CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LAHONTAN REGION

MEETING OF MARCH 13-14, 2019 SOUTH LAKE TAHOE

ITEM 7

PROPOSED WATER QUALITY CONTROL PLAN AMENDMENT TO REMOVE THE PROHIBITION ON NEW PIER CONSTRUCTION IN SENSITIVE AREAS AT LAKE TAHOE

CHRONOLOGY	
1987	The Tahoe Regional Planning Agency (TRPA) adopted its land use regulation code. The Code included ordinances prohibiting the construction of new shoreline structures in areas considered prime fish habitat. The 1987 Code required TRPA to evaluate the impacts associated with the construction and use of structures in fish spawning areas and at tributary mouths and reconsider its prohibition on constructing new shoreline structures in specific locations.
1995	To maintain consistency with the TRPA, the Water Board prohibited the construction of new shoreline structures in fish spawning habitat as part of its Water Quality Control Plan (Basin Plan).
1999	Based on studies completed in the early 1990s, the TRPA proposed a set of shoreline ordinance amendments that included removing the prohibition on shoreline structure development in fish habitat.
2008	Following years of stakeholder engagement and environmental analysis, the TRPA adopted a new set of shoreline ordinance amendments, including Code changes that removed the prohibition on placing shoreline structures in fish habitat.
2010	A United States District Court vacated the 2008 shoreline ordinances due to issues related to baseline buoy assumptions and boat-use mitigation concerns.
2012	The TRPA adopted new land use regulation code, but deferred action on shoreline ordinances due to outstanding stakeholder concerns.
2013	The Water Board amended its Basin Plan to remove all reference to previous TRPA land use policy, except for the shoreline structure prohibition.
May 2018	Following two years of intensive agency and stakeholder engagement, the TRPA released an Environmental Impact Statement assessing proposed updated shoreline ordinances.

September 2018	Water Board staff held a California Environmental Quality Act project scoping meeting to describe proposed Basin Plan amendments to align Water Board regulation with TRPA's expected shoreline ordinance update.
October 2018	The TRPA Governing Board unanimously approved updated shoreline ordinances, including changes that will allow structure development in areas mapped as fish spawning habitat.

BACKGROUND

As the primary land use authority in the Lake Tahoe basin, the TRPA maintains a Regional Plan and associated Code of Ordinances that describe land use allowances and restrictions to protect Lake Tahoe's natural resources. The TRPA adopted a comprehensive Regional Plan and Code update in 2012, modernizing the bulk of its land use regulations. Due to previous controversy, TRPA deferred shoreline policy adjustment in 2012. The outdated shoreline regulations remained in place.

Following TRPA's 2012 Regional Plan and Code update, the Water Board amended its Basin Plan to remove references to Lake Tahoe land use regulations. However, the Basin Plan prohibition on the discharge related to pier development in spawning habitat remained unchanged awaiting TRPA shoreline ordinance update.

ISSUE

Should the Water Board amend its Basin Plan to remove the prohibition limiting new pier construction to significant spawning habitats and to areas immediately offshore of stream inlets in Lake Tahoe?

DISCUSSION

The Water Board Basin Plan has historically aligned with TRPA regulations regarding Lake Tahoe issues. In the 1990s, the Water Board incorporated significant parts of the Clean Water Act Section 208 Plan (208 Plan) into its Basin Plan to ensure water quality protection by enforcing stringent land use regulations.

The Lake Tahoe Total Maximum Daily Load (TMDL) Basin Plan amendment provided the Water Board a quantitative and enforceable regulatory mechanism to achieve water quality goals at Lake Tahoe without reliance on regional land use regulations.

The TRPA amended its shoreline regulations and adopted updated Code in October 2018. The updated regulations removed the previous prohibition on constructing piers in spawning habitat and maintain protection zones prohibiting pier development at stream mouths. To align with TRPA's updated Code, staff propose to amend the Basin Plan to remove the similar prohibition from Water Board regulation.

Independent of any action, pier development at Lake Tahoe will remain subject to strict Water Board and TRPA oversight. New pier development at Lake Tahoe must conform to parcel eligibility and density criteria specified by the TRPA, limiting the number of allowable new structures. Under TRPA's updated Code, the approval and placement of shoreline structures is limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers along Lake Tahoe's California and Nevada shoreline.

New pier projects must also incorporate all required mitigation measures that apply to new pier construction. Mitigation required by TRPA Code includes complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, and fisheries habitat restoration requirements.

Finally, new pier projects must comply with applicable Basin Plan prohibition exemption requirements. The Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. Exemptions to these prohibitions require the implementation of appropriate Best Management Practices and the restoration of impacted area in an amount of 1.5 times the area disturbed (also required by TRPA Code). The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and require needed mitigation of any potential impact. These prohibitions also serve to prevent pier development in sensitive lands near stream mouths.

In summary, the prohibition on shoreline development in fish spawning habitat and near stream mouths is a remnant of previous land use restrictions and the associated 208 Plan. With the TRPA's October 2018 shoreline ordinance approval, the Water Board Basin Plan became inconsistent with the regional land use regulation. The proposed amendments will align Water Board and regional regulations while maintaining existing regulatory oversight to protect sensitive lake bottom, beach, and stream mouth environments.

PUBLIC OUTREACH/INPUT

The public had many opportunities to engage in TRPA's shoreline planning process:

- 1. The TRPA initiated a comprehensive stakeholder process to update its shoreline ordinances in the summer of 2016.
- 2. The process has involved more than 30 policy steering committee meetings, eight technical fact-finding meetings, and numerous opportunities for public engagement.
- 3. Shoreline policy proposal presentations to TRPA Governing Board committees were open to the public.
- 4. The TRPA held a series of targeted shoreline workshops on both the north and shores of Lake Tahoe to offer the public the opportunity to comment on proposed shoreline policy changes.
- 5. The TRPA met directly with lakefront property owners, non-motorized watercraft representatives, environmental advocates, and other interested parties over the past two years to keep interested stakeholders informed of process progress.
- The TRPA Draft EIS and ordinance approval were both presented to the TRPA Advisory Planning Commission and the TRPA Governing Board during public meetings.

