently predicted; however, numerous other constraints on the rate of project implementation (outlined above) indicate that this potential outcome is unsupported by substantial evidence. Therefore, any potential impacts resulting from increasing the rate of vegetation management projects are not foreseeable. The adoption of the MOU in the project area (the Lake Tahoe Region) will not result in direct adverse environmental effects, and the physical environment in the project area will not be changed from current conditions. Without substantial, or potentially substantial, adverse changes in the physical conditions within the area affected by the project, no significant effects are foreseeable. Individual findings for each CEQA environmental factor follow.

INITIAL STUDY/ENVIRONMENTAL CHECKLIST

1. **Project title:**
Resolution Waiving Waste Discharge Requirements for Vegetation Management Activities Regulated by the Tahoe Regional Planning Agency (TRPA) and Authorizing the Lahontan Water Board's Executive Officer to Enter into a Memorandum of Understanding with the TRPA, Lake Tahoe Region
2. **Lead agency name and address:**
California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board)
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
3. **Preparer and phone number:**
Anne Holden, (530) 542-5450
4. **Project location:**
The Lake Tahoe Region of California, including portions of El Dorado and Placer Counties.
5. **Project sponsor's name and address:**
Lahontan Water Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
Attn: Anne Holden
8. **Brief Description of project:**
The Lahontan Water Board and the Tahoe Regional Planning Agency (TRPA) propose to adopt a Memorandum of Understanding (MOU) regarding regulation of vegetation management activities. The MOU will designate the TRPA as the lead regulatory and permitting agency for vegetation management activities in the Lake Tahoe region.
9. **Surrounding land uses and setting:**
The proposed project affects the high elevation mountainous environment within the Lake Tahoe region. Land use is generally for commercial, residential, and recreational purposes.
10. **Other public agencies whose approval is required** (e.g., permits, financing approval, or participation agreement.)

The Executive Director of the TRPA must agree to the conditions of the MOU (indicated by signature) for it to become effective.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors marked below would be potentially affected by this project, as indicated by the checklist on the following pages.

	Aesthetics		Agriculture Resources		Air Quality
	Biological Resources		Cultural Resources		Geology Soils
	Hazards & Hazardous Materials		Hydrology/Water Quality		Land Use / Planning
	Mineral Resources		Noise		Population/Housing
	Public Services		Recreation		Transportation/Traffic
	Utilities/Service Systems		Mandatory Findings of Significance		

EVALUATION OF ENVIRONMENTAL IMPACTS

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect

to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. (Cal. Code Regs., tit. 14, section 15063(c)(3)(D).) In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

02-0036

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?				X

a-d) The proposed project (adoption of the Vegetation Management MOU) would not determine whether vegetation management activities will be implemented; rather, it proposes that permitting and review of these projects would be undertaken by the TRPA instead of the Water Board. Any and all regulations currently required to protect the aesthetics of the project area are not altered or weakened by the proposed MOU.

Fuels treatments have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan existed prior to this proposed Vegetation Management MOU. The MOU would not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. Because the aesthetic quality of the MOU project area (the Lake Tahoe Region) will not be changed from existing conditions, including foreseeably proposed projects, by the adoption of the MOU, the appropriate finding is *No Impact*.

02-0037

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

a-c) The proposed project would not involve converting or re-zoning agricultural land to non-agricultural use. There will be no change to agricultural resources in the project area over existing conditions due to the proposed MOU; therefore, the appropriate finding is *No Impact*.

02-0038

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

a-e) The proposed project (adoption of the Vegetation Management MOU) will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Lahontan Water Board.

The implementation of this project does not change the regulatory requirements, statutory authorities, or enforcement abilities of either the TRPA or the Lahontan Water Board, nor does it alter or weaken the requirements of any other agency which may have jurisdiction over air quality issues related to vegetation management (e.g., requirements for smoke management or dust abatement by the TRPA or the relevant county air districts). The primary effect of the project is a procedural change: designating one permitting authority for vegetation management in the project area. The project does not impose substantive changes; that is, it does not propose to

02-0039

change the types, locations, nature, methods, number or extent of vegetation management projects.

However, the stated purpose of this project is to simplify the existing vegetation management permitting system. As a result of this simplified process, a potential outcome is that vegetation management activities (e.g., as proposed in the 10-year plan) could be carried out more rapidly than current implementation plans indicate.

This expedited schedule could result in changes to the environment due to more projects occurring over a condensed time frame. Such changes could impact air quality, due to the potential for more acres of prescription burns occurring at one time. Because smoke can disperse and accumulate throughout the MOU project area and linger for a period of time, increasing the implementation rate of projects could reduce air quality over current conditions (i.e., the currently projected schedule for project implementation outlined in the 10-year plan).

It is important to note that due to the limits on allowable burn days, and amount of burning allowed on those days, even if projects were implemented more quickly, it is not clear that this would result in more prescribed burning at one time; however, Water Board staff recognize the potential exists. Other CEQA environmental factors (e.g., soils, biological and cultural resources, water quality) would not be adversely affected by an expedited implementation schedule, because impacts would remain unchanged whether projects were implemented on an expedited schedule or not. For example, vegetation management projects can be planned and implemented to avoid or minimize impacts to water quality, cultural, biological or soils resources, and these steps would be taken whether or not projects were carried out expeditiously, but there is not a way to avoid producing smoke from a prescribed burn.

To determine whether there is substantial evidence to support that implementation of the MOU could result in a significant effect on the environment through substantially expedited fuels treatments over the current schedule, we reviewed the 10-year plan to determine what factors were considered in developing the proposed project implementation schedule, and whether permit simplification would cause a significant or potentially significant effect on the environment. We focused on the 10-year plan because it represents the bulk of projects that are likely to be implemented under the proposed MOU.

Review of the 10-year plan indicates that scheduling considerations included:

- funding levels
- treatment costs
- number of acres
- treatment type
- project design
- environmental compliance
- contracting processes

02-0040

Additional considerations, based on Water Board staff experience, include:

- number of agency staff to review and permit projects
- available personnel to implement projects
- availability of equipment and equipment operators
- limited operating season due to weather conditions
- number of burn days allowed during the project season

Regarding environmental compliance issues, the 10-year plan illustrates the "regulatory influences" on vegetation management in the Lake Tahoe Basin (Figure 21, page 45). For California projects, the permitting requirements of the Lahontan Water Board represent just one of seven potential regulations or guidelines that apply to projects.

Environmental compliance is only one of the twelve bulleted elements that may influence the rate of implementation of vegetation management projects. The Water Board's permitting requirements constitute only one of seven potential regulations that may apply to projects. Therefore, it does not appear that the Water Board's permitting requirements alone would substantially influence the rate of project implementation. Funding and staffing levels, and more important to the issue of increased smoke, the number of allowable burn days, are more substantial factors that limit the rate of project implementation. Based on this analysis, Water Board staff concludes there is not substantial evidence to support that adoption of the MOU would have a significant effect on the environment by accelerating vegetation management project implementation in the Tahoe Basin over the currently proposed schedule.

In sum, fuels treatments have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan were identified prior to this proposed Vegetation Management MOU. Adoption of the MOU will not affect whether or not vegetation management occurs in the project area; rather, it assigns primary vegetation management permitting responsibility to the TRPA.

The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. We considered that implementation of the MOU could result in vegetation management activities occurring more quickly than currently predicted; however, numerous other constraints on the rate of project implementation (outlined above) indicate that this potential outcome is unsupported by substantial evidence. Therefore, Water Board staff concludes that there is no substantial evidence to support that adoption of the MOU would have a significant effect on the environment by accelerating implementation of vegetation management projects in the Tahoe Region over the currently proposed schedule. Therefore, impacts to air quality in the MOU project area (the Lake Tahoe Region) will not be changed over existing conditions by the adoption of the MOU, and the appropriate finding is *No Impact*.

02-0041

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

02-0042

a-f) The proposed project will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Water Board.

As described in previous sections, the implementation of this project does not change the regulatory requirements, statutory authorities, or enforcement abilities of either the TRPA or the Water Board, nor does it alter or weaken the requirements of any other agency which may have jurisdiction over biological resources related to vegetation management. The primary effect of the project is a procedural change: designating one permitting authority for vegetation management in the project area.

Vegetation management activities have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan existed prior to this proposed Vegetation Management MOU. The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. Therefore, any impacts to the biological resources of the MOU project area (the Lake Tahoe Region) will not be changed over existing conditions by the adoption of the MOU, and the appropriate finding is *No Impact*.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

a-d) The proposed project (adoption of the Vegetation Management MOU) will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Water Board.

02-0043

As described in previous sections, the implementation of this project does not change the regulatory requirements, statutory authorities, or enforcement abilities of either the TRPA or the Water Board, nor does it alter or weaken the requirements of any other agency which may have jurisdiction over cultural resources related to vegetation management. The primary effect of the project is a procedural change: designating one permitting authority for vegetation management in the project area.

Vegetation management activities have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan existed prior to this proposed Vegetation Management MOU. The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. Therefore, any impacts to the cultural resources of the MOU project area (the Lake Tahoe Region) will not be changed over existing conditions by the adoption of the MOU, and the appropriate finding is *No Impact*.

02-0044

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

02-0045

a i-iii) The proposed project does not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, or seismic-related ground failure, including liquefaction. Because the project does not involve these factors, the appropriate finding is *No Impact*.

a iv) The proposed project does not change the exposure of people or structures to potential substantial adverse effects involving landslides due to vegetation management activities over current conditions. The risk of landslides due to vegetation removal activities in the project area remains the same whether or not the proposed MOU is adopted. Because no change is foreseeable, the appropriate finding is *No Impact*.

b-c) The proposed project will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Water Board to avoid unneeded regulatory duplication.

Waiving waste discharge requirements and entering into an MOU with the TRPA does not limit the enforcement authority of the Water Board, and the Board may take enforcement action as necessary to ensure compliance with its environmental standards and regulations. Any activity for which waste discharge requirements have been waived by the Water Board may be considered a project requiring waste discharge requirements, or enrollment under the Lahontan Timber Waiver, if the Water Board determines the TRPA has failed to adequately regulate the activity or the activity may have a substantial adverse effect on soils and erosion.

The TRPA is mandated by Public Law (P.L.) 96-551 (the Tahoe Regional Planning Compact), to protect the natural resources within the Lake Tahoe Region. The Compact recognizes soil as a threatened natural resource of the Lake Tahoe Basin and requires the TRPA to protect the soil resources of the Basin. The TRPA's "208 Plan" was certified by the states of California and Nevada and the USEPA, and establishes control measures to protect soil resources including a tree removal permit system, stream environment zone and wetland protection policies, vegetation protection and management provisions, prohibitions against fill in 100-year floodplains, and use of Best Management Practices.

The proposed Vegetation Management MOU will require the TRPA to issue permits, conduct inspections and take enforcement action as necessary to ensure compliance with permits and applicable regulations, including its Code of Ordinances, "208 Plan," and the Basin Plan. The TRPA's enforcement mechanisms include issuing notices of correction, notices of violation, and cease and desist orders. The Executive Director of the TRPA can revoke project permits in certain cases. The TRPA Governing Board can authorize legal counsel to pursue judicial remedies, including declaratory and injunctive relief, and civil penalties pursuant to Article VI (1) of the TRPA Compact.

In summary, vegetation management activities have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan existed prior to this **02-0046**

proposed Vegetation Management MOU. The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. The proposed Vegetation Management MOU will require the TRPA to issue permits, conduct inspections and take enforcement action as necessary to ensure compliance with permits and applicable regulations, including its Code of Ordinances and "208 Plan", and the Basin Plan. Therefore, any impacts to geology and soils in the MOU project area (the Lake Tahoe Region) will not be changed over existing conditions by the adoption and implementation of the MOU, and the appropriate finding is *No Impact*.

d) The proposed project does not involve activities such as building construction that are subject to the Uniform Building Code. Because the project does not involve this element, the appropriate finding is *No Impact*.

e) The proposed project does not involve septic tanks or alternative wastewater disposal systems. Because the project does not involve these elements, the appropriate finding is *No Impact*.

02-0047

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS: Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X

02-0048

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
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a-c) The proposed project does not involve the transport, use, disposal, release, or transmission of hazardous materials. Because the project does not involve these elements, the appropriate finding is *No Impact*.

d) The proposed project does not alter or weaken any requirements to identify risks due to hazardous materials sites pursuant to Government Code Section 65962.5. Therefore, the appropriate finding is *No Impact*.

e-f) The project would not result in a change over current conditions related to activities near an airport or airstrip that would result in a safety hazard. Therefore, the appropriate finding is *No Impact*.

g) The project would not interfere with an emergency evacuation or response plan; therefore, the appropriate finding is *No Impact*.

h) The proposed project will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Water Board. The MOU does not propose changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. The primary purpose of the Vegetation Management MOU is to facilitate fuels reduction activities, and these activities should result in decreased risk of exposure to wildland fires. The appropriate finding is *No Impact*.

02-0049

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

a-j) The proposed project will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Water Board to avoid unneeded regulatory duplication.

The Water Board proposes to make a determination that waiving filing a report of waste discharge and waste discharge requirements for discharges associated vegetation management activities will not adversely affect the waters of the State and is in the public interest, consistent with the requirements of California Water Code (CWC) section 13269. To ensure that this waiver is in the public interest and consistent with the Basin Plan, the Water Board will outline conditions of applicability of the waiver within the Vegetation Management MOU consistent with CWC section 13269, subdivision (a)(1). Further, the MOU will contain certain provisions to ensure the public's interest is protected.

The MOU will include provisions for coordination requirements to track the effectiveness of the MOU in regulating vegetation management activities. The resolution waiving filing a report of waste discharge and waste discharge requirements requires, as will the MOU with the TRPA, compliance with all applicable provisions of the Basin Plan. If the Water Board or TRPA finds that implementation of the MOU is not effective at protecting water quality, the MOU can be terminated by either party with a 60-day notice. Furthermore, any activity for which waste discharge requirements have been waived by the Water Board may be considered a project requiring waste discharge requirements, or enrollment under the Lahontan Timber Waiver, if the Water Board determines the TRPA has failed to adequately regulate the activity or the activity may have a substantial adverse effect on water quality.

A provision of the Vegetation Management MOU will specify conditions under which Water Board staff would be notified of proposed vegetation management activities within the Lake Tahoe Region for projects that may have a potentially significant impact to water quality or beneficial uses of waters of the State. If any of the listed thresholds

02-0051

are exceeded by a proposed project, then TRPA staff would notify Water Board staff early in the application or project consultation period of the vegetation management project proposal. Furthermore, the Water Board's role on the review team for timber harvest plans on private lands in the project area will remain unchanged.

Waiving waste discharge requirements and entering into an MOU with the TRPA does not limit the enforcement authority of the Water Board, and the Board may take enforcement action as necessary to ensure compliance with its environmental standards and regulations. Under the proposed MOU, the Water Board does not waive filing a report of waste discharge for vegetation management activities where an Environmental Impact Report is prepared with a Statement of Overriding Considerations for any water quality factor.

The TRPA is mandated by Public Law (P.L.) 96-551 (the Tahoe Regional Planning Compact), to protect the quality of water at Lake Tahoe and has adopted thresholds and ordinances aimed specifically at protecting and improving water quality. The TRPA is the designated water quality planning agency under Section 208 of the Clean Water Act. The TRPA's "208 Plan" was certified by the states of California and Nevada and the USEPA, and establishes control measures to protect water quality including a tree removal permit system, stream environment zone and wetland protection policies, vegetation protection and management provisions, prohibitions against fill in 100-year floodplains, and use of Best Management Practices. The TRPA's Regional Plan also provides for attaining and maintaining the strictest water quality standards established by federal or state agencies as required by Article 5, section 5(d) P.L. 96-551, and the TRPA Code of Ordinances incorporates water quality standards as equally restrictive as those contained in the Lahontan Basin Plan.

The proposed Vegetation Management MOU will require the TRPA to issue permits, conduct inspections and take enforcement action as necessary to ensure compliance with permits and applicable regulations, including its Code of Ordinances, "208 Plan," and the Basin Plan. The TRPA's enforcement mechanisms include issuing notices of correction, notices of violation, and cease and desist orders. The Executive Director of the TRPA can revoke project permits in certain cases. The TRPA Governing Board can authorize legal counsel to pursue judicial remedies, including declaratory and injunctive relief, and civil penalties pursuant to Article VI (1) of the TRPA Compact.

In summary, vegetation management activities have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan existed prior to this proposed Vegetation Management MOU. The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. The proposed Vegetation Management MOU, the TRPA has the responsibility to issue permits, conduct inspections and take enforcement action as necessary to ensure compliance with permits and applicable regulations, including its Code of Ordinances and "208 Plan", and the Basin Plan. Therefore, any impacts to hydrology and water quality in the MOU project area (the Lake Tahoe Region) will not be changed over existing conditions by the adoption of the MOU, and the appropriate finding is *No Impact*.

02-0052

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

a-b) The proposed project does not divide an established community, involve land use planning or policy. Because the project does not involve these elements, the appropriate finding is *No Impact*.

c) The proposed project will not determine whether vegetation management activities will be implemented; rather, it proposes that permitting of these projects would be undertaken by the TRPA instead of the Water Board.

As described in previous sections, the implementation of this project does not change the regulatory requirements, statutory authorities, or enforcement abilities of either the TRPA or the Water Board, nor does it alter or weaken the requirements of any applicable conservation plan that may apply to vegetation management activities. Therefore, existing conditions related to habitat or natural community conservation plans will not be changed by the adoption of the MOU, and the appropriate finding is *No Impact*.

02-0053

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

a-b) The proposed project does not involve mineral resources; therefore, the appropriate finding is *No Impact*.

02-0054

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XI. NOISE: Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

a-f) The proposed project does not change the exposure of people to potential adverse effects involving noise due to vegetation management activities over current conditions. Noise levels due to vegetation removal activities in the project area will remain the same whether or not the proposed MOU is adopted. Because no change is foreseeable, the appropriate finding is *No Impact*.

02-0055

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

a-c) The proposed project does not involve construction of new homes, businesses, or infrastructure. The project would also not displace people or existing housing. Because the proposed project does not involve these elements, the appropriate finding is *No Impact*.

02-0056

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X

a) The proposed project does not involve new or physically altered government facilities. Because the proposed project does not involve these elements, the appropriate finding is *No Impact*.

02-0057

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

a-b) The proposed project does not involve increasing the use of recreational facilities, or require construction or expansion of recreational facilities. Because the proposed project does not involve these elements, the appropriate finding is *No Impact*

02-0058

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

a-b) The proposed project would not cause an increase in traffic or exceed a level of service due to vegetation management activities over current conditions. Traffic levels due to vegetation management activities in the project area will remain the same whether or not the proposed MOU is adopted. Because no change is foreseeable, the appropriate finding is *No Impact*.

c) The proposed project does not involve air traffic. Because the proposed project does not involve this element, the appropriate finding is *No Impact*.

02-0059

d) The proposed project does not involve installation of hazardous design features. Because the proposed project does not involve this element, the appropriate finding is *No Impact*.

e-f) The proposed project does not affect emergency access or parking capacity; therefore, the appropriate finding is *No Impact*.

g) The proposed project does not involve alternative transportation. Because the proposed project does not involve this element, the appropriate finding is *No Impact*.

02-0060

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

a-c) The proposed project does not involve the expansion or construction of wastewater or storm water treatment facilities. Because the proposed project does not involve these elements, the appropriate finding is *No Impact*.

02-0061

d) The proposed project does not change the need for water supplies due to vegetation management activities over current conditions. The need for water supplies to serve vegetation removal activities (e.g., for dust abatement) in the project area will remain the same whether or not the proposed MOU is adopted. Because no change is foreseeable, the appropriate finding is *No Impact*.

e) The proposed project does not require service by wastewater treatment facilities. Because the proposed project does not involve this element, the appropriate finding is *No Impact*.

f) The proposed project would not affect solid waste generation or landfill capacities over current conditions. Because no change is foreseeable, the appropriate finding is *No Impact*.

02-0062

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

a) The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. Therefore, the physical environment of the MOU project area (the Lake Tahoe Region) will not be changed from current conditions by the adoption and implementation of the MOU. Without substantial, or potentially substantial, adverse changes in the physical conditions within the project area, the project does not have the potential to degrade the quality of the environment, or cause significant adverse effects.

b) Fuels treatments have been ongoing in the project area for years, and proposals for fuels treatment in the 10-year plan were identified prior to this proposed Vegetation Management MOU. Adoption and implementation of the MOU will not affect whether or not vegetation management occurs in the project area; rather, it assigns primary vegetation management permitting responsibility to the TRPA. The TRPA is mandated

02-0063

by P.L. 96-551 to protect the quality of water at Lake Tahoe and has adopted thresholds and ordinances aimed specifically at protecting and improving water quality. The TRPA's Regional Plan also provides for attaining and maintaining the strictest water quality standards established by federal or state agencies as required by Article 5, section 5(d) P.L. 96-551, and the TRPA Code of Ordinances incorporates water quality standards as equally restrictive as those contained in the Lahontan Basin Plan. The Vegetation Management MOU does not alter or reduce the need for project proponents to comply with the requirements of any other agency or regulation related to impacts from vegetation management activities.

As such, the only foreseeable effect is that fuel treatment projects may be implemented on a faster track. After considering all constraints on project implementation, Water Board staff concludes that no substantial evidence exists to support that this effect will occur. The MOU does not propose substantive changes to the currently proposed fuels treatment approach, such as the number, extent, types, locations or methods of fuels treatments. Therefore, the physical environment of the MOU project area (the Lake Tahoe Region) will not be changed from current conditions by the adoption of the MOU. Without substantial, or potentially substantial, adverse changes in the physical conditions within the area affected by the project, the project does not have the potential to create cumulatively considerable impacts.

c) The preceding environmental checklist demonstrates that the project will not result in adverse environmental effects. The purpose of the project is to facilitate vegetation management activities in the Lake Tahoe Region. The bulk of projects that will be implemented under the MOU are for fuels treatment to reduce the risk of wildfire, thereby enhancing public health and safety. This represents a beneficial, not adverse, effect on human beings.

02-0064

DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial study:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

02-0065

REFERENCES

Celio, C.G. and Sons et al., 2004. *Community Wildfire Protection Plan for the California Portion of the Lake Tahoe Basin*. Prepared for the Tahoe Basin Fire Safe Council; Fallen Leaf Fire Department; Lake Valley, Meeks Bay, and North Tahoe Fire Protection Districts.

Dargen, K., and S. Rogich et al., 2008. *The Emergency California-Nevada Tahoe Basin Fire Commission Report*.

Lahontan Regional Water Quality Control Board, 1995. *Water Quality Control Plan for the Lahontan Region*, as amended.

-----, 2003. Resolution R6T-2003-0012, *Waiver of Filing a Report of Waste Discharge and Waiver of Waste Discharge Requirements for Specific Types of Projects or Discharges Regulated by the Tahoe Regional Planning Agency*.

-----, 2003a. *Memorandum of Understanding Between the California Regional Water Quality Control Board, Lahontan Region, and the Tahoe Regional Planning Agency*.

-----, 2007. Resolution R6T-2007-0008, *Waiver of Waste Discharge Requirements for Discharges related to Timber Harvest and Vegetation Management Activities*.

Marlow, D. et al., 2007. *Lake Tahoe Basin Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy 10-year Plan*.

Tahoe Regional Planning Agency, 1999. *Regional Plan for the Lake Tahoe Basin*, as amended. Code of Ordinances and Rules of Procedures.

02-0066

ENCLOSURE 4

02-0067

Negative Declaration

This statement and attachments constitute the Negative Declaration as proposed for adoption by the California Regional Water Quality Control Board, Lahontan Region (Water Board) for the project described below.

Posting Date: August 15, 2008

To State Clearinghouse: August 17, 2008 (State Clearinghouse No. 2008082082)

Comment Period: August 17, 2008 – September 17, 2008

Proposed Adoption Date: December 11, 2008

Project Name: Resolution Waiving Waste Discharge Requirements for Vegetation Management Activities Regulated by the Tahoe Regional Planning Agency (TRPA) and Authorizing the Lahontan Water Board's Executive Officer to Enter into a Memorandum of Understanding with the TRPA, Lake Tahoe Region.

Staff Contact: Anne Holden, (530) 542-5450
aholden@waterboards.ca.gov

Project Description: The Water Board is considering the adoption of a resolution waiving the filing of a report of waste discharge and waste discharge requirements for discharges associated with vegetation management activities in the Lake Tahoe Region, and authorizing the Water Board's Executive Officer to enter into a Memorandum of Understanding (MOU) with the Executive Director of the Tahoe Regional Planning Agency (TRPA). The MOU will designate the TRPA as the lead agency for permitting, review, and enforcement for vegetation management activities in the Lake Tahoe Region, with certain conditions.

Project Location: The Lake Tahoe Region of California, including portions of El Dorado and Placer Counties.

Environmental Finding: The project will not have a significant effect on the environment.

Lead Agency: Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, California 96150
phone: (530) 542-5400 fax: (530) 544-2271

02-0068

**Other Agencies Whose
Approval May be
Required:**

The Executive Director of the TRPA must agree to the conditions of the MOU (indicated by signature) for it to become effective.

Public Hearing:

December 11, 2008
Lake Tahoe Community College Board Room
One College Drive
South Lake Tahoe, CA 96150

Attachments:

- 1) Initial Study
- 2) Resolution R6T-2008-(PROPOSED)
- 3) Proposed Memorandum of Understanding

**How to Submit
Comments:**

The Lead Agency invites comments on the proposal from all interested persons and parties. **Written comments must be received by 5:00 p.m. on September 17, 2008.** Written comments should be addressed to the Lahontan Regional Water Quality Control Board at the address/fax provided above. Oral testimony will also be accepted at the public hearing. For more information contact: Anne Holden, (530) 542-5450, aholden@waterboards.ca.gov

02-0069

ENCLOSURE 5

02-0070

FACT SHEET

WAIVER OF FILING A REPORT OF WASTE DISCHARGE AND WAIVER OF WASTE DISCHARGE REQUIREMENTS FOR VEGETATION MANAGEMENT ACTIVITIES REGULATED BY THE TAHOE REGIONAL PLANNING AGENCY RESOLUTION R6T-2008-(PROP)

And

MEMORANDUM OF UNDERSTANDING BETWEEN THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LAHONTAN REGION AND THE TAHOE REGIONAL PLANNING AGENCY for VEGETATION MANAGEMENT

Introduction

This fact sheet explains the purpose behind each of the numbered paragraphs contained in the two documents referenced above. The intent of the waiver and MOU is to streamline permitting for vegetation management projects in the Lake Tahoe Basin by eliminating the need, in most cases, for project applicants to apply to both the TRPA and the Water Board and to receive permits from both agencies. Neither the waiver nor the MOU eliminate the need for project proponents to apply for and obtain permits from other agencies (e.g., CAL FIRE or a local air district) that may also have jurisdiction over the project.

The MOU is the agreement between TRPA and the Water Board as to each agency's role in regulating vegetation management activities occurring on the California side of the Lake Tahoe basin. Project proponents may rely on the Water Board's adopted waiver as the document that gives them the ability to proceed with their project without separately submitting an application to the Water Board or receiving a permit from the Water Board, provided the project is regulated by the TRPA and does not fall into the very narrow category of projects not subject to the waiver.

There are a few circumstances where a project cannot proceed under this waiver. This could happen:

- If the TRPA requests that the Water Board assumes responsibility for permitting a project (typically due to limited staff or project complexity).
- If an environmental document identified potentially significant impacts that are not mitigated to a less than significant level, either through actions proposed by the project applicant or by permit conditions.
- When the Water Board determines that separate regulation is needed to ensure protection of water quality.

Additionally, as described above, even though the waiver is applicable to a project, the project proponent may need to obtain other approvals. This may occur when:

02-0071

- A permit or authorization is needed that the TRPA does not have the legal ability to issue. Examples include: Clean Water Act (CWA) section 404 permits, CWA National Pollutant Discharge Elimination System (NPDES) permits, CWA section 401 water quality certifications, local tree preservation requirements, CAL FIRE permits, or a burn permit from an air pollution control district.

Explanations of Numbered Paragraphs in the Waiver

These numbered paragraphs begin on Page 4 of the waiver, and outline the conditions under which the Water Board waives the filing of a report of waste discharge and waste discharge requirements for vegetation management activities within the area of mutual jurisdiction of the TRPA and the Lahontan Water Board is in the public interest when such activities are effectively regulated by the TRPA.

WAIVER AND CONDITIONS

1. This paragraph states that vegetation management activities (defined in paragraph L of the waiver) do not need an application or permit from the Water Board if the activity is regulated by the TRPA.
2. The waiver is limited to those projects that would have a less-than-significant effect on the environment. This paragraph is necessary because the environmental document (Negative Declaration) prepared to support adoption of the proposed MOU and waiver did not analyze projects that may result in significant impacts to the environment. Therefore, projects that would have significant environmental impacts that are not mitigated are not eligible for the MOU.
3. If a component of a project involves discharging dredged or fill material into waters of the United States, including streams and wetlands, a Clean Water Act section 404 permit from the U.S. Army Corps of Engineers may be needed. When a section 404 permit is required, a section 401 water quality certification typically must also be obtained from the Water Board. TRPA does not have the authority to issue Clean Water Act section 401 certifications; therefore, the Water Board must issue this certification if needed. However, because forestry road and skid trail construction are conditionally exempt from section 404 requirements (see 33 Code of Federal Regulations, 323.4(a)(6)(1-xv)), most projects proceeding under the MOU will not need a 404 permit or 401 certification from the Water Board.

Additionally, if a silvicultural operation involves "point source discharges", an NPDES permit for those discharges would be needed. Silvicultural point source discharges are defined in 40 Code of Federal Regulations section 122.27(b) as *any discernable, confined and discrete conveyance related to rock crushing, gravel washing, log sorting or log storage facilities . . . from which pollutants are discharged into waters of the United States*. These point source discharges are

not covered under the waiver. Nonpoint source discharges associated with vegetation management activities, such as those covered under the waiver, do not require an NPDES permit.

4. This paragraph states the activities proceeding under the waiver must comply with the Lahontan Basin Plan, the TRPA's Regional Plan, and cannot create a pollution or nuisance.
5. This paragraph states the Waiver is conditional. The Executive office can recommend that general WDRs be issued for groups of discharges, or can recommend individual WDRs for an individual project if needed.

Explanations of Numbered Paragraphs in the MOU

These numbered paragraphs begin on Page 3 of the MOU, and outline the conditions by which the Water Board and the TRPA agree to implement permitting of vegetation management activities.

Review and Permitting

1. The intent of the MOU is to eliminate the need for project applicants to obtain water quality permits from both the Water Board and the TRPA. This paragraph establishes that TRPA will be the water quality permitting agency for vegetation management projects. Project applicants in the Lake Tahoe Basin will no longer need to apply to the Water Board for a Timber Waiver under the terms of this MOU.
2. This paragraph is intended to limit the possibility for projects to be delayed because of staff limitations or project complexity. It does not require the TRPA to give permitting responsibility to the Water Board.
3. The first sentence of this paragraph establishes that an exemption to a discharge prohibition is only required from the agency granting the permit. In other words, when a project proponent applies to TRPA and the project requires an exemption from a TRPA discharge prohibition, then TRPA will grant the exemption. The project proponent does not need to also request an exemption from the Water Board from its discharge prohibitions.

The second sentence requires that the agency granting the permit (or approving a project) must make its own findings (or independently certify the findings of a project proponent) and grant any exemptions to its discharge prohibitions. TRPA and the Water Board are agreeing that they will not allow a project proponent to grant itself an exemption to a waste discharge prohibition.

4. This paragraph establishes that inspections and variances are only required from the agency that is reviewing and/or permitting the project.

02-0073

5. The MOU is limited to those projects that would have a less-than-significant effect on the environment. This paragraph is necessary because the environmental document (Negative Declaration) prepared to support adoption of the proposed MOU and waiver did not analyze projects that may result in significant impacts to the environment. Therefore, projects that would have significant environmental impacts that are not mitigated are not eligible for the MOU.

Any unmitigated impacts identified in an environmental document could be mitigated through additional permit conditions imposed by the TRPA. In that case, the project would be eligible to proceed under the MOU, and the Water Board would not have to issue a separate permit.