A scoping meeting was held at the Water Board's September 2018 meeting. Water Board staff circulated a CEQA scoping notice to more than 350 recipients that are part of the TRPA's outreach contact list. Staff also distributed the scoping notice via the Water Board's email subscription lists to those individuals who requested notification of Basin Planning and Lake Tahoe issues.

The staff report, substitute environmental documentation, and the proposed basin plan amendments were distributed to interested individuals and public agencies on November 27, 2018 for a 45-day review and comment period.

Since document distribution, staff made several edits to the substitute environmental document and CEQA checklist responses to improve readability and add clarity. No new significant effects or project revisions were identified. Language was added to better clarify the less than significant impacts of the project and describe applicable regulatory oversight mechanisms.

In February, staff notified the public of the Water Board hearing to consider the proposed Basin Plan amendment. Notices were placed in local newspapers, posted on the Water Board website, and distributed to interested parties via email and through email subscription lists.

Two written comments were submitted, expressing concern about the perceived lessening of water quality and habitat protections. Staff have provided written responses to the comments, noting the ongoing regulatory oversight remains appropriately protective of sensitive resources. Water Board staff also had verbal conversations with several interested stakeholders to clarify the scope and intent of the proposed action and describe remaining regulatory mechanisms.

RECOMMENDATION

Adopt the proposed resolution that will (1) adopt the Basin Plan amendments; (2) adopt and approve the substitute environmental documentation, and (3) request the State Water Board similarly approve and forward the Basin Plan Amendments to the California Office of Administrative Law for final approval.

ENCLOSURE	ITEM	BATES NUMBER
1	Resolution R6T-2019-PROP, approving amendments to the <i>Water Quality Control Plan for the Lahontan Region</i> (Basin Plan)	7 - 5
2	Resolution Enclosure 1 – Proposed Basin Plan amendments for Lake Tahoe Piers	7 - 11
3	Staff Report/Environmental Checklist for Proposed Amendments to the <i>Water Quality Control Plan for</i> <i>the Lahontan Region</i> (Basin Plan)	7 - 23
4	Submitted comments and responses	7 - 57
5	Staff Presentation	7 - 61

ENCLOSURE 1

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LAHONTAN REGION

RESOLUTION R6T-2019-PROPOSED

APPROVAL OF AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION REMOVING A PROHIBITION ON NEW PIER CONSTRUCTION IN SENSITIVE AREAS AT LAKE TAHOE

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

- 1. The proposed amendments to the *Water Quality Control Plan for the Lahontan Region* (Basin Plan) were developed in accordance with Water Code section 13240.
- 2. The Porter-Cologne Act declares, "the quality of all the waters of the state shall be protected for the use and enjoyment by the people of the state." (Water Code section 13000.)
- Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards' basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) requirements for preparing environmental documents. (Cal. Code Regs. tit. 14, §15251, subd. (g); Cal. Code Regs. tit. 23, §3777.)
- 4. The Substitute Environmental Documentation for this project consists of the final Staff Report and the environmental checklist dated March 2019, comments and responses to comments, the draft Basin Plan amendment language, and this Resolution.
- 5. The proposed amendments modify the Basin Plan to remove a prohibition that currently prevents the construction of new piers in sensitive areas along the California side of the Lake Tahoe. Removing the prohibition would allow lakefront property owners in El Dorado and Placer Counties to construct new piers in areas determined to be within significant spawning habitat. Areas immediately offshore of stream inlets in Lake Tahoe remain protected by other Basin Plan prohibitions.
- 6. The Water Board action: (1) provides area-wide consistency regarding pier development, (2) results in de minimis potential affects to spawning habitat and offshore stream inlet areas, and (3) acknowledges existing regulatory oversight provides adequate protection.
- 7. The Substitute Environmental Documentation concludes that the adoption of the Basin Plan amendments will not result in any significant environmental impacts. As a

Tahoe Pier Basin Plan Amendments

result, no analysis is presented regarding reasonable alternatives to the project and mitigation measures to avoid or reduce any significant or potentially significant adverse environmental impacts. (Cal. Code Regs. tit. 23, §3777, subd. (e).)

- 8. A CEQA scoping meeting was conducted on September 12, 2018 in South Lake Tahoe. A notice of the CEQA scoping meeting was provided on the Water Board's website and was sent to interested parties, including partner agencies, environmental groups, and other individuals interested in Basin Plan amendments.
- 9. A draft Staff Report and the proposed Basin Plan amendments were prepared and distributed to interested individuals and public agencies on November 27, 2018 for review and comment in accordance with state environmental regulations (California Code of Regulations, title 23, section 3775 et seq.).
- 10. The Lahontan Water Board heard and considered public comments presented at the public hearing held on March 13, 2019 in South Lake Tahoe.
- 11. The record, including the Staff Report and environmental checklist, indicates that these amendments are consistent with the provisions of the State Water Board's Resolution 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California" and federal antidegradation policy prescribed in 40 CFR section 131.12.
- 12. The Lahontan Water Board finds that the Substitute Environmental Documentation satisfies the requirements for the implementation of CEQA for exempt regulatory programs, as set forth in California Code of Regulations, title 23, section 3775 et seq.
- 13. The proposed amendments meet the necessity standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).