Notification and Coordination

6. The intent of this paragraph is to outline the types of activities that may benefit from interagency consultation. This paragraph does not require that the TRPA turn over permitting or review to the Water Board, but provides that the TRPA will notify Water Board staff that a project with one of these listed characteristics is proposed, and may seek advice from the Water Board regarding the project. The permitting of any project by TRPA will not be delayed due to interagency consultation.
7. This is a notification requirement that allows the Water Board to partially fulfill requirements in the California Water Code section 13269. That section of the Water Code requires that monitoring shall be designed to examine the adequacy and effectiveness of the waiver in protecting water quality. It also provides an opportunity to coordinate a response to a violation and provides notification to the Water Board of problems associated with a project that TRPA is permitting pursuant to both the waiver and the MOU.
8. This is a notification requirement that allows the Water Board to partially fulfill requirements in the California Water Code section 13269. That section of the Water Code requires that monitoring shall be designed to examine the adequacy and effectiveness of the waiver in protecting water quality.

Dispute Resolution Procedures

9. This paragraph outlines how TRPA and the Water Board will deal with any disputes on the MOU. It does not apply to a project applicant and any dispute they may have with the permitting agency.

02-0074

General Provisions

10. This paragraph emphasizes that each agency retains its independent regulatory authority, as required by law.
11. The MOU is between the Water Board and the TRPA. The TRPA and Water Board are agreeing that neither will enter into an MOU with another agency or entity that contradicts the agreements made in this MOU.
12. This paragraph establishes that the Water Board and the TRPA shall communicate regularly.
13. This paragraph requires that at least two persons from each agency are familiar with the MOU, and can address questions or issues on its implementation. It also requires that each agency has enough staff to conduct the activities outlined in the MOU.
14. The MOU is effective immediately upon signature of the Water Board's executive officer and TRPA's executive director, and can be amended upon request. The MOU can be terminated with a 60-day notice by either agency.

02-0075

ENCLOSURE 6

- October 9, 2008 comment letter from City of South Lake Tahoe
- November 18, 2008 comment letter from Lake Tahoe Regional Fire Chief's Association

02-0076



City of South Lake Tahoe

"making a positive difference now"

OCT 14 2008

By HIS

October 9, 2008

Mr. Harold Singer
Executive Officer
California Regional Water Quality Control Board – Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, California

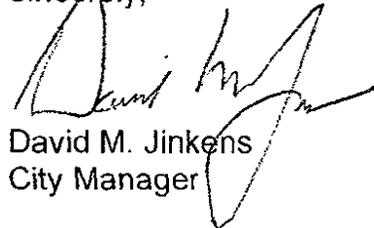
Re: Request for Board Support to Implement Fire Commission Recommendations

Dear Mr. Singer:

I am writing to provide you with a copy of a resolution of the City Council urging support of the California Regional Water Quality Control Board – Lahontan Region for full implementation of the recommendations of the Bi-State Fire Commission. The City Council adopted the resolution at its meeting of October 7, 2008. I am requesting that copies of the resolution be distributed to Board members.

In addition, I want to express my appreciation and thanks to you for our recent meeting with the Fire Chief and your expressed interest in further dialogue and outreach on this important matter. Your continued cooperation and assistance is welcomed and appreciated.

Sincerely,



David M. Jinkens
City Manager

Attachment 1

02-0077

**CITY OF SOUTH LAKE TAHOE
RESOLUTION NO. 2008-70**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH LAKE
TAHOE SUPPORTING THE RECOMMENDATIONS OF THE CALIFORNIA-
NEVADA TAHOE BASIN FIRE COMMISSION AND REQUESTING SUPPORT
FROM THE LAHANTON REGIONAL WATER QUALITY CONTROL BOARD
TO IMPLEMENT THESE MEASURES**

WHEREAS, the catastrophic Angora Fire in 2006 devastated the Lake Tahoe Basin destroying forest, habitat, and hundreds of homes of Lake Tahoe Basin residents; and

WHEREAS, the fire did serious damage to the environment that will take decades to repair; and

WHEREAS, all concerned parties and agencies in the Tahoe Basin must take steps to ensure that appropriate actions are taken in the immediate future to minimize the possibility of a future catastrophic fire; and

WHEREAS, the Governors of California and Nevada established the California-Nevada Tahoe Basin Fire Commission and appointed members to the commission to review all matters related to the fire and preventing same in the future; and

WHEREAS, the report of the California-Nevada Tahoe Basin Fire Commission has completed its review and their recommendations are being made to regulatory agencies in the Lake Tahoe Basin for adoption of implementation measures; and

WHEREAS, the California Regional Water Quality Control Board Lahontan Region (RWQCB) will be considering implementation measures at its next meeting on October 7-8, 2008 in South Lake Tahoe; and

WHEREAS, the Lake Tahoe Basin Fire Chiefs have expressed concerns with the proposed implementation measures by the RWQCB in a letter dated September 29, 2008 (attached)

NOW THEREFORE BE IT RESOLVED that the City Council of the City of South Lake Tahoe requests that the California Regional Water Quality Control Board Lahontan Region take the following actions:

1. Support in full implementation of the recommendations of the Fire Commission;
2. Direct staff of the Board to make fire safety in the Basin its number one priority to prevent catastrophic fire in the future;
3. Support efforts by Federal, State, regional and local government agencies to modify rules and regulations to expedite fuel reduction in the Basin in less than the current ten year plan; and

4. Support the recommendations of the Tahoe Basin Fire Chiefs to improve Board staff communication with fire professionals in the Basin and involve them early in the formulation of policy related to fuel reduction.

PASSED AND ADOPTED by the City Council of the City of South Lake Tahoe on October 7, 2008 by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

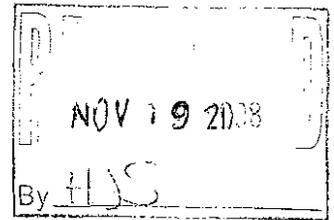
Mike Weber, Mayor

ATTEST:

Susan Alessi, City Clerk
(City Seal)

02-0078

Lake Tahoe Regional Fire Chiefs' Association



November 18, 2008

Mr. Harold Singer
California Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, California 96150

Dear Mr. Singer,

This letter is to serve as confirmation that representatives from the Tahoe Basin Fire Chiefs ("Chiefs) met with Lahontan Water Quality Control Board staff members on October 27th to further discuss the proposed adoption of a Memorandum of Understanding (MOU) between the Tahoe Regional Planning Agency (TRPA) and the Lahontan Water Quality Board (Board.)

At the aforementioned workshop, Board staff clarified various issues in the document that needed interpretation. They also gave us the confidence that the MOU will indeed be used per the recommendation given by the "California Nevada Tahoe Basing Fire Commission Report" (Commission.) Prior to this meeting and the meeting of September 26, the Basin Chiefs had numerous questions and concerns with the MOU language, and the underlying tone of the document. Unfortunately, the lack of prior communication and the perceived "rushed" nature of the adoption of the resolution resulted in our negative comments regarding the issue.

As a result of the improved communications between the agencies, the Chiefs can now support the MOU and are encouraged that the Board will be following the recommendations of the Commission to streamline the fuels management permitting process within the basin. While it would have been nice to see the proposed updated timber waiver adopted concurrently, we now understand the timing issues and look forward to commenting on the waiver and participating in an agency workshop similar to the October 27th workshop (long before it reaches the adoption phase in the spring.) Furthermore, we have been reassured that the waiver will not affect the fire agencies within the basin as long as the MOU is in effect with TRPA to be the permitting agency.

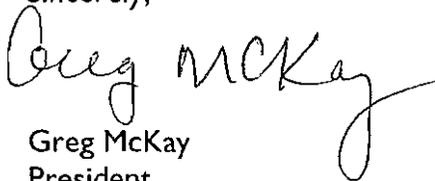
02-0080

We support the use of workshops to communicate with local agencies. The October 27th workshop was successful in that it showed Board staff's commitment to:

- 1) Improving communications with all Basin agencies
- 2) Following the Commission recommendations by creating an MOU with TRPA
- 3) Staying focused and objective regarding the necessity to reducing administrative obstacles for fuel management activities in the basin.

Most importantly, we appreciate this new open and cooperative process that will help all of us prevent catastrophic wildfires within the Lake Tahoe Basin.

Sincerely,

A handwritten signature in black ink that reads "Greg McKay". The signature is written in a cursive, flowing style with a long, sweeping tail on the letter "y".

Greg McKay
President

Lake Tahoe Regional Fire Chiefs' Association

ENCLOSURE 7

ADDITIONAL MATERIALS FOR AGENDA ITEM 2 – VEGETATION MANAGEMENT MOU WITH TRPA

Enclosed are five additional comment letters, Water Board staff's response to letter 3, and a late revision sheet regarding the above agenda item. Please insert these materials in your agenda packet following Item 2, Enclosure 6.

- Letter 1: Board of Forestry and Fire Protection, received on September 26, 2008
- Letter 2: Tahoe Basin Fire Chiefs, received on September 29, 2008

Letters 1 and 2 were received in late September, and provide comments on the August 2008 version of this item, which was scheduled for the subsequently canceled October 2008 Board meeting. They are provided for your information, but the issues raised in these letters have been addressed through meetings and clarifications to the MOU.

- Letter 3: Lake Valley Fire Protection District, received on November 24, 2008

Letter 3 was received before the close of the second (informal) review period on November 24, 2008, and staff has provided a written response to the comments and questions raised. Staff's response letter is enclosed. Note that in response to comment 1, staff proposes a late revision to the MOU and waiver. **Please see the pink late revision sheet.**

- Letter 4: Department of Parks and Recreation, Sierra District, received on November 26, 2008
- Letter 5 (includes a technical memo attachment from Watershed Sciences): Sierra Forest Legacy, League to Save Lake Tahoe, and Sierra Club, received on December 1, 2008

Letters 4 and 5 were received after the close of the informal comment period and will be addressed in staff's presentation at the December 11 Board meeting.

ALH/clhT:_Agenda Items\2008\12-Dec\Veg Management MOU with TRPA\Memo to Board Members 12 2 08.doc
[File under: TRPA Veg Mgmt MOU]

02-0082

BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007

Letter 1



September 19, 2008

Mr. Harold J. Singer, Executive Officer
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

RE: Supplemental Comments on Proposed Adoption of a Memorandum of Understanding for Vegetation Management Activities in the Lake Tahoe Region between the Tahoe Regional Planning Agency and the Lahontan regional Water Quality control Board.

Dear Mr. Singer,

The Board of Forestry and Fire Protection (Board) recently provided a comment letter dated September 15, 2008 to the Lahontan Regional Water Quality Control Board (LRWQCB) regarding the proposed Memorandum of Understanding (MOU) with the Tahoe Regional Planning Agency (TRPA). This correspondence is intended to supplement that original comment letter and further clarify this Board's position of opposition to the draft MOU in its current form.

It should be noted that the Board would not have been compelled to comment on the proposed MOU had LRWQCB and TRPA consulted directly with the Department of Forestry and Fire Protection (CAL FIRE) from the beginning. As you know, the proposed MOU was a recommendation of the California-Nevada Tahoe Basin Fire Commission (Tahoe Commission). It was the further recommendation of the Tahoe Commission that the Director of CAL FIRE play an integral role in tracking and reporting progress on adoption of the MOU. The Tahoe Commission went on to state that the final proposed MOU was to be, "submitted to, and be subject to the prior review and comment by the Director of CAL FIRE." As is clearly implied in this recommendation, CAL FIRE was expected to take a leadership role in the drafting and adoption of the proposed MOU. Instead, LRWQCB and TRPA borrowed the Forest Practice Act definition of "timber operations" and summarily ignored CAL FIRE's suggestions and concerns. As you might imagine, this conspicuous lack of collaboration with CAL FIRE does little to promote trust between our respective agencies and faith in the overall utility of the proposed MOU. Indeed, absent collaboration with CAL FIRE, the Board could not in good conscience endorse any interagency MOU pertaining to the regulation of fuel reduction activities on state and private lands.

This concludes the Board's supplemental comments. To reiterate, the State Board of Forestry and Fire Protection once again strongly urges the Lahontan Regional Water Quality Control Board and Tahoe Regional Planning Agency not to adopt the MOU as it is currently proposed. Delaying adoption of the MOU at this time would allow for the absolutely necessary consultation with the Department of Forestry and Fire Protection. Should you have questions or concerns regarding this correspondence, please feel free to contact me at (916) 653-8007.

Sincerely,

A handwritten signature in cursive script, appearing to read "George D. Gentry".

George D. Gentry
Executive Officer

Tahoe Basin Fire Chiefs

September 29, 2008

California Regional
Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Dear Board Members,

The Lake Tahoe Basin Fire Chiefs ("Chiefs") are writing to ask for the Water Quality Board's assistance to help prevent another catastrophic wildfire and to restore the health of our ecosystem in the Lake Tahoe Basin.

Previous communication with your staff has included a letter of response to your Executive Director regarding the Proposed Adoption of a Memorandum of Understanding (MOU) between the Tahoe Regional Planning Agency (TRPA) and the Lahontan Water Quality Board (Board). We are sending this letter to you, the members of the Board, in order to directly communicate our significant concerns that do not appear to be addressed by the Board's management and staff.

As Chiefs, we are passionate about public safety and the environmental improvements that hazardous fuels reduction projects advance. We wish to do the best job in an efficient, timely and environmentally sensitive manner. In our efforts to achieve this task, we are accountable to everyone in the Basin. The Basin Fire Chiefs have worked hard over many years to earn the trust of our constituents as well as the various regulatory and land management agencies.

Members:

Michael D. Brown, Fire Chief
North Lake Tahoe Fire PD
866 Oriole Way
Incline Village, NV 89451

Jeff Michael, Fire Chief
Lake Valley Fire PD
2211 Keetak Street
Tahoe Paradise, CA 96155

Duane Whiteclaw, Fire Chief
North Tahoe Fire PD
P.O. Box 5879
Tahoe City, CA 96145

Lorenzo Giglotti, Fire Chief
South Lake Tahoe Fire Dept.
2101 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Chris Sauer, Fire Chief
Fallen Leaf Fire Department
241 Fallen Leaf Road
South Lake Tahoe, CA 96158

Guy LeFever, Fire Chief
Tahoe Douglas Fire PD
P.O. Box 919
Zephyr Cove, NV 89448

John Pang, Fire Chief
Meeks Bay Fire PD
P.O. Box 189
Tahoma, CA 96142

The recently completed "Emergency California Nevada Tahoe Basin Fire Commission Report" contained significant recommendations to protect people, property and the environment here at the "Jewel of the Sierras," including, but not limited to, lake water clarity. The Basin Fire Chiefs commend the Commission for their diligent efforts and seek to implement all recommendations affecting our respective operations.

The following are several key points where improvement is essential to meet the objectives in the Report's critical recommendations:

Improve your staff's communications with all Basin agencies.

The Lahontan Regional Water Board must give the Basin fire protection agencies and Basin Fire Chiefs, including the US Forest Service (USFS) and Cal Fire, adequate notice of all proposed or pending policy changes. Include fire protection agencies in your planning far in advance of public notifications. By not notifying the Basin fire protection agencies, it is clear that your staff does not consider us to be a truly valued stakeholder in your regulatory regime.

An example is the recent MOU with TRPA drafted by your staff. Although required to have input from Cal Fire as a representative of our fire protection agency interests, they were left out of all of the initial meetings that produced the initial MOU draft. This would have been a critical time for all Basin fire protection agencies. It would also be helpful if the fire agencies participated in the new Timber Harvest Waiver process which greatly affects acceptance of the proposed MOU.

A representative from the Board's staff has been requested to attend all of our monthly Regional Fire Chiefs meetings affording an ideal opportunity to present any updates or proposed changes that would affect our fuels reduction objectives. To date, this participation has not occurred.

Participation by your Board's staff at several critical meetings has been poor at best. The February 2007 Timber Waiver meetings were not inclusive by your staff. Your Board's staff, although always invited, has rarely participated at our Community Wildfire Protection Plan meetings. Participation at the USFS 10-year Multi-Jurisdictional Fuels Plan process by Lahontan staff was almost nonexistent.

A significant concern of the Basin Fire Chiefs is the practice of your staff meeting with one agency and then determining that they have Basin consensus. Rarely will they sit down with more than one agency at a time for a regional or comprehensive discussion to seek a solution. Get all agencies involved together at one time and place and you will find consensus on a broader scale.

These practices and apparent policy of the Board's management and staff has unfortunately led to an all-time low level of trust between the basin Fire Chiefs and their Lahontan counterparts. We feel projects are slowed down by poor communication, duplicative applications, indifference, a lack of urgency on staff's part and a lack of respect of the job all fire protection agencies have in the Lake Tahoe Basin.

The result has been the relative lack of any stream environment zone (SEZ) work, a 15 year delay in implementing mastication projects and ever-changing roadblocks to accomplishing any difficult projects on the California side. The ultimate result has been the accelerated fire risk from bad to extreme in those areas.

Follow the Commission recommendations by creating an MOU with TRPA.

We need a streamlined process that provides necessary review without duplicative efforts. We feel TRPA could handle your stake in the Basin from a fuels management perspective. We understand that you have regulatory responsibilities that must be maintained.

Eliminate the adjunct timber waiver that is not required elsewhere in the State of California. The timber waiver is essentially a permit application and not a "waiver" by any rational definition of the English language. If for some reason you feel that the Lake Tahoe Basin alone must be subject to a timber waiver, establish an MOU with TRPA to allow TRPA to address it in a single, streamlined process that does not involve any action, review, second-guessing or obstruction by the Lahontan Board or its staff. It would help if we had the "new" timber waiver to compliment this draft MOU.

We believe that if a timber waiver is somehow deemed necessary, hand thinning should be exempted and placed in Category 1A. In accordance with the intent and direction of the Commission, TRPA should be the lead agency for this type of review. This process would help eliminate vagueness and ensure a single consistent policy throughout both States in the Basin.

Streamline the process and allow land managers to protect lives, property and the environment. TRPA will have the professional and experienced staff on hand to implement any MOU. Your staff's initial draft of the MOU appears to have many trigger points that allow the Lahontan Board's staff to step back in creating further uncertainty and delay attendant with another level of redundant bureaucracy. We think other agencies and the public need more education on what this MOU means in common language and how it is intended to be applied. The intent is critical to the application of this agreement. You should reference the Federal 401 and 404 permit authorities, or any other legal prohibition, that you cannot or will not delegate and provide a detailed, rational legal basis for refusing to delegate such.

Direct staff to stay focused and objective.

We ask you to direct your executive management and staff to stay professional and objective. They must leave personal and special interest agendas aside, especially when forming and proposing policies.

At times we have found it difficult and frustrating to work with your staff. Too often they have been "unavailable," "too busy," or unreasonable and inconsistent with their requests. Your staff consistently arrives late to meetings and leaves before the meetings end. Many times, they wouldn't even show up. Unfortunately, only after we repeatedly voiced our concerns to you, has your staff called after the fact to make amends. In our efforts to work cooperatively throughout the Basin, we all need to be present and accountable in an open and cooperative manner.

02-0086

Summary:

All fire protection agencies and chief officers want to protect Lake Tahoe's environment and the public's safety.

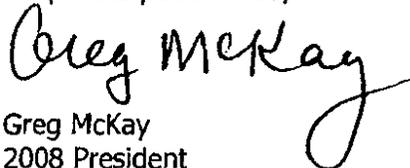
We need to rationally consider the short term impacts of fuels management work for the long term benefits of protecting Lake Tahoe from catastrophic wildfire. One hundred years of forest overgrowth cannot be mitigated efficiently by tiptoeing over the land with pruning shears. We must get the pendulum swinging back towards the center by working effectively to protect our beautiful area. Due to the fact that we are in a declared "State of Emergency," we are asking you to help us by removing unnecessary and redundant obstacles so work can be done in a timely manner.

We have the experienced technical specialists on board to help us implement fuels management projects. We are also proud of our efforts to work cooperatively with the Basin agencies as evidenced by the work of the Tahoe Multi-Agency Coordinating Group (MAC) and Tahoe Fire and Fuels Team (TFFT). Both of these groups include representatives from TRPA, land managers, Lahontan RWQCB and others. Additionally, we cooperatively have huge investments in the Basin's "Ten-Year Multi-Jurisdiction Fuels Reduction Strategy" and the "Community Wildfire Protection Plans."

We have proven we can conduct responsible projects. Our work values are based on trust, responsibility and accountability. This was evidenced by the work that occurred at the Third Creek Project in Incline Village, Nevada, where TRPA ensured that the Nevada Department of Environmental Protection (NDEP), the Nevada Department of Wildlife (NDOW), and the Nevada Division of Forestry (NDF) regulations were carried out. There were numerous praises for the project by various California and Nevada scientists, foresters, and regulators. This is also the view of your Executive Director, Harold Singer that was expressed at our September 26, 2008 meeting.

We understand and support your commitment to ensuring that environmental regulations are met. The historical context of our difficult relationship has shaped our low level of trust and our unwillingness to accept another poorly communicated document that is open for wide interpretation. The environmental community has already expressed their opinions repeatedly since the Blue Ribbon Commission's meetings and has on occasion used questionable tactics. On Friday, September 26, 2008 the Basin Chiefs sat down with Harold Singer and his staff, along with representatives of the LTBMU and Cal Fire receiving a much more comprehensive briefing of your Agency's intent and limitations. This was truly a great step in the right direction of communicating the intent of your Agency on this MOU and its future direction. Let's move forward in this manner so we can achieve our common goals in the future.

Respectfully submitted,



Greg McKay
2008 President

02-0387



M. D. Brown

Chief Michael D. Brown
775-831-0351



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SOLOMONS VALLEY



FIREFIGHTERS

Lorenza Gigliotti

Chief Lorenza Gigliotti
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John Pang

Chief John Pang
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Chris Sauer

Chief Chris Sauer
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02-0088

LAKE VALLEY FIRE PROTECTION DISTRICT

"Serving the Community Since 1947"
Jeff Michael, Fire Chief

Board of Directors

David Huber
Greg Herback
Leo Horton
Ryan Wagner
Robert Bettencourt



Letter 3

Fire and Fuels Management Program

Martin Goldberg, Forestry Supervisor
2211 Keetak Street, South Lake Tahoe, CA 96150 • (530) 577-2447 • Fax (530) 577-6339

November 20, 2008

California Regional Water Quality Control Board
Lahontan Region
Attn: Anne Holden
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

COMMENTS AND QUESTIONS REGARDING THE VEGETATION MANAGEMENT MOU BETWEEN THE WATER BOARD AND TRPA

Resolution NO. R6T-2008-(PROPOSED):

➤ Pg 4 Section L

- 1 → • Broadcast, understory, and pile burning are not specifically listed...are these activities assumed under fuel reduction and/or environmental improvement?

➤ Pg 5 Section 2

- 2 → • How is significance determined? Are there quantitative measures associated such as time it takes for soil to recover or number of gallons discharged?
- 3 → • Will TRPA have the authority to impose conditions to mitigate to less than significant levels?

➤ Pg 5 Section 5

- 4 → • Typo of 4th line?

MOU:

➤ 3rd paragraph

- 5 → • Is the term watershed more appropriate than tributary?

➤ Pg 4 Section 3 & 5

- 6 → • States "exemptions will not be delegated to an agency not a party to this MOU", hence only TRPA can issue exemptions; then in Section 5 states "If another regulatory agency imposes conditions..." This is a bit confusing...is the intention of Section 5 to say that other regulatory agencies *can* impose conditions such as Calfire or EPA or Fish and Game or *cannot* impose?

02-0089

In General:

Clarifying the relationship between the Water Board and TRPA when it comes to permitting veg. mgt. is definitely a step in the right direction. The big question is how will TRPA logistically and formally step up in this role, for example:

- 7 → • Who will be the qualified staff to review waiver projects? What qualifications and training will these staff members have?
- 8 → • For fuel reduction projects, will staff be available to determine/review SEZ delineations?
- 9 → • Will Land capabilities Verifications (LCV) be required? LCV's are expensive and too detailed for the purpose of fuel reduction projects.
- 10 → • When the Timber Waiver is approved, will the same forms for monitoring/inspections/reporting/permits/application be used by TRPA?
- 11 → • Will TRPA agree to take action, permit or delegate a project to the Water Board in a timely manner..say 45 days?
- 12 → • If project is delegated to the Water Board, it should happen in the early stages of review and be clear to the applicant who is the lead agency.

Thank you very much for your time and consideration in review of my comments and questions. I look forward to your responses. Please continue to send updates and notices of meetings regarding this proposal.

Sincerely,

Martin Goldberg
Forestry Supervisor
• (775) 577-2447
goldberg@caltahoefire.net

02-0090



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
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Arnold Schwarzenegger
Governor

December 3, 2008

Martin Goldberg
Lake Valley Fire Protection District
Forestry Supervisor - Fire and Fuels Management Program
2211 Keetak Street
South Lake Tahoe, CA 96150

RESPONSE TO YOUR COMMENTS ON THE VEGETATION MANAGEMENT MOU BETWEEN THE WATER BOARD AND TRPA

Thank you for your comment letter, dated November 20, 2008. We have numbered each comment contained in your letter and attached it for reference. Responses are provided below. Please note that responses to comments 7-9 and 11 were provided by TRPA staff.

Response to comment 1: Prescribed burning is included under fuel reduction activities. However, for clarity we will specifically list prescribed burning as a vegetation management activity covered under the waiver and MOU.

Response to comment 2: Significance of an environmental effect is determined through the environmental document preparation process. For example, if a California Environmental Quality Act (CEQA) document is prepared for a project, the lead or responsible agency will identify if any effects cannot be mitigated to less than significant levels (significant effects are defined in Title 14 California Code of Regulations, section 15382). Likewise, a National Environmental Policy Act report or TRPA environmental impact statement may identify a preferred alternative that results in significant effects on the environment.

Response to comment 3: Yes, TRPA may impose conditions, including through its permitting process, to mitigate project impacts to less than significant levels.

Response to comment 4: There is no typographical error in line 4, paragraph 5, on page 5 of the resolution.

Response to comment 5: The description of the area subject to the terms of the MOU is taken from the Water Quality Control Plan for the Lahontan Region (Basin Plan). In order to be consistent with the Basin Plan, the same terminology is used to describe the area of mutual jurisdiction of the TRPA and the Lahontan Water Board.

Response to comment 6: Yes, the intention of paragraph 5 of the MOU (page 4) is to outline that another regulatory agencies could impose conditions on the project that would mitigate any identified impacts to less than significant levels. For example, if an environmental document identifies significant air quality impacts from a fuel reduction project, an air quality agency may impose restrictions (including permit conditions) that reduce those impacts to less than significant levels. The project could then be carried out under the MOU.

Response to comment 7: TRPA has an internal team including a Registered Professional Forester, Water Quality, Best Management Practice and erosion control experts.

Response to comment 8: Yes, TRPA staff will be available for SEZ delineations and, upon request, is committed to provide a 72-hour response for SEZ delineations.

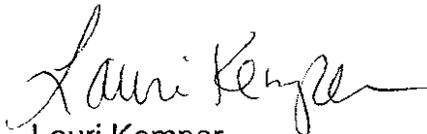
Response to comment 9: The only land capability verification needed for these types of projects is delineating the SEZ (1b) and identifying slopes greater than 30%.

Response to comment 10: No, the same forms will not be used by TRPA as those used for the Lahontan region-wide Timber Waiver. TRPA will regulate vegetation management activities under their current system, and have developed their own forms for their use.

Response to comment 11: Yes. TRPA staff has been dedicated to get these projects permitted in a timely fashion. TRPA staff is also working with the Tahoe Fire and Fuels Team to get projects on the ground and implemented.

Response to comment 12: We agree, and will notify project proponents early in the process and make it clear regarding the lead permitting agency.

We appreciate your constructive comments and questions. Please contact Anne Holden at 530-542-5450 with any questions.


Lauri Kemper
Division Manager

cc: Mike Vollmer, TRPA
David Coupe, OCC

Attachment

ALH/clhT:_Agenda Items\2008\12-Dec\Veg Management MOU with TRPA\Response to Lake Valley.doc
[File under: TRPA veg mgmt MOU]



State of California • The Resources Agency

Arnold Schwarzenegger, Governor

DEPARTMENT OF PARKS AND RECREATION

Ruth Coleman, Director

Sierra District
P.O. Box 266
Tahoma, CA 98142
530.525.9535

Letter 4

November 21, 2008

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

RE: Vegetation Management Memorandum of Understanding (MOU) between the Water Board and the Tahoe Regional Planning Agency (TRPA)

Thank you for the opportunity to comment on the Vegetation Management MOU and other related documents. The California Department of Parks and Recreation, Sierra District, is in strong support of the vegetation management MOU between Lahontan Regional Water Quality Control Board (LRWQCB) and TRPA. Thank you to the LRWQCB staff for taking on the task of crafting the MOU.

The following are my comments:

Document 1: Resolution No. R6T-2008-(Proposed): Waiver of filing a report of waste discharge and waiver of waste discharge requirements for vegetation management activities regulated by TRPA and authorizing Lahontan's Water Board's Executive Officer to enter into a memorandum of understanding with the TRPA

Page 1, Introduction

- The addition of the introduction section helped to clarify the purpose of the resolution.

Page 4, Finding L., 2nd paragraph starting with "Activities related to the management of vegetation for the purposes of: a-g."

- This Finding does not mention the use of prescribed fire as a vegetation management purpose. Prescribed fire plays a large role in the CA State Parks forestry/vegetation management at our Lake Tahoe park units. We use prescribed fire for jackpot burning, pile, and understory burning to not only assist in reducing forest fuels and thin trees but also to promote forest health. However in the Board Order No. R6T-2008- (November 2008 Working Draft) of the Conditional Waiver of Waste Discharge Requirements for Waste Dischargers resulting from Timber Harvest and Vegetation Management Activities in the Lahontan Region (Timber Waiver), page 11, IV. Timber Waiver Categories, Category 2, Condition (4) a-d states the conditions that apply to prescribed burning.
- Since it seems that prescribed fire is intended to be part of the MOU, request adding "prescribed fire" to this section.

02-0093

Document 2: DRAFT Memorandum of Understanding Between the California Regional Water Quality Control Board, Lahontan Region, and the Tahoe Regional Planning Agency for Vegetation Management (October 28, 2008).

Page 1, Introduction

- The addition of the introduction section helps to clarify the purpose and jurisdiction of the MOU.

Page 3, Findings, 1st full paragraph beginning with "Whereas, vegetation management activities"

- Recommend adding "prescribed fire" per previous comment.

Page 5, Notification and Coordination, 8.

- For clarity, suggest replacing "each agency" with "TRPA and the Water Board" and replacing "other agency" with "each other" so that the sentence reads "By February 1 of each year, TRPA and Lahontan must submit to each other..."

Page 5, Notification and Coordination, 8., end of the 3rd sentence

- Replace "thru" with "through"

Page 5, Dispute Resolution Procedures, title

- For clarity, add to the title text "MOU" at the beginning of the title to read "MOU Dispute Resolution Procedures".

Page 6, General Provisions, 14., 2nd sentence, "This MOU may be amended upon written request of either the TRPA or Water Board and the subsequent written concurrence of the other.

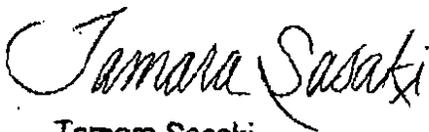
- Would substantive changes to this MOU have a process for public comment?

Document 3: Fact Sheet

- The Fact Sheet is helpful in understanding the intent of the waiver and MOU.

Thank you again for the opportunity to comment on these documents. Please contact me if you have any questions or need additional clarifications regarding any of my comments.

Sincerely,



Tamara Sasaki
Senior Environmental Scientist
tsasaki@parks.ca.gov

Cc: Pam Armas, District Superintendent

02-0094



Sierra Forest Legacy

Protecting Sierra Nevada Forests and Communities



Letter 5



**Tahoe Area
Sierra Club
Group**



**KEEP
TAHOE
BLUE**

League to Save Lake Tahoe

December 1, 2008

Via Email & Regular Mail

California Regional Water Quality Control Board, Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
Attn: Anne Holden - aholden@waterboards.ca.gov

Subject: Supplemental Comments on Proposed Waiver Related to Vegetation Management Activities in the Lake Tahoe Basin and Adoption of a Memorandum of Understanding between TRPA and Lahontan

Dear Ms. Holden:

We submit the following supplemental comments on behalf of the Sierra Forest Legacy, the Tahoe Group of the Sierra Club and the League to Save Lake Tahoe. We incorporate by reference all of our prior comments on Lahontan's proposed action.