THEREFORE BE IT RESOLVED THAT:

- 1. The Lahontan Water Board hereby adopts and approves the Substitute Environmental Documentation that was prepared, where applicable, in accordance with the provisions applicable to the certified exempt regulatory programs, California Code of Regulations, title 23, sections 3777 through 3779.
- 2. Pursuant to Water Code section 13240, et seq., the Lahontan Water Board, after considering the entire administrative record, including all oral testimony and written comments, adopts the amendments to the *Water Quality Control Plan for the Lahontan Region* as set forth in Enclosure 1.
- 3. The Executive Officer is directed to forward copies of the Basin Plan amendments and the administrative record to the State Water Board in accordance with the requirements of Water Code section 13245.

Tahoe Pier Basin Plan Amendments

- 4. The Lahontan Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of Water Code sections 13245 and 13246 and forward them to the California Office of Administrative Law (OAL) for approval.
- 5. Following approval of the Basin Plan amendments by the State Water Board and OAL, the Executive Officer shall file a Notice of Decision with the Natural Resources Agency. The record of the final Substitute Environmental Documentation shall be retained at the Lahontan Water Board's office at 2501 Lake Tahoe Boulevard, South Lake Tahoe, California, in the custody of the Lahontan Water Board's administrative staff.
- 6. If during its approval process, Lahontan Water Board staff, State Water Board or OAL determines that minor, non-substantive changes to the amendment language or supporting staff report and environmental checklist are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Lahontan Water Board of any such changes.

I, Patty Z. Kouyoumdjian, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on March 13, 2019.

PATTY Z. KOUYOUMDJIAN EXECUTIVE OFFICER

Enclosure 1: Proposed Basin Plan Amendments

ENCLOSURE 2

Proposed Basin Plan Amendments for Lake Tahoe Piers

March 2019

Basin Plan Sections Affected by Proposed Amendments

The proposed amendment would involve changes to Basin Plan Chapters 4 and 5. Additions are underlined and deletions are in strikethrough font.

Changes to Chapter 4, Section 4.1, Table 4.1-1

TABLE 4.1-1. LOW THREAT DISCHARGES THAT ARE CONDITIONALLY EXEMPT FROM WASTE DISCHARGE PROHIBITIONS

The exempt waste discharges must meet general conditions in Basin Plan section on Limited Threat Discharges, enumerated below, in addition to meeting the applicable specific conditions for discharge categories.

General Conditions for Exemption:

- 1. For proposed discharges to surface water, the applicant must provide information supporting why discharge to land is not practicable.
- 2. The discharge must not adversely affect the beneficial uses of the receiving water.
- 3. The discharge must comply with all applicable water quality objectives.
- 4. Best practicable treatment or control of the discharge must be implemented to ensure that pollution or nuisance will not occur.

Specific Conditions for Exemption:

Discharge Category	Conditions for Exemption
Atmospheric condensate from refrigeration and	Must not contain chemicals or materials that
air conditioning systems	would adversely affect water quality.
Groundwater from foundation drains, crawl-space	Must not contain chemicals or materials that
pumps, and footing drains	would adversely affect water quality.
Water main, storage tank, fire hydrant flushing	Water discharged must consist of potable water.
	Must use best management practices to reduce
	soil erosion from discharged water to a level of
	insignificance.
Incidental runoff from landscape irrigation	Must not contain fertilizers or pesticides. For
	recycled water used for irrigation, must discharge
	to land.
Non-contact cooling water	Must not contain biocides, anti-scalants or other
	additives.
Aquifer or pump testing water	Must not be in an area of known groundwater
	contamination. If discharged to surface water, the
	quality of the discharge must be substantially
	similar to the quality of the receiving water.

Construction dewatering	Must not be in an area of known soil or
	groundwater contamination where that
	contamination could adversely affect the
	discharge and/or the receiving water.
Utility vault and conduit flushing and draining	Must not contain chemicals or materials that
	would adversely affect water quality.
Hydrostatic testing, maintenance, repair and	Water discharged must consist of potable water.
disinfection of potable water supply pipelines	Must use best management practices to reduce
	soil erosion from discharged water to an
	insignificant level.
Hydrostatic testing of newly constructed	Potable water must be used in the hydrostatic test.
pipelines, tanks, reservoirs, etc., used for purposes	Must not contain chemicals or materials that
other than potable water supply (e.g., gas, oil,	would adversely affect water quality. Must use
reclaimed water, etc.)	best management practices to reduce soil erosion
	from discharged water to an insignificant level.
Disposal of treated groundwater	Treatment must remove contaminants of concern
	to non-detectable levels.
Pier pilings (driven), except for piers in Lake	Piles must be driven. Where the lakebed contains
Tahoe in significant fish spawning habitat or in	clayey or silty substrate, caissons, turbidity
areas immediately offshore of stream inlets	curtains, or other best management practices must
	be used to limit generated turbidity to smallest
	area practicable.
Buoys and aids to navigation	Must not contain chemicals or materials that
	would adversely affect water quality.
Scientific instrumentation for water quality or	Must meet the general conditions for exemption.
resources study	

Changes to Chapter 4, Section 4.11, in the subsection "Boating and Shorezone Recreation"

The USEPA (1993) summarizes information on a variety of shoreline protection practices. General considerations include design of all shorezone structures so that they do not transfer erosion energy or otherwise cause visible loss of surrounding shorezones; establishment and enforcement of no wake zones to reduce erosion potential from boat wakes, establishment of setbacks for upland development and land disturbance, and direction of upland drainage away from bluffs and banks so as to avoid accelerating slope erosion.

23. *Piers*. Discharges attributable to the construction of new piers in certain habitat types in Lake Tahoe are prohibited (see Chapter 5). Although there are no specific pier-related prohibitions applicable to other lakes in the Region, the general discharge prohibitions discussed elsewhere in this Chapter apply to pier construction. The Regional Board has historically regulated piers serving single family homes to a lesser extent than public piers, breakwaters, jetties, marinas, and other large in-lake construction projects. Pier construction projects throughout the Region should meet the following conditions:

- The disturbance of lake bed materials should be kept to a minimum during construction. Best practicable control technology should be used to keep suspended earthen materials out of the lake. (This may involve techniques such as installation of pilings within caissons.)
- No petroleum products, construction wastes, litter or earthen materials should enter surface waters. All construction waste products should be removed from the project site and dumped at a legal point of disposal. Any mechanical equipment operating within the lake should be cleaned and maintained prior to use.
- No wood preservatives should be used on wood which will be in contact with lake water.
- The pier owner should ensure that the project contractor is aware of these and any other applicable conditions.