I. INTRODUCTION

Since our last comments, Lahontan has made certain changes to the proposed Waiver and Memorandum of Understanding ("MOU"). These changes appear to reduce further Lahontan's authority to oversee regulation of fuel reduction projects in the Lake Tahoe Basin with the potential to discharge pollutants. Thus, we continue to object to the project as currently proposed.

Lahontan's revisions to its Initial Study/Negative Declaration (IS/ND) add information about TRPA's monitoring requirements, which Lahontan states will control future waste discharge permitting in the Basin. As set forth below, we do not believe that Lahontan's references to TRPA's code sections provides adequate information on how project monitoring under the waiver meets the requirements of the California Water Code, nor does this present an adequate discussion of monitoring mitigation as required by the California Environmental Quality Act ("CEQA").

As set forth below, we believe the proposed project violates CEQA in a number of ways including by failing to prepare an EIR equivalent document, despite the potential for this project to

have significant impacts. Further, the IS/ND and accompanying CEQA documents still fail to adequately describe the regulatory setting that currently exists regarding regulation of waste discharge from fuel reduction projects and the specific aspects of this project as it will be implemented by TRPA and other agencies, including the Forest Service, that have concluded MOUs with TRPA regarding oversight jurisdiction. In particular, Lahontan continues to provide no information regarding the regulatory programs of TRPA and the Forest Service that are to substitute for Lahontan's regulation. Further, it is our understanding that TRPA and the Forest Service are currently working on a revision to their existing MOU, which is also not discussed.

Further, the revised Waiver, MOU and accompanying CEQA documents still do not provide an adequate discussion of how the existing waiver and MOU, which Lahontan adopted in 2007, currently operate to protect water quality in the Basin. Just in the last two weeks, Lahontan has provided copies of some of the monitoring reports submitted to Lahontan over the last year pursuant to the 2007 waiver. At this time we are still reviewing these documents.¹ However, we note that Lahontan's current proposal to repeal the terms of the existing waiver for projects in the Basin contains *no discussion or analysis* of these reports or the efficacy of Lahontan's current oversight of monitoring by regulated entities within the Region or the Tahoe Basin.

We repeat our prior comments that CEQA requires a full discussion of the current environmental and regulatory setting, the project being proposed, and the potential impacts that may occur.

We also believe that Lahontan has an obligation under CEQA to consider a project alternative in which primary oversight authority is transferred to TRPA but only on the condition that waiver conditions, including monitoring requirements, similar to those existing in the current waiver are retained. This alternative must be considered as it meets the project purpose of avoiding overlapping regulation while meanwhile retaining the existing waiver conditions and monitoring found to be necessary by Lahontan in 2007 to avoid significant impacts to water quality in the Tahoe Basin. *See* Pub. Res. Code §§ 21002.1; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 400-403.

Finally, our prior comments noted that the proposed Waiver violates the Basin Plan because it assumes, without any evidence, that TRPA's regulation will meet Basin Plan requirements. However, as a factual matter, the Basin is presently out of compliance with water quality thresholds and neither the Waiver, MOU or any other relevant documents demonstrates what plan TRPA has for meeting these thresholds. What is TRPA's monitoring plan to ensure achievement of Basin Plan thresholds for pollutants currently causing impairment of the Lake's clarity standard? How will TRPA regulate Forest Service projects? As discussed below, the IS/ND contains no discussion of the implications of TRPA's current MOU with the Forest Service, or any discussion about TRPA's apparent intent to revise its MOU with the Forest Service or how such revision will affect TRPA's

¹We have been receiving copies of these records only in the last two weeks. We understand that at this time, Lahontan has still not evaluated the data in the reports.

oversight of Forest Service projects in the Basin.

In addition, we understand that the State Water Quality Control Board's is currently in the midst of discussions with the U.S. Forest Service regarding the effectiveness of its BMP evaluation program and how that program may be improved. Because it is likely that TRPA will not oversee the majority of Forest Service projects, and will instead rely on the Forest Service's BMP Evaluation Program, the State Board process is directly relevant to the proposed Waiver and MOU for the Basin. However, neither this process, nor the BMPEP are discussed in any way in the project documents.

In sum, the combination of these informational deficiencies, as well as those noted in our prior comments submitted on September 17, 2008, render Lahontan's environmental review of this project inadequate.

Lahontan's recent revisions to the project suggest that Lahontan is not following its directive under the Water Code to act as the primary regulating agency of water quality in California. This concern is particularly highlighted by Lahontan's responses to the Governor's Proclamation and Tahoe Fire Commission recommendations. We note again that at present there are no conditions that accompany the proposed Waiver, no discussion of how TRPA intends to regulate fuel reduction activities and every indication that there will be little if any regulatory oversight over foreseeable future fuel reduction activities in the Basin.

For these reasons, we ask that the Lahontan Board not approve the proposed waiver and MOU and instead work with staff and TRPA to come up with a more protective – and informed – working arrangement to ensure that the precious environmental values in the Basin are preserved.

II. SUPPLEMENTAL COMMENTS ON THE PROPOSED ACTION

A. The Project Documents Still Do Not Provide an Adequate Discussion of How the Waiver's Monitoring Requirements Meets the Requirements of the Water Code or CEQA

In our prior comments, we noted that the waiver lacked any discussion regarding monitoring that is required under the Water Code and which was adopted by Lahontan in 2007 to ensure that its waiver for fuel reduction activities avoided potentially significant impacts to water quality under CEQA. As discussed below, the revisions to the project documents do not remedy these inadequacies.

1. The Existing Waiver is Designed to Ensure that Lahontan Retain Oversight over the Effectiveness of Mitigation Measures Implemented to Avoid Significant Water Quality Impacts in Fuel Reduction Projects.

The Lahontan existing waiver – which currently covers projects in the Tahoe Basin - requires all dischargers under waiver categories 2-5 to prepare and submit to Lahontan an Inspection Plan for

conducting implementation, forensic and effectiveness monitoring.² The Inspection Plan must be designed to ensure that the management measures are installed and functioning prior to precipitation events (implementation monitoring), that the measures were effective in controlling sediment discharge sources throughout the winter period (effectiveness monitoring), and that no new sediment sources occur as a result of project implementation (forensic monitoring).

The Inspection Plan requires a monitoring point site map, which shall include visual and photo-point monitoring points. Forensic photo-point monitoring shall include photos of sediment sources and streambed conditions immediately downstream of areas where sediment discharge occurred.³

The existing waiver sets forth requirements for implementation, forensic and effectiveness monitoring. For routine projects, implementation monitoring is required. If implementation monitoring reveals that management measures were not installed, or were installed but are determined to be ineffective, the discharger must inform Lahontan by documenting the problem and taking corrective action to ensure that the project is in compliance with the applicable Waiver criteria and conditions.

For projects that contain constructed watercourse crossings, ground based equipment operations within stream zones or on slopes over 30%, winter operations, or road or landing construction within 500 feet of stream zones, detailed effectiveness and forensic monitoring is required. This regulatory structure recognizes the potential for projects with one or more of these criteria to discharge significant amounts of sediment into watercourses and the need for effectiveness and forensic monitoring to ensure that mitigation measures put in place to avoid these impacts are functioning effectively. *See Collins Memo, submitted with these comments.*

Forensic monitoring must be conducted during the winter period. Forensic monitoring requires sites to be inspected and photographs taken (as outlined in the Inspection Plan submitted with the Waiver application) following storm events based on significant amounts of precipitation.⁴

²For projects that avoid sensitive areas and do not involve intensive operations, no monitoring is required under the existing waiver.

³Implementation monitoring requires a discharger to take pre-project photos at specific locations to facilitate comparison of pre- and post- project site conditions. Implementation monitoring requires a pre-winter inspection following completion of the project to assure that mitigation measures are in place and secure prior to the winter period. Where winter operations are conducted, an implementation inspection shall be completed immediately following cessation of winter operations to assure that management measures are in place and secure.

⁴ The goal of winter forensic monitoring is to locate sources of sediment delivery (or potential delivery) in a timely manner so that rapid corrective action may be taken where feasible and appropriate. Winter forensic monitoring may also assist in determining cause and effect

Forensic monitoring requires photos at locations when a significant discharge of sediment is detected or when failed management measures cause or may cause the release of three or more cubic yards of sediment to watercourses. Photos of the stream and sediment source are also required where visible sediment deposits in a streambed are observed.

The waiver relies on forensic monitoring to correct situations where mitigation measures installed to avoid adverse water quality impacts have been shown to be ineffective. The waiver states that follow-up forensic monitoring inspections and photo-point monitoring shall be conducted weekly until corrective action is completed to repair or replace failed management measures and/or significant sediment discharges have ceased. Sites that are determined to be sediment sources during forensic monitoring shall be photographed prior to and following corrective action being implemented at the site.

The waiver also requires effectiveness monitoring to be conducted as soon as possible following the winter period. Effectiveness monitoring "shall be designed to determine the effectiveness of management measures in controlling discharges of sediment and in protecting water quality" and to "help to determine whether Waiver criteria and conditions, on a programmatic scale, are adequately protecting water quality and instream beneficial uses."⁵

Effectiveness monitoring shall continue until the discharger submits a Final Certification compliance report to Lahontan demonstrating that the projected and any necessary mitigation measures were completed in compliance with the waiver and all requirements of the applicable water quality control plan. The waiver also requires semi-annual reporting. Dischargers shall submit an Implementation Monitoring Report on January 15 of each year, and an Effectiveness Monitoring Report on July 15 of each year.

In sum, Lahontan's existing waiver provides detailed requirements for implementation, forensic and effectiveness monitoring, including requirements to take pre and post project corroborative photos, which allows Lahontan to retain oversight to ensure that mitigation measures designed to avoid significant water quality impacts are avoided. *See Collins Memo*. As discussed below, the proposed Waiver and MOU do not contain such requirements.

relationships between hillslope activities, hydrological triggers and instream conditions. Forensic monitoring may be waived upon written notification from the discharger that significant environmental impacts would result from road system use in wintertime to access the visual and photo-point monitoring sites.

⁵Effectiveness monitoring shall include visual inspection and photo documentation of sites identified in the Inspection Plan. If the visual inspection reveals a significant management measure failure, a visual inspection of instream components (bank composition and apparent bank stability, water clarity and instream sediment deposition) shall also be conducted and the conditions shall be documented.

2. The Revised Project Documents Do Not Clarify How TRPA's Monitoring Will Ensure that Future Projects Will Avoid Significant Impacts

Lahontan's revised initial study for the Waiver/MOU states that the proposed waiver and MOU are consistent with these monitoring requirements of Water Code § 13269(a)(3) because TRPA will have its own monitoring requirements that will apply to fuel reduction activities in the Basin. The revised IS/ND states that TRPA's Code of Ordinances requires pre-approval field review, pre-harvest field review, and post-harvest field review for fuel reduction activities on private and U.S. Forest Service-administered lands, and that such monitoring not only meets the standards of the Water Code but also does not represent a substantial change from the detailed requirements, discussed above, of the existing waiver.

For several reasons, this response is inaccurate and/or inadequate.

First, as discussed below and in our prior comments, TRPA's existing MOU with the Forest Service exempts logging projects under 100 acres in size occurring on Forest Service lands from any TRPA oversight, including "substantial tree removal involving the use of heavy equipment" in SEZs or on other sensitive lands. *See* September 17, 2008 Comments, Exhibit 11.⁶ Further, we understand that the Forest Service and TRPA intend to revise this MOU. This action could have substantial effects on which agency's regulatory process will oversee Forest Service projects. However, the project documents do not discuss this fact or how the Forest Service will regulate projects.

Second, as to private parcels over which TRPA retains jurisdictional authority, TRPA monitoring is only required in the specific situations for tree cutting projects conducted in SEZs using "innovative technology" vehicles and/or "innovative techniques" for the purpose of fire hazard reduction. *See* TRPA Code § 71.4.C.1.b.viii. This requirement does not cover a number of other situations such as logging operations on steep slopes or within 500 feet of SEZs, winter operations and landing construction found by Lahontan to warrant not only implementation, but also forensic and effectiveness monitoring in order to avoid significant impacts to water quality. *See also* Collins Memo.

Third, the TRPA monitoring requirement for "innovative techniques" in SEZs does not provide any information as to what kind of monitoring will actually be required to ensure that fuel reduction projects in SEZs will not cause significant adverse impacts on water quality in the Basin. Lahontan's Waiver/MOU and associated CEQA documents do not provide any information about what kind of monitoring will be required by TRPA, except to reiterate the TRPA code section's requirement that the SEZ not sustain "any significant damage to soil or vegetation." *See* TRPA Code § 71.4.C.1.b.viii.

⁶The revised IS cites to TRPA code requiring monitoring for substantial tree removal projects. However, TRPA's existing MOU with the Forest Service specifically exempts substantial tree removal projects from TRPA review. *Id.*

As discussed above, the current waiver requires detailed monitoring for high risk projects, including photo-point monitoring to ensure that mitigation measures have been effectively implemented and are functioning to avoid adverse water quality impacts. These type of requirements are critical to ensure that project objectives to avoid significant impacts are being avoided, and to ensure that the oversight agency has the ability to corroborate this fact. *See Collins Memo.*

In contrast, we do not believe that the boilerplate assertion in the IS/ND that TRPA's monitoring will avoid significant impacts – simply because that is what the TRPA code states is supposed to happen – is sufficient to meet either the Water Code or CEQA's requirements that specific monitoring requirements be established to inform the public as to how water quality will be protected. *See Water Code § 13269(a)(3); Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099, 1117-1118 (“[W]e conclude that here the County has not committed itself to a specific performance standard. Instead, the County has committed itself to a specific mitigation goal.”); *Environmental Planning and Information Center v. County of El Dorado* (1982) 131 Cal. App. 3d 350 (CEQA “has clearly expressed concern with the effects of projects on the actual environment upon which the proposal will operate” rather than the legal parameters under which agencies operate.)

Fourth, unlike the existing Lahontan waiver, the TRPA Code provides no mechanism to ensure that monitoring results showing that adverse impacts are occurring will be translated into effective action to correct the problem. *See TRPA Code § 71.4.C.1.b.viii* (“Along with the project proposal, adaptive management concepts *should* be applied to the monitoring plan. A monitoring plan must be submitted with all project proposals, including at a minimum: a list of sites and attributes to be monitored; specification of who will be responsible for conducting the monitoring and report; and a monitoring and reporting schedule”) (emphasis added.) This approach violates CEQA because it lacks any enforceable mechanism to ensure that monitoring as mitigation will ensure the avoidance of significant impacts.⁷ *See also Collins Memo.*

Fifth, the revised IS/ND's reference to Chapter 32 of TRPA's Code of Ordinances does not address the issue at hand, which is project specific monitoring to ensure that fuel reduction activities are not having adverse impacts on water quality in the Basin. Instead, Chapter 32 addresses long term monitoring to address TRPA's compliance with Basin-wide thresholds. The results of any monitoring under this section would, at best, indicate that over time TRPA was not meeting its

⁷A public agency must "provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design." Pub. Res. Code § 21081.6 (b). The public agency must "adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation." *Id.* § 21081.6(a)(1).

threshold requirements. It would not lead to effective mitigation or eliminate sources of pollutant discharge at the project level.

Finally, nothing in the record suggests that “communication” between Water Board and TRPA staff persons would result in monitoring results that would allow either agency to know whether mitigation measures were implemented and effective to avoid significant adverse effects. The revised IS states that such conditions include “notification requirements if a third party violates the term of any permit or project authorization.” The issue here, however, is not violation of permit terms, but rather the question whether the project *as approved* – including any accompanying mitigation measures – is avoiding adverse impacts on water quality through pollutant discharge. All the waiver language regarding coordination and discussion between the agencies is meaningless in the absence of a detailed monitoring program providing ongoing data about the effectiveness of mitigation that is implemented and whether water quality in the Basin is being adversely affected. *See Collins Memo.*

3. The Revised Project Documents Do Not Acknowledge that Lahontan Has Found the Forest Service’s BMP Evaluation Program to be Inadequate

As discussed above, the current MOU between TRPA and the Forest Service exempts all logging projects under 100 acres in size from any TRPA oversight. As discussed in our prior comments, there are approximately 6,000 reasonably foreseeable fuel reduction treatments that will occur in the next decade in the Basin, totaling 68,000 acres. The average size of these treatments would be approximately 11 acres. However, the IS/ND do not discuss how many projects would be directly regulated by the Forest Service. The IS/ND also do not discuss the present intent of the Forest Service and TRPA to amend the MOU and the likelihood that such amendment would be for the purpose of expanding the Forest Service exemption for logging activities in the Basin.

Despite the fact that the U.S. Forest Service – and not TRPA – will address water quality impacts from fuel reduction projects in the Basin, the proposed Waiver and MOU provide no discussion or explanation about how the Forest Service intends to meet either the Water Code’s monitoring requirement or how Forest Service monitoring compares to the existing waiver requirements for implementation, forensic and effectiveness monitoring using pre and post-project visual and photo-points, with built in mechanisms to correct any adverse effects that are occurring. As noted, Lahontan has previously found that the Forest Service’s monitoring program is not adequate to ensure that water quality objectives are being met. *See September 17, 2008 Comment Letter, Ex. 13.*

The IS/ND for the proposed Waiver/MOU violates CEQA in failing to discuss the adequacy of the existing Forest Service monitoring program, much less the fact that TRPA may not in fact be the oversight agency on the majority of fuel reduction projects occurring on Forest Service administered land in the Basin. These are critical components of the project being considered, yet are neither discussed or even acknowledged, in violation of CEQA’s informational requirements. *See Rural Land Owners Assn. v. City Council of Lodi (1983) 143 Cal. App.3d 1013, 1020 (CEQA*

is intended to serve as “an environmental full disclosure statement.”)

As stated above, it is our understanding that 1) TRPA is currently working to amend its MOU with the Forest Service regarding TRPA’s regulatory oversight on forestry matters; and 2) the State Water Quality Control Board is currently in negotiation with the Forest Service regarding the inadequacy of the Forest Service’s evaluation program for avoiding water quality impacts through the implementation of best management practices. Neither of these apparently ongoing processes is discussed or presented in the Waiver/MOU documents, yet each is potentially critical to whether the current Waiver/MOU have the potential to have significant impacts on water quality.⁸

As discussed in our prior comments, Lahontan puts the cart before the horse in proposing to delegate to TRPA primary regulatory oversight over fuel reduction projects in the Basin where such larger scale programmatic processes are still under consideration. Here both TRPA and the State Board are currently in negotiation regarding appropriate oversight over Forest Service projects, and such projects will constitute the majority of projects that will be subject to the waiver. Before these negotiations are completed, however, Lahontan proposes to waive its own oversight authority over these projects, without knowing what the actual result will be and without providing any discussion regarding the impacts of this transfer as part of the CEQA review process.

The purpose of monitoring is to insure that water quality objectives are being met as part of the waiver conditions. Here, the waiver includes no conditions or mechanism to insure that the environment will be protected as fuel reduction on approximately 68,000 acres over the next decade occurs. *See* Water Code § 13269(a)(2).

B. The CEQA Documents Do Not Provide Adequate Information About the Existing Regulatory Setting or the Project that is Proposed

As discussed in our prior comments, CEQA requires a full description of the environmental setting in which the project will occur. 14 Cal. Code Reg. § 15125; *San Joaquin Raptor v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722-723. In addition, CEQA requires that the environmental review document contain a full and accurate description of the proposed project. *See e.g. Mira Monte Homeowners Assn. v. County of Ventura* (1985) 165 Cal. App.3d 357, 366; *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App.3d 818, 829-831; *County of Inyo v. UCB of Los Angeles* (1977) 71 Cal. App. 3d 185; 14 Cal. Code Reg. § 15124. We reiterate our incorporation of those comments.

Here, the IS/ND still does not provide adequate information about the environmental setting

⁸It is our understanding that TRPA’s execution of a new MOU with the Forest Service will not undergo public review or adopted pursuant to a public hearing. As discussed below, this process should be combined with Lahontan’s Waiver/MOU project and considered as part of the larger project at issue, which is how to effectively streamline regulation of fuel reduction activities in the Basin while avoiding significant impacts to water quality in the Basin.

or the project. As discussed, the IS/ND repeals the existing waiver conditions that Lahontan currently applies to timber activities by replacing the current regulatory regime based on the existing waiver/MOU and replacing it with a different one. Under CEQA, analysis of this change requires a discussion of the current situation, including an assessment of how the Lahontan's current waiver process is functioning both in terms of workability and effectiveness *and* an assessment of how TRPA and the Forest Service currently process fuel reduction projects in the Basin. Each of these are components of the existing regulatory setting, which must be described under CEQA. This CEQA requirement makes particular sense given that there may be aspects of Lahontan's current process that warrant consideration as waiver conditions for the proposed Waiver, which might avoid the potential for significant impacts, as discussed in the next section below.

In addition, the project proposed will foreseeably result in TRPA and the Forest Service approving projects. Yet here, the CEQA documents for the project still do not consider how projects will be processed and monitored in the future as a result of the waiver and MOU approval. How will TRPA review projects that may be subject to conditional exemptions under TRPA's code pursuant to a host of MOU's with local jurisdictions? How will the TRPA regulate projects subject to Forest Service jurisdiction? How will the Forest Service process and monitor projects under its authority according to its existing MOU with TRPA?⁹

In the absence of information on the existing setting and undisputed components of project implementation, Lahontan is not in a position to assess the impacts of conferring primary regulatory authority over fuel reduction projects to TRPA.¹⁰

C. The CEQA Documents Do Not Consider a Reasonable Range of Alternatives

CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Regs. § 15002(a)(1). The lead agency under CEQA must identify mitigation measures and alternatives to the project which may reduce or avoid the potential for significant impacts, thus accomplishing CEQA's basic statutory goals. *See Laurel*

⁹As discussed above, TRPA's existing MOU with the Forest Service exempts the vast majority of fuel reduction projects occurring on Forest Service lands from any TRPA oversight, including "substantial tree removal involving the use of heavy equipment" in SEZs or on other sensitive lands.

¹⁰As set forth in our prior comments, "[t]he 'transfer' has the same effect as a substantive change in the waiver, except for here there is no information about the new permitting conditions between the action agencies and TRPA. This includes basic information regarding how TRPA will address monitoring, activities on steep slopes and within SEZs, exemptions or semi-exemptions from project review and granting of discharge prohibitions. Without any information regarding these project components, it is impossible for the public or any agency to gauge the impacts of the proposed action."

Heights, supra, 47 Cal.3d at 400-403; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; Pub. Res. Code §§ 21002, 21002.1. This analysis of feasible mitigation measures and a reasonable range of alternatives is crucial to CEQA's substantive mandate that significant environmental damage be substantially lessened or avoided where feasible. Pub. Res. Code §§ 21002, 21081; 14 Cal. Code Regs. §§ 15002(a)(2) and (3). *Laurel Heights, supra*, 47 Cal.3d at 392, 404-405. CEQA requires government agencies to disclose to the public the reasons why they have approved a particular project resulting in significant environmental effects. 14 Cal. Code Regs. § 15002(a)(4). The CEQA process "protects not only the environment but also informed self-government." *Laurel Heights, supra*, 47 Cal.3d at 392.

We believe that given the importance of effective monitoring to avoid adverse water quality impacts from fuel reduction activities, Lahontan must consider a project alternative that eliminates repetitive permitting, *but retains the monitoring requirements of the existing waiver*. Here, Lahontan must analyze a project alternative where Lahontan confers primary jurisdiction to TRPA *on the condition that* TRPA assume Lahontan's monitoring requirements for high risk projects in the Basin, as set forth in Lahontan's existing waiver.

Consideration of this alternative would require analysis of information that is currently lacking from the CEQA documents including 1) an assessment of TRPA's capacity to implement monitoring and other regulatory controls over new fuel reduction projects; and 2) the effectiveness of Lahontan's current monitoring requirements in avoiding sediment and nutrient discharge into Tahoe's waters. TRPA can certainly provide information on the former issue, while the Inspection reporting requirements under the 2007 waiver would supply at least some data on the latter issue regarding how the new monitoring requirements are being translated in the field, and whether that process has proven to be effective in avoiding significant impacts.

The results of these analyses would provide important information regarding which of the project alternatives would best serve the project purpose of eliminating overlapping jurisdiction on permitting while still requiring a solid program of monitoring to ensure that significant adverse impacts to water quality would be avoided. If TRPA lacks the capacity to oversee a project-by-project review and monitoring approach, or if there are problems with the current waiver's monitoring program, these issues must be discussed as part of the project's CEQA analysis. In the absence of this information, Lahontan is flying blind, without knowledge of how projects will be reviewed and monitored in the future or what types of processes have proven to be effective in the field.

D. Lahontan's Process Results in a Segmentation of the Overall Project to Respond to the Fire Commission Recommendations And to Establish Streamlined and Effective Regulatory Oversight for Fuel Reduction Projects in the Basin.

Both Lahontan and TRPA have provided responses about how they have implemented the Tahoe Fire Commission Recommendations, yet this overall project – the implementation of these recommendations on approximately 68,000 of fuel reductions in the Basin over the next decade –

is not addressed or analyzed as part of the proposed action.¹¹

Under CEQA, Lahontan must consider the scope of the project broadly, *see McQueen v. Board of Directors of the Mid-peninsula Regional Open Space District* (1988) 202 Cal. App.3d 1136, 1143 (“[p]roject’ is given a broad interpretation in order to maximize protection of the environment”), in order to ensure that impacts are considered at the earliest possible time, *see* Pub. Res. Code 21003.1(a); 14 Cal. Code Reg. § 15004(b), and to avoid segmenting the environmental review of a single project into different parts, thereby precluding a fully informed environmental review process from ever occurring at any one time. *See e.g. Bozung v. Local Agency Formation Com.* (1975) 13 Cal. 3d 263, 282; 14 Cal. Code Reg. § 15003(h).

Here, Lahontan has not considered the overall impacts of the following actions, all of which appear to be motivated by or are relevant to the overall project at issue, which is to establish an acceptable regulatory regime that will reduce fire risk while also ensuring protection to water quality and the environment in the Basin.

- TRPA’s review of fuel reduction projects in response to Commission recommendations.
- Forest Service review of fuel reduction projects in response to same recommendations.
- TRPA and Forest Service negotiation on a new MOU.
- State Water Board and Forest Service negotiation on monitoring protocols for fuel reduction projects.
- Lahontan’s proposal to amend its waiver for the entire Lahontan region.

We reiterate our concerns that the project in this case is actually much more than the transfer of regulatory authority from Lahontan and TRPA. The record shows that there are many administrative processes underway in reaction to the Angora Fire and subsequent fire risk recommendations. Yet at no point do we discern an intent on the part of any of the agencies to address the cumulative, long term impacts of these changes and subsequent implementation of projects on water quality in the Tahoe Basin. Instead, this overall project is proceeding piecemeal, in violation of CEQA.

E. The Waiver Still Does Not Comply with the Basin Plan and Effectively Defers the Formulation of Mitigation Necessary to Meet Basin Plan Requirements and Avoid Significant Impacts under CEQA

In our prior comments, we noted that the proposed Waiver violates the Basin Plan because

¹¹As discussed above, the IS/ND documents contain no discussion of how TRPA and the Forest Service intend to implement these recommendations.

it incorrectly assumes that TRPA's regulation will meet Basin Plan requirements. But this is nothing more than a hoped for result. The IS/ND cites no evidence that would support this finding.¹²

In its recent response to the Fire Commission recommendations, Lahontan includes many statements that in our view raise significant concerns whether Lahontan intends to retain any oversight authority over the 68,000 acres of fuel reduction projects described in the IS/ND. As discussed above, there are no conditions that accompany the proposed Waiver, no discussion of how TRPA intends to regulate fuel reduction activities and every indication that there will be little if any regulatory oversight over foreseeable future fuel reduction activities in the Basin.

As discussed in our prior comments, the 2006 Threshold Evaluation (TRPA, 2007)¹³ showed only 25% of the threshold indicators were meeting threshold standards and water quality is one of the threshold categories that has not been successfully attained. The primary causes for the degradation of water quality are thought to be an increased flux of sediments and nutrients into the lake. Sources of nutrients and sediments have been identified including atmospheric deposition, stream loading, direct runoff, ground water, and shore zone erosion (Murphy and Knopp, 2000).¹⁴ As stated in our prior comments, however, not only is TRPA presently out of compliance with its Basin wide thresholds for water quality, but there remain serious issues as to whether TRPA is adequately considering the contribution that land-based fuel reduction activities may have towards existing water quality impacts in the Basin.¹⁵

¹²Lahontan's responses (p. 8) acknowledge that the Waiver "does not contain specific details on TRPA's procedural approach to fulfilling its mandate to protect water quality or on how TRPA intends to regulate vegetation activities in the future." However, the responses state that such detail is not required "to demonstrate the legal validity or environmental protectiveness of the waiver and MOU." *Id.* As set forth in these comments, we believe that this response is contrary to CEQA.

¹³See TRPA 2007. 2006 Threshold Evaluation Report. Stateline, NV.

¹⁴Murphy, D. D. and Knopp, C. M. 2000. Lake Tahoe watershed assessment. USDA Forest Service Pacific Southwest Station, General Technology Report PSW-GTR-175.

¹⁵As stated in our prior comments, TRPA is committed to achieving Basin Plan water quality objectives in part through the adoption of Total Maximum Daily Loads ("TMDLs"). However, Lahontan's current TMDL process assumes a particular load allocation for timber and other vegetation management activities that does not assess the potential load increases that will be caused by the 6,000 fuel reduction projects on approximately 68,000 acres over the next 10 years. Further, the current TMDL documents assume a level of protection to water quality from vegetation management activities that is based on the conditions set forth in the 2007 Waiver. However, the proposed project eliminates these conditions, including those for monitoring and protection of sensitive habitats. Thus, the current assumptions on which Lahontan and TRPA are proceeding as to how TMDLs will lead to the achievement of water quality objectives are no

However, as factual matter, the Basin is presently out of compliance with water quality thresholds set forth in the Basin Plan, and neither the Waiver, MOU or any other relevant documents demonstrates what plan TRPA has for meeting these thresholds. As set forth above and in our prior comments, the IS/ND present no information about how TRPA will meet water quality standards, including no information about how TRPA intends to review and monitor the fuel reduction projects that will be implemented as a foreseeable result of this project. This lack of information is exacerbated by the lack of any evidence to support the assumption that TRPA will regulate such projects to meet water quality standards, when in fact TRPA has *never* been able to do so in the past. How, for example, will TRPA monitoring ensure achievement of Basin Plan thresholds for pollutants currently causing impairment of the Lake's clarity standard? How will TRPA handle its regulation of Forest Service projects? As discussed above, the IS/ND contains no discussion of the implications of TRPA's current MOU with the Forest Service, or any discussion about TRPA's apparent intent to revise that MOU to allow the Forest Service more latitude in conducting fuel reduction operations without state agency oversight.

We believe that this process does not meet CEQA requirements and does not produce substantial evidence to support Lahontan's proposed finding that this project is in compliance with the Water Code. Certainly CEQA requires more than a blanket assertion that future actions must comply with legal standards to suffice as an adequate analysis of potentially significant environmental impacts.

In our view, Lahontan's approach constitutes an impermissible deferral of the specifics of a mitigation plan, which thus lacks any evidence of being potentially feasible mitigation to avoid significant impacts under CEQA. As set forth in *Gray v. County of Madera, supra*, 167 Cal. App. 4th 1099:

While we generally agree that CEQA permits a lead agency to defer specifically detailing mitigation measures as long as the lead agency commits itself to mitigation and to specific performance standards, we conclude that here the County has not committed itself to a specific performance standard. Instead, the County has committed itself to a specific mitigation goal--the replacement of water lost by neighboring landowners because of mine operations. However, this goal is not a specific performance standard such as the creation of a water supply mechanism that would place neighboring landowners in a situation substantially similar to their situation prior to the decline in the water levels of their private wells because of the mining operations, including allowing the landowners to use water in a substantially similar fashion to how they were previously using water. Moreover, the listed mitigation alternatives must be able to remedy the environmental problem.

longer valid. This is another example of where Lahontan has failed to adequately describe the environmental/regulatory setting in claiming that this project will have no significant impacts because TRPA is required to comply with the existing Basin Plan.