Regional Board staff should continue to review proposals for shorezone and underwater construction on a case-by-case basis through the Section 401 water quality certification process, and the Board should consider waste discharge requirements where necessary to protect water quality.

<u>Changes to Chapter 5, Section 5.2, Page 5.2-1, in the subsection "Discharge</u> <u>Prohibitions for the Lake Tahoe Hydrologic Unit (HU)"</u>

Section 13243 of the Water Code gives Regional Boards, in Basin Plans or waste discharge requirements, authority to "specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted." Regional Boards may take enforcement action for violations of waste discharge prohibitions. The Water Code may also contain waste discharge prohibitions that are applicable in the Lahontan Region.

Waste discharge prohibitions applicable within the Lake Tahoe Hydrologic Unit are discussed below. Regionwide prohibitions also apply in the Lake Tahoe Hydrologic Unit. See section 4.1 for regionwide prohibitions.

Waste discharge prohibitions in this chapter do not apply to discharges of stormwater when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives. For existing discharges, waste discharge requirements, including, if authorized, NPDES permits, may contain a time schedule for the application of control measures and compliance with water quality objectives. In general, the Regional Board expects that control measures will be implemented in an iterative manner as needed to meet applicable receiving water quality objectives.

Water Code sections 13950 through 13952.1 include special water quality provisions for the Lake Tahoe Basin related to sewage disposal that function as waste discharge prohibitions. Exemptions to those prohibitions are also identified within those sections of the Water Code.

Discharge Prohibitions for the Lake Tahoe Hydrologic Unit (HU)

1. The discharge attributable to human activities of any waste or deleterious material to surface waters of the Lake Tahoe HU is prohibited.

An exemption to this prohibition may be granted whenever the Regional Board finds all of the following:

- a. The discharge of waste will not, individually or collectively, directly or indirectly, adversely affect beneficial uses, *and*
- b. There is no reasonable alternative to the waste discharge, and
- c. All applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.
- 2. The discharge attributable to human activities of any waste or deleterious material to land below the highwater rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe is prohibited.
- 3. The discharge attributable to human activities of any waste or deleterious material to Stream Environment Zones (SEZs) in the Lake Tahoe HU is prohibited.
- 4. The discharge or threatened discharge attributable to new pier construction of wastes to significant spawning habitats or to areas immediately offshore of stream inlets in Lake Tahoe is prohibited.

The Regional Board may grant exemptions to Prohibitions 2, and 3 and 4, above, for projects relocating existing structures below the highwater rim of Lake Tahoe, within the 100-year floodplain, <u>or</u> within an SEZ, in spawning habitat or offshore of stream inlets to Lake Tahoe where the area of the structure is relocated on the same parcel or within a defined project area and where the following finding can be made (a "project area" may include multiple adjacent or non-adjacent parcels):

The relocation must result in net or equal water quality benefit. Net or equal benefit is defined as an improvement in or maintenance of function of the associated area below the highwater rim of Lake Tahoe, 100-year floodplain, or SEZ, spawning habitat, or stream inlet. Net or equal benefit may include, but is not limited to, one or more of the following:

- a. Relocation of structure to an area further away from the stream channel or wetlands;
- b. Protection of restored 100-year floodplain or SEZ or an equivalent area (at a 1:1 ratio for floodplain or 1.5:1 for SEZ) of offsite 100-year floodplain or SEZ through deed restriction or conveyance to a mitigation bank or land conservancy or similar. For projects involving disturbance of wetlands, offsite mitigation may involve larger mitigation ratios;
- c. For projects involving the relocation of more than 1000 square feet of impervious coverage within a 100-year floodplain or SEZ, a finding, based on a report prepared by a qualified professional, that the relocation will improve the functioning of the floodplain or SEZ and will not negatively affect the quality of existing habitats.

d. For pier relocation projects in spawning habitat, a finding that equivalent or greater area of spawning habitat is restored or created.

Changes to Chapter 5, Section 5.14, in the subsection "Boating and Shorezone Recreation"

Boating and Shorezone Recreation

The "Shorezone Protection" section of this Chapter (see Section 5.7) summarizes water quality problems related to shorezone development, TRPA's general shorezone protection programs, and guidelines for Regional Board use in evaluation of shorezone projects. Chapter 4 of this Basin Plan includes a general discussion of water quality problems and control measures related to boating and shorezone recreation activities. Problems include wastewater disposal from boats, fuel spills from boats and marinas, marina stormwater pollutants, and resuspension of sediment and associated pollutants through dredging and underwater construction. These problems are of special concern in the Lake Tahoe Basin because of the sensitivity of the Lake and the heavy recreational use it receives. The following is a summary of special control measures by problem type.

Vessel Wastes

The discharge of vessel wastes to Lake Tahoe is prohibited, but violations still occur. Many of the boats in use have built-in toilets and holding tanks or portable toilets, creating a large potential for intentional or unintentional dumping of wastewater into Lake Tahoe. Many boats are not equipped with self-contained heads, and there is no inspection program. Discharge of vessel toilet wastes introduces pollution that can affect domestic wastewater intakes from Lake Tahoe and other lakes such as Fallen Leaf and Echo Lakes. Although not in themselves a serious threat to the clarity of Lake Tahoe, vessel wastes contribute cumulatively to nutrient loading and present a public health risk.