Id. at 1117.¹⁶

Under Water Code § 13269(a)(1) any waiver must be “consistent with any applicable state or regional water quality control plan.” As stated in our prior comments, Lahontan cannot make a finding that its complete delegation of authority to TRPA of permitting authority for vegetation management activities on approximately 68,000 acres within the Tahoe Basin is consistent with the Basin Plan.¹⁷

F. The Waiver is Not in the Public Interest

We reiterate our comments that Lahontan’s proposed Waiver is not in the public interest because it transfers primary regulatory authority over projects to TRPA even though there is no evidence showing how TRPA can oversee these projects to ensure that significant adverse impacts to water quality are avoided.

In sum, Lahontan is making the commitment to enter into a waiver giving TRPA primary and lead authority over permitting fuel reduction projects in the Basin before any information has been presented as to how TRPA intends to ensure that its permitting of these projects will avoid

¹⁶See also *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1601-1602 ([W]e note the City cannot rely upon postapproval mitigation measures adopted during the subsequent design review process”); *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872 , 884 (“There cannot be meaningful scrutiny of a mitigated negative declaration when the mitigation measures are not set forth at the time of project approval”); *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 308-309 (“By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process”); Pub. Res. Code, § 21003.1; 14 Cal. Code Reg. § 15071(c) (negative declaration under CEQA shall include any mitigation measures prior to being circulated for public review.)

¹⁷We reiterate our prior comments that TRPA has conducted no analysis of the effects that permitting 68,000 acres of vegetation management activities will have on its ability to meet its threshold goals. To the extent TRPA is just beginning to consider this process, TRPA is not currently in compliance with its own threshold requirements. We reiterate our prior comments that it is not in the public interest for Lahontan to give up primary regulatory authority over fuel reduction projects without specific direction as to how critical Basin resources will be protected or updated thresholds pertaining to these resources. We continue to question why Lahontan believes it can make this finding where TRPA has no plan in place for meeting its Basin Plan requirements nor how it will be reviewing or monitoring the fuel reduction projects that are subject to the proposed Waiver/MOU.

significant impacts on the environment. As discussed above, this approach is not in the public interest and, as discussed above, violates CEQA.

III. CONCLUSION

We reiterate our concern that Lahontan appears to be reacting to political pressure to dispense with its traditional and legally required authority over projects that have the potential to take us further away from the attainment of water quality objectives for the Basin. In addition, as discussed in our prior comments and above, the project as proposed is contrary to law. We thus ask that the Board consider our comments and not approve the proposed Waiver/MOU and instead work with staff and TRPA to come up with a more protective - and informed - working arrangement to ensure that the precious environmental values in the Basin are preserved.

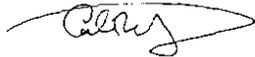
Sincerely,



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Sierra Forest Legacy



Jennifer Quashnick
Sierra Forest Legacy -Tahoe Area Sierra Club



Carl Young/FS
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Letter 5
attachment

TECHNICAL MEMO ON REVIEW OF Lahontan Waiver and MOU
Laurel Collins, November 25, 2008

Dear Mr. Graf,

At your request, I have reviewed technical information regarding the potential impacts of the proposed Waiver of Waste Discharge Requirements (Waiver) and Memorandum of Understanding (MOU) between the Lahontan Regional Water Quality Control Board ("Lahontan") and the Tahoe Regional Planning Agency (TRPA).

I have been a geomorphologist since 1981 specializing in fluvial, hillslope, and tidal wetland geomorphology, sediment budgeting, landslide and stream mapping, and analysis of geomorphic change from natural and anthropogenic influences. My experience on the issues raised by the Waiver and MOU is based on my work on various sediment source assessment and monitoring projects for the US Forest Service, California Department of Forestry, US National Park Service at Point Reyes National Seashore, San Francisco Bay Regional Water Quality Control Board, Alameda County, Marin County, Contra Costa Clean Water Program, and the East Bay Regional Park District. I am the Owner/Director of Watershed Sciences consulting firm, which I established in 2001. Attached to this review is a copy of my current CV. A few examples of my experience follow.

For the California Department of Forestry (CDF) I was involved in a 5-year monitoring project for the Board of Forestry to assess the effectiveness of forest practice rules that were developed specifically to reduce erosion and sediment supply to streams in areas that had various silvicultural practices, ranging from clearcutting to selective helicopter logging. At numerous 10-acre study sites located throughout private and public California forestlands, effectiveness monitoring of erosion control practices was conducted by measuring sediment trapped behind erosion control structures (such as water bars and dissipation structures), by measuring the size of voids created by landslides, gullies, rills, and from failed road crossings associated with logging roads and tractor trails. Data were collected yearly, statistically analyzed, and total sediment supply on logged sites was compared to that from study sites that served as controls, where no silvicultural practices had been previously conducted. Photo monitoring was an integral component of monitoring and used to document and verify conditions.

02-0111

As a separate project later contracted by the CDF, I was a co-author of a report on a cautionary review of the effects of silvicultural activities on site quality. The report dealt particularly with the impact of logging on nutrient cycling and mass wasting.

For the Pacific Southwest Forest and Range Experiment Station, I established ten long-term monitoring sites of channel and erosion conditions in the in the Golden Trout Wilderness, Inyo National Forest, California. I produced detailed stream maps, with quantitative data on sediment size classes, longitudinal profiles, cross sections, and a methodology for monitoring and assessing future change.

For The Point Reyes National Seashore I monitored post fire sediment production and runoff following the 1995 Vision Fire. This involved stream gaging, measurement of sediment deposition in a developing alluvial fan, assessment of hydrophobic soil conditions, and monitoring stream and landscape response for over three years. Similarly, following the 1991 Tunnel fire in the Oakland Hills, California, I monitored erosion and sediment production as influenced by fire, as well as by post fire erosion control activities.

For Alameda County, I developed a preliminary sediment budget for Alameda Creek and protocols for developing a sediment budget by monitoring sediment load at key gaging stations along the stream network. Recently for the San Francisco Regional Water Quality Control Board, I developed a methodology and performed an analysis of sediment sources and determined long-term sediment supply rates from the stream and hillsides of the nearly 100 sq mi Sonoma watershed for a TMDL (total maximum daily loads) analysis of fine sediment.

As part of this review, I have assessed the terms of the existing waiver for the Lahontan region enacted in February 2007, the proposed Waiver and MOU with TRPA, and other documents relating to the procedures that TRPA and the U.S. Forest Service will likely utilize in making assessments of project impacts on water quality. In particular, I have reviewed the monitoring requirements that accompany each of the different regulatory schemes by Lahontan, TRPA and the Forest Service.

1. Review of Existing Lahontan Waste Discharge Waiver and Monitoring Requirements

The existing Lahontan waiver applies to five categories of timber harvest and vegetation management activities. Category One projects are considered "minor timber harvest" activities. For projects that fall within this category, the existing Lahontan waiver does not generally require monitoring. For Category Two through Five projects, the Lahontan waiver requires implementation and effectiveness and forensic monitoring. If a project meets a number of criteria, the Lahontan waiver only requires implementation monitoring. These criteria include no constructed watercourse crossings, no ground based equipment operations

within stream zones or on slopes over 30%, no winter operations and no road or landing construction within 500 feet of stream zones.

Conversely, if a project contains any of these criteria, effectiveness and forensic monitoring is required. In this way, the existing Lahontan waiver recognizes the potential for projects with one or more of these criteria to discharge significant amounts of sediment into watercourses and the need for effectiveness and forensic monitoring to ensure that mitigation measures put in place to avoid these impacts are functioning effectively.

The Lahontan waiver requires all dischargers under waiver categories 2-5 to prepare and submit to Lahontan an Inspection Plan for conducting implementation, forensic and effectiveness monitoring. The Inspection Plan shall be designed to ensure that the management measures are installed and functioning prior to precipitation events (Implementation monitoring), that the measures were effective in controlling sediment discharge sources throughout the winter period (Effectiveness monitoring), and that no new sediment sources occur as a result of project implementation (Forensic monitoring).

The Inspection Plan shall include a monitoring point site map, which shall include visual and photo-point monitoring points. Forensic photo-point monitoring shall include photos of sediment sources and streambed conditions immediately downstream of areas where sediment discharge occurred.

Implementation monitoring requires a discharger to take pre-project photos as specific locations to facilitate comparison of pre- and post- project site conditions. Implementation monitoring requires a pre-winter inspection following completion of the project to assure that mitigation measures are in place and secure prior to the winter period. Where winter operations are conducted, an implementation inspection shall be completed immediately following cessation of winter operations to assure that management measures are in place and secure.

If implementation monitoring reveals that management measures were not installed, or were installed but are determined to be ineffective, the discharger shall document the problem and any corrective actions to ensure that the project is in compliance with the applicable Waiver criteria and conditions.

The existing waiver also requires forensic monitoring, which shall be conducted during the winter period. Forensic monitoring requires sites to be inspected and photographs shall be taken (as outlined in the Inspection Plan that was submitted with the Waiver application) following storm events based on significant amounts of precipitation. The goal of winter forensic monitoring is to locate sources of sediment delivery (or potential delivery) in a timely manner so that rapid corrective action may be taken where feasible and appropriate. Winter forensic monitoring may also assist in determining cause and effect relationships between hillslope activities, hydrologic triggers and instream conditions. Forensic monitoring may be waived upon written notification from the discharger that significant environmental impacts would result from road system use in wintertime to access the visual and photo-point monitoring sites.

Forensic monitoring requires photos at locations when a significant discharge of sediment is detected or when failed management measures cause or may cause the release of 3 cubic yards (or more) of sediment to watercourses. Photos of the stream and sediment source are also required where visible sediment deposits in a streambed are observed.

The waiver relies on forensic monitoring to correct ongoing problems with the effectiveness of mitigation measures installed to avoid adverse water quality impacts. The waiver states that follow-up forensic monitoring inspections and photo-point monitoring shall be conducted weekly until corrective action is completed to repair or replace failed management measures and/or significant sediment discharges have ceased. Sites that are determined to be sediment sources during forensic monitoring shall be photographed prior to and following corrective action being implemented at the site.

The waiver also requires effectiveness monitoring to be conducted as soon as possible following the winter period. Effectiveness monitoring "shall be designed to determine the effectiveness of management measures in controlling discharges of sediment and in protecting water quality" and to "help to determine whether Waiver criteria and conditions, on a programmatic scale, are adequately protecting water quality and instream beneficial uses."

The Effectiveness monitoring inspection shall include visual inspection and photo documentation of sites identified in the Inspection Plan. If the visual inspection reveals a significant management measure failure, a visual inspection of instream components (bank composition and apparent bank stability, water clarity and instream sediment deposition) shall also be conducted and the conditions shall be documented.

Effectiveness monitoring shall continue until the discharger submits a Final Certification compliance report to Lahontan demonstrating that the project and any necessary mitigation measures were completed in compliance with the waiver and all requirements of the applicable water quality control plan. The waiver also requires semi-annual reporting. Dischargers shall submit an Implementation Monitoring Report on January 15 of each year, and an Effectiveness Monitoring Report on July 15 of each year.

In my opinion, the monitoring conditions contained in this waiver help to ensure that high risk projects do not lead to significant discharges of sediment and other pollutants. For monitoring to be effective, it must be timely and verifiable and must contain a mechanism that ensures that problems are corrected as soon as they are identified in the monitoring process. Each of these components are present in the existing waiver. In my opinion, the repeal of these components has the potential for substantial impacts on water quality because there may no longer be an effective mechanism to verify that mitigation designed to avoid pollutant discharge has been successful, or if not, has been immediately corrected.

2. Proposed Waiver and MOU for the Basin

As part of this assessment, I have also reviewed Lahontan's proposed Waiver and MOU, in which Lahontan proposes to transfer primary authority for managing the waiver program in the Lake Tahoe Basin to the TRPA. My understanding from these documents is that the monitoring requirements described above in Lahontan's existing waiver will no longer apply in the Basin. Instead, I understand that monitoring will be primarily the job of TRPA.

As discussed below, the proposed Waiver and MOU do not discuss the monitoring that would be conducted by TRPA in any detail. There is no discussion of what percentage of area that will be monitored, what the guidelines will be for determining whether more forensic monitoring will be necessary, and what the quantitative threshold or qualitative description is for "significant" damage to soil or vegetation. In my opinion, these issues raise serious concern that monitoring of future fuel reduction and silvicultural activities will be inadequate to ensure that mitigation measures designed to avoid substantial pollutant discharge have been implemented and are effective, or, if not effective, will be quickly corrected. Furthermore, it is not clear what level of qualifications will be required of TRPA individuals reviewing monitoring reports, establishing remediation requirements, or developing adaptive management requirements. Mostly, without rigorous protocols for quantitative effectiveness and forensic monitoring it might be impossible to establish cause and effect of site deterioration or the linkages between impacts caused by land management activities versus those that are natural. Without this kind of information remediation efforts can often be useless or lead to more costly problems.

As discussed above, the existing Lahontan Waiver requires relatively comprehensive implementation, forensic and effectiveness monitoring for timber and fuel reduction projects falling within Categories 2-5 and not meeting all of the exemption criteria. These exemption criteria identify types of projects that have the potential for significant discharges of sediment due to steep slopes, sensitive and unstable areas (i.e., stream zones), sensitive times of year and use of heavy and/or ground-based equipment.

Below I provide my review of the potential for these types of fuel reduction activities to have significant environmental impacts, and discuss the effectiveness of TRPA monitoring requirements to ensure that such impacts are minimized or avoided through the implementation of effective mitigation/best management practices. As set forth below, in my opinion, the TRPA monitoring program does not require monitoring for the same scope of projects as is required by Lahontan's existing waiver. Further, the TRPA code sections do not provide enough information for me to analyze the effectiveness of TRPA's monitoring requirements that do apply. For that reason, the proposed Waiver and MOU, by eliminating the existing monitoring requirements, have the potential for significant environmental impacts because discharges that do occur due to higher risk activities are likely to not be identified and corrected in a timely manner.

3. Potential for Impacts Due to Logging or Fuel Reduction Activities in Sensitive Areas

In my experience working in the Sierra Nevada, I have observed that the logging activities on steep slopes and within stream zones have the potential to discharge substantial amounts of sediment. This is particularly true where heavy equipment is used, especially in areas with decomposed granitic bedrock and/or granitic soils that have abundant fine sediment, often referred to as grus. Following fire, but even before the first rainfall, natural sediment supply rates into streams can be quite high from dry raveling of soil from the inner gorge of stream canyons. After rainfall, especially in areas that have hydrophobic soils, pervasive rill networks can occur over vast portions of the hillsides that can directly supply fine surface soils to the stream network. Without effectiveness and forensic monitoring, these natural geomorphic responses might be difficult to distinguish from man-related project causes in areas that are treated for post fire erosion control.

Effectiveness and forensic monitoring is needed to determine the influences of large events such as rain on snow events that have been shown to produce some of the largest flood impacts in the Sierra. In these extreme conditions, it will be important to establish if BMPs and other erosion control remedies are able to perform. In my opinion, the absence of such monitoring could lead to substantial amounts of sediment discharge in flooding events because the problems would not be identified in a timely manner.

In areas that are or are not effected by fire that are undergoing fuel reduction activities and even on slopes less than 50 percent (as designated in the proposed Waiver on page 2 of Attachment A), mechanical disturbance of the soil surface can destroy the added soil cohesion that is provided by the fine roots of vegetation (Booker Dietrich and Collins, 1993) (see CV for cited references). This added soil cohesion is particularly critical in steep areas that are often found in or near (within 500 feet of) stream environment zones. With just light mechanical disturbance and creation of bare soils, some soils will create a series of rill networks similar to hydrophobic soils, especially during intense rainfall. These rill networks might later be covered by snow or destroyed as vegetation recovers. Without effectiveness and forensic monitoring, these land use-related sediment sources might go undetected yet create significant negative impacts.

After logging, thinning, salvage operations, or other fuel modification activities that cut trees there is a subsequent loss in soil strength to resist surface erosion and landsliding. This is caused by the decay and loss of small and large roots. For example, studies have shown that large roots of conifers decay in about 5-7 years (Coats and Collins, 1981). This is before roots of germinated seedlings can contribute significant added cohesion. At this point, forest soils dominated by conifers can be at their weakest to resist mass wasting from landslides. Continued monitoring beyond a five-year time frame is needed to capture the potential effects of these land use practices, otherwise significant negative impacts caused by land management might go undetected. These kinds

of impacts that provide fine sediment to any portion of the stream network, even along small headwater ephemeral channels can influence any particular designated "class" or size of downstream channel. This means that distance limits of 500 ft on the proximity of a Class I, II, or IV watercourses might not be effective.