In California, the Harbors and Navigation Code authorizes the State Board to require marinas or other marine terminals to install pumpout facilities. The State Board has adopted procedures by which the Regional Boards can determine the need for pumpout facilities, and request the State Board to require specific terminals to install them. Under these provisions, the Lahontan Regional Board shall continue to determine the need for additional pumpout facilities at Lake Tahoe, and request the State Board to require installation where such facilities are necessary. The Regional Board currently requires that all public marinas on the California side of Lake Tahoe have pumpout facilities available.

The U.S. Coast Guard is primarily responsible for enforcing prohibitions against vessel waste discharges to Lake Tahoe, and should include an inspection program as part of its enforcement effort. Other federal and state agencies should assist the Coast Guard. Permits issued by the U.S. Army Corps of Engineers, state lands agencies, and TRPA for marinas, buoys, and other facilities serving vessels on Lake Tahoe should require compliance with the prohibitions against discharge of vessel wastes. These agencies should also assist in the inspection program. The Regional Board shall assist the Coast Guard in the program to enforce the discharge prohibitions and shall bring its own enforcement actions where necessary.

The Regional Board has adopted waste discharge requirements for existing marinas at Lake Tahoe which include provisions for vessel waste pumpout facilities, and should continue to adopt waste discharge requirements for new and expanded marinas.

Piers

In recognition of the potential adverse impacts of continued proliferation of piers and other mooring structures in Lake Tahoe, the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Wildlife (DFW), and the Nevada Department of Wildlife have adopted policies recommending strongly against the approval of new facilities within sensitive fish habitat (USFWS 1979 & 1980, DFW 1978). See Figure 5.8-1.

Piers and jetties should not be allowed to block currents. They must be constructed so as to allow current to pass through. Pier construction must be prohibited in significant spawning habitat. Pier construction should also be prohibited in waters in or immediately offshore of biologically important stream inlets. Pier construction must be discouraged in prime fish habitat areas. Further study of the effects of piers should be continued. The controls called for here may be modified, or additional controls required, based on the findings of that study.

Section 5.2 contains the following prohibition against new pier construction in significant spawning habitat or offshore of biologically important stream inlets:

"The discharge or threatened discharge, attributable to new pier construction, of wastes to significant spawning habitats or to areas immediately offshore of stream inlets in Lake Tahoe is prohibited."

The prohibition against discharges immediately offshore of stream inlets shall apply up to a thirtyfoot contour. Discharges to the inlets themselves are subject to the prohibition against discharges to Stream Environment Zones.

The determination whether an area is significant spawning habitat shall be made on a case-by-case basis by permitting agencies, in consultation with the USFWS and state fish and wildlife agencies. Maps which have been produced by these agencies may be used as a guide. Because of the scale on which the maps have been produced, however, and the possibility that additional information may become available, the maps will not necessarily be determinative. [TRPA has adopted fish habitat maps for Lake Tahoe which differ somewhat from those prepared by the fish and wildlife agencies, and has designated additional important stream inlets by ordinance.]

The term "pier," as used in the prohibition above, includes any fixed or floating platform extending from the shoreline over or upon the water. The term includes docks and boathouses. The prohibition does not apply to maintenance, repair, or replacement of piers at the same site.

Under Section 401 of the federal Clean Water Act, the U.S. Army Corps of Engineers cannot issue any permit if the state water quality agency denies certification that the permitted discharge is in compliance with the applicable state water quality standards (see the separate section of this Chapter on 401 and 404 permits). The prohibitions in this plan are part of California's water quality standards for Lake Tahoe, effectively precluding the Corps of Engineers from issuing permits for pier construction in violation of the prohibitions. This plan does not prohibit the use of mooring buoys, which are now used as alternatives to piers in many cases, although the USFWS (1979) has recommended against their approval in sensitive fish habitat because of the adverse effects of powerboat use.

Permitting agencies should also discourage construction of new piers in prime fish and aquatic habitat, emphasizing alternatives such as use of existing facilities. These permitting agencies include the Corps of Engineers, state lands agencies, the Tahoe Regional Planning Agency, and the Lahontan Regional Board. Where permits for pier construction are issued, they should require construction practices to contain any sediment disturbed by placing structures in Lake Tahoe. When piers or other structures are placed in Lake Tahoe, they should be surrounded by vertical barriers to contain any disturbed sediment. The permits should also prohibit any construction that will alter the flow of currents in Lake Tahoe. If necessary, the Lahontan Regional Board shall issue permits to require compliance with practices to prevent water quality problems from construction of piers and other shorezone structures. In addition to the special considerations above, such permits should reflect the regionwide criteria for piers and shorezone construction in Chapter 4 of this Basin Plan.

In reviewing pier projects, the California State Lands Commission generally requires that construction be done from small boats, and that construction wastes be collected on these vessels or on tarps and disposed of properly. The State Lands Commission also implements a special plan for protection of the endangered shorezone plant, Tahoe yellow cress. Pier construction, and other underwater/shorezone construction activities, are subject to all applicable water quality standards contained in this Basin Plan.

Dredging

Chapter 4 of this Basin Plan includes additional discussion of water quality problems related to dredging, and regionwide dredging guidelines. Construction (e.g., of piers) and dredging in Lake Tahoe can cause localized pollution problems, by disturbing sediments: this increases turbidity and reintroduces nutrients that had settled out of the water. The sediments may also be redeposited elsewhere. Construction in Lake Tahoe may also affect current flow, causing currents to disturb bottom sediments. If disposal of dredged material is done improperly, nutrients from these wastes could cause water quality problems. Dredging and disposal of marina sediments are of special concern because very high levels of tributyltin (an antifouling ingredient of boat paint) have been detected in sediments and biota of one Lake Tahoe marina.

Methods of dredging that stir up bottom sediments, as when backhoes or drag lines are used, should not be permitted. Under most circumstances, only suction dredging should be allowed. However, even with turbidity barriers, suction dredging followed by interim storage of dredged material in an "inner harbor" situation may create more problems than bucket dredging. Localized problems related to turbidity may result from repeated disturbance of stored dredged material for final disposal. Regional Board staff should evaluate proposed dredging methods based on site-specific circumstances and require the method that results in the lowest degree of threat to water quality. Disposal of dredged materials must follow practices to prevent sediments from being discharged into Lake Tahoe. The Best Management Practices Handbook includes BMPs for the dredging process and for disposal of dredged material. Consideration should be given to the use of dredged material in reclamation of abandoned mines, quarries, and borrow pits outside of the Tahoe Basin.

The Regional Board staff review all proposed dredging projects in the California portion of the Lake Tahoe Basin and should not permit the dredging unless the practices called for in this plan are followed.

Dredging and filling activities are subject to the Regional Board discharge prohibitions and exemption criteria discussed elsewhere in this Chapter.

Dredged material may be disposed of inside or outside of the Lake Tahoe Basin, but the Regional Board will set effluent limitations based on the numbers in Table 5.6-1 and on appropriate receiving water standards. Proposals for dredged material disposal in shorezones, floodplains or SEZs will be evaluated against the relevant discharge prohibitions (see the section of this Chapter on development restrictions).

TRPA's regulations on dredging techniques and discharge standards are set forth in the BMP Handbook.

Marinas

The Lahontan Regional Board has maintenance waste discharge requirements on all marinas in the California portion of the Lake Tahoe Basin which address stormwater discharges, fueling and sewage disposal operations. New or revised requirements should be adopted to address any new marina construction activity or changes in the nature of discharges or threatened discharges from existing marinas. A detailed discussion of water quality problems and control measures associated with marina discharges is provided in a regionwide context in Chapter 4 of this Basin Plan. As noted in that Chapter, some marinas may require stormwater NPDES permits.

TRPA regulates the creation, expansion, and remodeling of marinas in the Lake Tahoe Basin through its Regional Plan limits on recreation capacity (in "People at One Time," or PAOT) and through its master planning and permitting processes. Following a lengthy interagency review period, which included Regional Board staff input, TRPA adopted detailed guidelines for the preparation of marina master plans (TRPA 1990). These guidelines require each master plan to include a physical plan, an operations plan, a mitigation plan, and a monitoring plan. Water quality-related topics to be addressed include land coverage, fish habitat, shoreline stability, inspection and maintenance of boat washing and fueling facilities, wastewater pumpout facilities, stormwater control, spill prevention and response, dredging, and marina water treatment systems. The guidelines also summarize shorezone development standards for new and expanded marinas from TRPA's Code of Ordinances, and provide guidance on the design of breakwaters, jetties, and shoreline protection structures.

Although conceptual proposals have been made for marina water treatment systems, none are currently operating in the Lake Tahoe Basin. TRPA's guidelines state that, in the broad sense, "any treatment which is employed to improve and maintain water quality would be a component of the water treatment system." Possible treatment methods discussed include artificial circulation and aeration, pretreatment of stormwater discharges, and interception of stormwater constituents from driveways, launching ramps, and boat washing facilities by slotted drains directed into sumps which can be pumped and possibly equipped with absorbent material. If tributyltin is found to be a problem, marina sediments containing it may have to be removed.

The TRPA guidelines state that commercial marinas and harbors are required to have public restrooms, fueling facilities, chemical fire retardant distribution systems, and pumpout facilities for boat sewage. Disposal facilities for portable sewage containers should also be provided. Prevention of boat sewage waste pollution will be in accordance with an enforcement program to be developed by the Marina Owners Association and approved by TRPA. Boat washing facilities, if any, must be connected to a sewer system or an acceptable alternative such as a debris trap and sump which will be emptied regularly. Connections to sewer systems may require special arrangements with the service district such as permits, pretreatment of discharges, and fees for service. Gas pumping facilities are required to have emergency and standard shut-off systems. A water treatment system for waters contained within the marina must be provided.

Fuel, sewage pumpout and portable sanitation flushing facilities at marinas need to be carefully placed. The TRPA guidelines state that they should be located in a convenient place to encourage use by all boaters (including boaters from private piers and non-commercial moorings. Emergency spill containment equipment must be at hand at such facilities, not stored ashore.

TRPA's marina master plan guidelines also provide guidance on environmental analysis, including directions for cumulative impacts analysis. In 1994, a regionwide study and environmental document were in preparation to evaluate the cumulative impacts of potential marina expansion on Lake Tahoe.

Regional Board staff should continue to participate in interagency review of proposed marina master plans and marina development projects. Proposals for "experimental" facilities such as marina water treatment systems should be carefully evaluated on a case-by-case basis.

ENCLOSURE 3

TECHNICAL STAFF REPORT/ENVIRONMENTAL DOCUMENT

PROPOSED AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION

REMOVING A BASIN PLAN DISCHARGE PROHIBITION TO ALLOW NEW PIER DEVELOPMENT IN THE LAKE TAHOE HYDROLOGIC UNIT

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I. INTRODUCTION

The Lahontan Regional Water Quality Control Board (Water Board) is the state agency responsible for water quality protection in California watersheds east of the Sierra Nevada crest, roughly 20 percent of the state. The Water Board is one of nine Water Quality Control Boards throughout California that function as part of the State Water Resources Control Board (State Water Board) system within the California Environmental Protection Agency. The Water Board implements both the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Water quality standards and control measures for waters of the Lahontan Region are contained in the Water Quality Control Plan for the Lahontan Region (Basin Plan). Basin Plan control measures include prohibitions that protect water guality by restricting discharges of waste and/or certain activities. Basin Plan Chapter 5 describes water quality standards and prohibitions for Lake Tahoe. The plan is available online at http://www.waterboards.ca.gov/lahontan.