It is important to note that even the process of implementing erosion control practices or the structures or applications themselves can sometimes be more damaging than if nothing had been done. For example, following the Tunnel Fire in the Oakland Hills, hydro mulching reduced vegetation recovery from soil disturbance, hay bale check dams in small water courses increased sediment production and delivery to streams, and on landslides hay bales increased the potential for landsliding by increasing the amount of soil saturation, and trampling by foot and mechanical disturbance of the soil during applications of erosion control caused the break down of the fine root network in the surface soils that lead to increased surface erosion from the development of rills and gullies (Collins and Johnston, 1995; Booker, Dietrich, and Collins, 1995). Trained experts are required to assess where erosion control remediation is necessary or could be potentially detrimental.

4. Comparison of TRPA Monitoring Requirements with Existing Waiver Monitoring Requirements

As part of this assessment, I have reviewed the TRPA code sections that address monitoring requirements. The only specific monitoring requirement contained in these code sections appears limited to tree cutting projects conducted in Stream Environment Zones (SEZs) using "innovative technology" vehicles and/or "innovative techniques" for the purpose of fire hazard reduction. See TRPA Code § 71.4.C.1.b.viii. However, in my experience there are other types of fuel reduction activities besides vehicle use in SEZs that have the potential for sediment discharge, including logging on steep slopes or within 500 feet of SEZs, or construction of roads and landings as a part of logging operations that have the potential for substantial soil displacement.

My reading of this code section also raises further concerns, to the extent that the Regional Board is assuming that the monitoring described in this section will avoid adverse water quality effects. As discussed above, for monitoring to be effective, it must be timely and verifiable and must contain a mechanism that ensures that problems are corrected as soon as they are identified in the monitoring process.

The existing Lahontan waiver attempts to achieve the requirement that monitoring be timely in a number of ways. First, it requires that implementation monitoring be conducted immediately after project completion to ensure that BMPs have been properly put in place. Second, the waiver requires forensic monitoring conducted immediately after major storm events, which test the adequacy of mitigation measures designed to protect water quality. Third, the existing waiver requires comprehensive effectiveness monitoring following the

winter season after the project has been completed and the BMP mitigation has been put in place.

The Lahontan waiver also is verifiable through its requirement of photo-point monitoring at the pre-project, post-project implementation, and forensic and effectiveness monitoring stages. Photo-monitoring ensures that the regulating entity – in this case Lahontan – maintain some ability to review the effectiveness of the waiver conditions and the BMPs that are being implemented to avoid adverse effects on water quality. In my experience, without this type of verification process, there is no way for an agency to ensure that BMPs are being adequately implemented and operating effectively.

Quantitative measurements can be conducted from photos when pictures are taken from the same vantage point and especially when something can be used as a scale, such as a survey rod. This was done in a project for Marin County where quantitative estimates of sediment supply from stream downcutting and bank erosion could be conducted from measurements made in the field and from photos taken 15 years earlier in Novato Creek (Collins, 1995). Protocols for adaptive management and reproducible quantitative assessment seem to be missing within the proposed waiver.

Finally, the existing waiver has specific triggers to ensure that when BMPs have not been adequately implemented or are not operating effectively over time, the problems that are identified must be corrected, and that more intensive monitoring shall occur until that has been accomplished.

In contrast to these specific requirements, in my review of the TRPA code sections, I did not see any description of how TRPA would conduct monitoring for fuel reduction projects. The Code section states only monitoring will be required to ensure that fuel reduction projects in SEZs will not cause significant adverse impacts on water quality. However, in my opinion, the requirements of the existing Lahontan waiver represent a minimum level of monitoring that would be necessary to meet this objective. For example, were TRPA only to require implementation monitoring, and not project specific forensic and effectiveness monitoring, this would not ensure that adverse impacts would be avoided because mitigation measures put in place after logging projects are completed often fail or are not effective in avoiding sediment discharge.

Many erosion control projects have created sediment sources, rather than reduce them. Examples are sited in the post fire monitoring of the Tunnel Fire (Collins and Johnston, 1995). Data collected on the effectiveness of straw bale check dams at trapping sediment and preventing it from entering channel systems were shown to be only 50% effective at the Tunnel Fire (Booker, Dietrich, and Collins, 1993) and 60 percent effective at the 1993 Laguna Beach Fire (Collins and Johnston, 1995). If effectiveness and forensic monitoring does not occur it will be impossible to assess and ameliorate negative impacts.

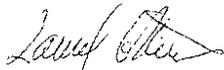
Without verifiable compliance using such techniques as pre and post project photo monitoring points, it is not possible for a regulatory agency to

ensure that adverse impacts to water quality are being avoided. Ideally, reproducible quantitative measurements of erosion sites should be made to establish the amount and size of the sediment supplied to the stream system and should be accompanied by qualitative information that assigns sediment supply to different source types and establishes cause and effect. Without this, there can not be sufficient adaptive management.

Finally, I observe that the proposed waiver and MOU set forth various means for Lahontan to be notified in the event a party violates the term of any permit or project authorization. In my opinion, this is not an adequate substitute for an effective monitoring program because projects may often be implemented according to the terms of the permit, yet still cause substantial discharge due to failed mitigation, or due to the application of measures that were inappropriate for the physical conditions on the ground. In my experience, coordination and discussion between the agencies will not ensure protection of water quality in the absence of a detailed monitoring program providing ongoing data about the effectiveness of mitigation that is implemented and whether water quality is being adversely affected.

Because the background documentation for the proposed Waiver and MOU contain no discussion of what types of monitoring will occur, it is impossible for me to compare what the effects of the proposed Waiver/MOU may be on water quality in the Tahoe Basin. However, in my opinion, Lahontan's repeal of its existing waiver and corresponding monitoring requirements for high risk projects has the potential for significant impacts on water quality in the Basin.

Sincerely,



Laurel Collins

AREAS OF EXPERTISE

- Fluvial Geomorphology
- Tidal Wetland Geomorphology
- Sediment Budgeting
- Landslide Mapping
- Landscape Aerial Photo Interpretation
- Geomorphic Effects of Wildfire and Land Use Impacts
- Stream Restoration Design

EDUCATION

University of California, Berkeley B.A., Earth Sciences, 1981

PROFESSIONAL HISTORY

Watershed Sciences, Owner/Director 2001-to date

San Francisco Estuary Institute, Environmental Scientist, 1999-2001

Independent Consultant, Environmental Sciences, 1989-2001

University of California, Staff Researcher, 1984-2001

Lawrence Berkeley Laboratory, Senior Research Associate,

REPRESENTATIVE EXPERIENCE

Ms. Collins has been a geomorphologist since 1981 specializing in fluvial and tidal wetland geomorphology, sediment budgeting, landslide analysis, stream monitoring and mapping, and analysis of geomorphic change from natural and anthropogenic influences. Ms. Collins has conducted sediment budget and source analysis in Sonoma Watershed for the Regional Water Quality Control Board and has served as an Expert Witness for testimony pertaining to Geomorphology.

As Owner/Director of Watershed Sciences consulting firm established 2001, Ms. Collins has been directly involved in the following projects:

- Sediment Source Analysis for development of a TMDL in Sonoma Creek watershed for the Sonoma Ecology Center and the San Francisco Regional Water Quality Control Board.
- Evaluation of impoundments as red-legged frog habitat for the Point Reyes National Seashore.
- Development of action plan and methodologies for conducting a sediment budget analysis on Alameda Creek for Alameda County.
- Geomorphic analysis of Crow Creek to assess impacts of land use practices and natural processes for Alameda County.
- Expert Witness for Determination of Natural versus Artificial conditions of the Mitchell Slough of the Bitterroot River, Montana, for Doney, Crowley, Bloomquist, Payne, Uda PC.
- Sediment source evaluation and conceptual plans for reducing sedimentation in Eden Creek for Alameda County.
- A sediment source analysis and sediment budget in Sonoma Watershed for the Regional Water Quality Control Board and subcontractor for the Sonoma Ecology Center.
- Assessment of flooding and geomorphic change in the lower Sonoma Creek Watershed for the Coastal Conservancy and Southern Sonoma Resource Conservation District.
- Geomorphic assessment of long-term processes associated with the maintenance of red-legged frog breeding habitat of Point Reyes National Seashore, U.S.N.P.S.
- Geologic and geomorphic mapping of Strawberry Canyon in Berkeley, California, for the Committee to Minimize Toxic Waste and Urban Creeks Council.
- Development of conceptual plans for restoration and

1992-1993

East Bay Regional Park
District, Resource Analyst
1983-1986, Geologist,
1986-1991

Center for Natural
Resource Studies, John
Muir Institute,
Environmental Scientist,
1980-1983

U.S. Geological Survey,
Hydrologic Field
Assistant, 1980-1982

California Department of
Forestry, Field Assistant,
1979-1980

California Academy of
Sciences, Paleontology
Department Student
Assistant, 1978.

AFFILIATIONS

American Geophysical
Union, 1986-to date

Geological Society of
America, 1983-2001

California Forrest Soils
Council, 1980-1991

TEACHING

Watershed Analysis,
Sierra Nevada Field
Station, San Francisco
State, 1998-2003
Hydrology Summer
Field Course, Teton
Science School, 1991
and 1996

geomorphic analysis of lower Wildcat Creek for City of San Pablo and Urban Creeks Council.

- Preliminary assessment of opportunities and constraints for restoration and fish barrier removal in lower Ignacio Creek (Arroyo San Jose), Marin County for Friends of Ignacio Creek and City of Novato.
- Survey of longitudinal profile of lower Carriger Creek, Sonoma County, for the Southern Sonoma Resource Conservation District.
- Geomorphic analysis of silvicultural impacts on sediment supply of Sulphur Creek, Plumas County, for the U.S.F.S. and Plumas Corporation.
- Geomorphic analysis of lower Carriger Creek for the Klamath River Information System, William Kier Associates.
- Stratigraphic analysis, carbon dating, and history of geomorphic change at Last Chance Creek near Stone Dairy, Plumas County for the Plumas Corporation.

As Geomorphologist for the San Francisco Estuary Institute, Ms. Collins:

- Developed of a "Watershed Science Approach" for field methodologies to assess and analyze changes in the delivery of water and sediment as affected by Euro-American land use practices in California.
- Conducted a scientific study of physical processes and land use impacts in Wildcat Creek, Contra Costa County, for the San Francisco Estuary Institute. Developed a field-based methodology for quantifying natural versus man-related sediment supplies.
- Applied the Watershed Science Approach to San Antonio Creek, Marin County, for the Southern Sonoma Resource Conservation District.
- Applied the Watershed Science Approach to Carriger Creek, Sonoma County for the Southern Sonoma Resource Conservation District.

As an Independent Consultant, Ms. Collins was served as the following:

- Consulting Geomorphologist for the Napa Resource Conservation District to establish and help educate different stewardship groups and to develop protocols to collect data on stream geometry to monitor channel change.
- Consulting Fluvial Geomorphologist Geomorphology Consultant for AECOS and Institute for Sustainable Development to conduct a watershed analysis for Waimanalo Creek, Waimanalo, and Mokapu Channel, Marine Corps Base, Oahu.

SCIENTIFIC ADVISORY BOARDS

Technical Advisory
Committee for
Management of Lagunitas
Creek, Marin Municipal
Water District

South Bay Salt Pond
Restoration Project,
Sediment Workshop
Leader, County of
Alameda

Science Review Group for
Napa Watershed Project of
the San Francisco Estuary
Institute

Pescadero Creek Technical
Advisory Committee, San
Mateo Resource
Conservation District

San Pablo/Wildcat
Technical Design
Advisory Council, City
San Pablo

Hill Area Fuel Reduction
Committee, University of
California at Berkeley

Mayors Task Force of
Forestry and Vegetation,
City of Oakland

- Fluvial and Tidal Geomorphology Consultant for Marin County Flood Control District to conduct a watershed analysis of Novato Creek, Marin County, with special focus on sedimentation and sediment sources to the Novato Flood Control Project.
- Fluvial Geomorphology Researcher contracting with the Point Reyes National Seashore, to conduct research and monitoring of the second and third year hydrologic and geomorphic effects of the 1995 Vision Fire on Muddy hollow Creek, Marin County.
- Fluvial Geomorphology Researcher for the West Marin Environmental Action Committee to conduct research and monitoring of the first year effects of the 1995 Vision Fire in the Inverness Ridge, Marin County.
- Teacher with Dr. Luna B. Leopold and Dr. Scott McBain for the Teton Science School, Jackson, Wyoming at the Hydrology Workshop on fluvial hydrology, field methods and watershed analysis.
- Fluvial Geomorphology Consultant to U. S. Department of Justice for research on Reserved Water Rights Case on the effects of water diversion on the Fraser River, Lostman Creek, and Indian Creek, Colorado, plus expert testimony.
- Fluvial Geomorphology Consultant to EA Engineering, to perform watershed analyses for a 100-Year Sustained Yield Program for the Noyo River, Mendocino County. Analyses included documentation of channel conditions, determining impacts of logging upon hydrology and fluvial geomorphology of coho salmon habitat, sediment production and landsliding; and advising policy makers on ways to reduce future impacts from timber harvesting.
- Fluvial Geomorphology Consultant to U.S.F.S., to determine the Holocene and recent geomorphic history of the South Fork Kern River in Monache Meadows, Southern Sierra Nevada, Inyo National Forest. Analysis was conducted of flood frequency; channel incision and sediment transport regimes and related to climate change and land use practices for the last 200 years.
- Geomorphology Consultant to law firm of Lossing and Elston, San Francisco, to prepare expert testimony on the effects of fire upon slope stability, landsliding, runoff and erosion.

As a Staff Researcher in the Department of Geology and Geophysics, University of California at Berkeley, Ms. Collins was involved with the following:

- Fluvial geomorphology research for the Pacific Southwest Forest and Range Experiment Station, U.S.F.S. to produce detailed stream maps, longitudinal profiles, and cross

sections within and outside of cattle exclosures in the Golden Trout Wilderness, Inyo National Forest, California.

- Tidal marsh geomorphology and hydrology research in the Petaluma Marsh, Sonoma County.
- Fluvial hydrology research on braided channels in regions of Wyoming and Idaho.
-

Senior Research Associate for Lawrence Berkeley National Laboratory to conduct geologic field mapping, analysis and report preparation of site characteristics for the LBNL Hazardous Waste Handling Storage Facility in Strawberry Canyon, Berkeley, California.

Teacher for San Francisco State Sierra Nevada Field Station for undergraduate course in stream restoration, watershed analysis, and stream monitoring techniques.

District Geologist for East Bay Regional Park District, Oakland, Ca. Responsibilities included identification and analysis of geological hazards; direction of geologic and hydrologic research programs; publication of research findings; formulation of District policy pertaining to fuel break management, and resource management relative to hydrologic and geologic issues; preparation of expert testimony; preparation and review of Environmental Impact Reports; assessment and restoration of steelhead habitat in Wildcat Creek, Berkeley Hills.

Geologist/Hydrologist for the Center for Natural Resource Studies, John Muir Institute, Inc., Berkeley, to conduct field study and analysis of flood effects and instream flow requirements of San Lorenzo River, Santa Cruz, California; assessment of geologic hazards and evaluation of fish habitat Grider Creek, Klamath National Forest; assessment of cumulative impacts of silvicultural practices in the Sierra National Forest; assessment of the effects of silvicultural practices on site productivity in California forest lands; and publication of research findings.

Hydrologic Field Assistant, for Water Resources Division, US Geological Survey, Menlo Park, to conduct field study and analysis of 1) earthflows in Redwood National Park, California; 2) river morphology as effected by volcanic activity, Mt. St. Helens, Washington; 3) interactions among hillslope and stream processes in the San Lorenzo River, Santa Cruz, California; and 4) publication of findings.

Student Assistant for the California Department of Forestry, Sacramento, to conduct field study and analysis of the effects of logging activities and the effectiveness of the Forest Practice Regulations on rates of erosion in private forest lands throughout California.

Student Assistant for Geology Department, California Academy of Sciences, San Francisco assisting with the curation of fossil genera of ammonites and echinoids for Dr. Peter Rhoda.

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