The Water Board's Basin Plan contains a prohibition that restricts new pier construction within sensitive areas along the Lake Tahoe shoreline. To be consistent with regional regulation while maintaining regulatory oversight. Water Board staff propose removing the referenced prohibition.

This staff report/environmental document provides: (1) the justification for a proposed Basin Plan amendment to remove the prohibition that restricts new pier construction in areas of Lake Tahoe within spawning habitat or immediately offshore of important stream outlets, and (2) discloses the potential environmental impacts of this change.

The Water Board has prepared this "substitute environmental document" (SED) for proposed Basin Plan amendment. The Water Board's planning process has been certified by the Secretary for Resources under Section 21080.5 of the California Environmental Quality Act (CEQA) as "functionally equivalent" to the preparation of an Environmental Impact Report (EIR). This certification allows the Water Board to prepare a substitute environmental document rather than a negative declaration or EIR for proposed Basin Plan amendments. The document must contain an environmental analysis of the project, a completed Environmental Checklist, and an analysis of the reasonably foreseeable methods of compliance and must be circulated for a public review period.

The CEQA analysis below concludes that the adoption of the proposed Basin Plan amendments will have less-than-significant environmental impacts.

The staff report/environmental document on this Basin Plan amendment is available on request from the Water Board's South Lake Tahoe office. The report is also available on the Internet at:

https://www.waterboards.ca.gov/lahontan/water issues/programs/basin plan/

II. SCOPE OF THE PROPOSED AMENDMENT

Basin Plan Chapter 5 describes prohibitions that apply specifically to the Lake Tahoe watershed region. The proposed plan amendment would remove the following prohibition noted in Chapter 5, Section 5.2 and eliminate associated references in Chapters 4 and 5:

The discharge or threatened discharge, attributable to new pier construction, of wastes to significant spawning habitats or to areas immediately offshore of stream inlets in Lake Tahoe is prohibited.

The proposed Basin Plan amendment will remove this prohibition, allowing pier construction in areas on the California side of Lake Tahoe's shoreline that are currently undeveloped because these areas are within spawning habitat. Areas immediately offshore of stream inlets will be protected from future development by remaining Basin Plan prohibitions related to discharges to stream environment zones and areas below Lake Tahoe's high-water mark.

The proposed amendment will not change the number of allowable piers, nor will the action influence individual project design or implementation elements. The Tahoe Regional Planning Agency (TRPA) Code of Ordinances (Code) establishes pier development potential by specifying parcel eligibility and density criteria.

The proposed amendment does not alter the existing Water Board regulatory oversight required of all pier construction projects at Lake Tahoe. The existing Basin Plan requirement to restore any impacted lakebed area in a ratio of 1.5 times the area disturbed and the requirement to obtain Clean Water Act 401 Water Quality Certification for any lake bottom disturbance remain unchanged. Stream mouths remain protected by other Basin Plan prohibitions and TRPA Code requirements The amendment only influences the potential location for future pier development.

III. BACKGROUND

Environmental Setting. Formed about 2 million years ago by glacial and volcanic forces, Lake Tahoe is located east of the crest of the central Sierra Nevada between California and Nevada and lies in a graben fault at an elevation of 1898 meters above sea level. Lake Tahoe is a deep (550m), oligotropic (low in nutrient levels and primary productivity), subalpine lake with a large surface area (500 km²) compared to its watershed (810 km²).

Lake Tahoe's Littoral Zone and Fisheries Habitat. The littoral zone is a very productive area that extends from high water down to a depth of about 66-82 feet with the most critical zone extending from the shoreline to a depth of about 30 feet. This area provides food, cover, and spawning habitat for various fish

species. For Lake Tahoe, the TRPA classifies an area as spawning habitat if the majority of the bottom substrate consists of gravels measuring between 2 to 64 mm in diameter. Feed and/or cover habitat contains interspersed boulders and rocks larger than 64 mm in diameter.

Regional Regulatory Context. Lake Tahoe is located in both California and Nevada. To protect and enhance the unique environment in the Lake Tahoe Basin, the respective state legislatures approved a bi-state compact that was ratified by the US Congress in 1969. The Lake Tahoe Regional Planning Agency Compact created the TRPA, which has the responsibility to set environmental carrying capacity thresholds for water quality and other aspects of the environment, create and keep updated a regional plan and regulations to attain and maintain the thresholds, and implement the regional plan and regulations through various permitting processes and memoranda of understanding.

Antidegradation Analysis. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Renowned for its extraordinary clarity, purity, and deep blue color, the federal and state government designated Lake Tahoe as an Outstanding National Resource Water (ONRW). The Water Board further recognizes Lake Tahoe as an ONRW both for its recreational and its ecological value. ONRWs, like Lake Tahoe, are afforded the highest level of protection through the antidegradation policy by requiring that the water quality be maintained and protected. States are given flexibility to permit limited activities that result in temporary and short-term changes in water quality.

The EPA summarizes § 131.12 (a)(3) of the Antidegradation Policy in the Water Quality Standards Handbook: Second Edition, by stating,

"States may allow some limited activities which result in temporary and shortterm changes in water quality, but such changes in water quality should not impact existing uses or alter the essential character or special use that makes the water an ONRW. "

Temporary or short-term changes in water quality are acceptable however, EPA's interpretation of temporary is weeks and months, not years, as indicated in the EPA's Water Quality Standards Handbook: Second Edition. If temporary changes are allowed, the intent is to limit water quality degradation to the shortest time possible.

Any degradation associated with pier development is expected to be limited to the duration of the construction of the pier. Pier construction typically does not extend over years. Though Water Board staff recognize discharges associated with pier construction may cause some temporary degradation, the degradation is believed to be short-term. This limited degradation is to the maximum benefit of the people of the State because removal of the pier prohibition will ensure consistency with existing land use regulations, will not unreasonably affect present and anticipated beneficial uses of such water, and will not exceed water quality objectives.

Permanent and long-term degradation is not expected, as new pier construction is subject to stringent to both TRPA and Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. Exemptions to these prohibitions require the implementation of appropriate Best Management Practices and the restoration of impacted area in an and require impacted area be restored in an amount 1.5 times the area disturbed. The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and conduct an antidegradation analysis.

The overall high-quality water of the Lake is maintained because existing pier project approval processes, including complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, fisheries habitat restoration requirements, and Basin Plan prohibition exception requirements all ensure resource protection.

Shoreline Structure Prohibition. In 1987, the TRPA adopted its Code to implement land use policies and regulations to protect natural resources in the Lake Tahoe Basin. Based on early U.S. Fish and Wildlife Service, California Department of Fish and Game, and the Nevada Department of Wildlife recommendations the 1987 Code included shoreline protection ordinances that prohibited the construction of new shoreline structures (i.e., piers, boat ramps, buoys, etc.) in areas considered prime fish habitat. To be consistent with TRPA, the Water Board's Basin Plan incorporated the following prohibition:

The discharge or threatened discharge attributable to new pier construction of waste to significant spawning habitats or to areas immediately offshore of stream inlets in Lake Tahoe is prohibited.

The 1987 Code required TRPA to evaluate the impacts associated with the construction and use of structures on fish habitat and spawning areas in Lake Tahoe and the mouths of its tributaries. In the 1990s, consistent with this requirement, TRPA reconsidered the location standards for shoreline structures, analyzed shoreline conditions, and evaluated future development alternatives and their potential environmental impacts.

In 1999 TRPA released a Draft Environmental Impact Study (Draft EIS) analyzing a set of shoreline Code amendments that included lifting the prohibition on constructing structures in fish spawning habitat. Significant controversy unrelated to the prohibition remained, and the 1999 DEIS was never finalized. TRPA released another Draft EIS in 2004 that included additional study and analysis. In subsequent years, TRPA and partner agencies worked closely with stakeholders to address concerns identified during the 2004 Draft EIS comment period and released a supplemental Draft EIS in 2005 and a proposed Final EIS in 2006.

In 2008, TRPA certified a supplemental Final EIS and adopted a set of shoreline ordinance amendments. Between 2008 and 2010, TRPA implemented the amended ordinances while a legal challenge made its way through the federal court system.

In 2010, a United States District Court vacated the 2008 shoreline ordinances and remanded the EIS back to TRPA to address issues related to determining the baseline number of buoys and the specificity of mitigation measures related to boat use.

In 2016, TRPA initiated a mediated stakeholder process to revisit outstanding shoreline ordinance needs and address identified environmental analysis issues. After extensive program and policy discussion, the TRPA released a new Draft EIS and associated draft Code amendments in May 2018. TRPA certified the EIS and approved the amended Code in October 2018. As with previous iterations, TRPA's latest shoreline Code amendments allow new pier development in spawning areas.

Under the amended shoreline Code, the approval and placement of shoreline structures is limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers, and a total buildout of up to 10 new public piers. The construction of new piers must comply with design standards adopted by TRPA, as incorporated in the Code, to ensure that scenic requirements and other resource thresholds are met. Both TRPA Code and the Water Board Basin Plan require any fish habitat loss (spawning or otherwise) be re-established at a rate of 1.5 to 1. The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and require needed mitigation of any potential impact.

Resource impact mitigation required by TRPA Code includes complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, and fisheries habitat restoration requirements.

IV. PROJECT PURPOSE AND NEED

Both the Water Board's Basin Plan and TRPA's Code contain provisions that prohibit certain activities that may affect resources like water quality, aquatic ecosystems, and aquatic habitats necessary for reproduction and early development of fish.

TRPA has concluded that protective measures can be taken to reduce and avoid the impacts of a new piers in spawning habitat at Lake Tahoe. This finding, coupled with demonstrated mitigation measure success, prompted TRPA to reconsider its location standards for shoreline structures. Recently adopted amended Code revises outdated shoreline standards and removes the referenced prohibition on developing new piers in spawning habitat.

To be consistent with regional land development regulations and defer land use oversight to the appropriate regional entity, the Water Board intends to remove a Basin Plan Prohibition that currently prevents the construction of new piers in certain areas along the California side of the Lake Tahoe. If all applicable mitigation measures are included in a project, lakefront property owners in El Dorado and Placer Counties will be able to construct new piers in areas determined to be within significant spawning habitat. Areas immediately offshore of stream inlets in Lake Tahoe remain protected by both TRPA Code and remaining Water Board discharge prohibitions.

The Water Board action will: (1) provide area-wide consistency regarding pier development, (2) recognize that potential environmental impacts from allowing pier development in mapped spawning areas are de minimis, and (3) acknowledge established regulatory oversight and required mitigation adequately protects fish spawning habitat

V. PROPOSED ACTION

Water Board staff propose to delete the Lake Tahoe Hydrologic Unit's prohibition No. 4 and update associated Basin Plan language.

VI. PROJECT APPROVALS

After adoption by the Water Board, the Basin Plan amendment becomes effective upon approval by the California State Water Resources Board and the Office of Administrative Law.

Since this Basin Plan amendment does not involve a surface water beneficial use designation, a surface water quality objective, and/or a policies or actions to implement surface water quality standards, this Basin Plan Amendment is not subject to U.S. EPA approval.

VII. AMENDMENT JUSTIFICATION

De minimis potential affect to spawning habitat and offshore stream inlet areas Pier piling placement in fish spawning habitat results in a small habitat loss, as the piling directly covers spawning substrates and renders the substrate unusable by fish. Assuming a typical pier requires 20 pilings for support and each piling displaces 0.07 square meters of bottom substrate, an individual pier constructed in spawning habitat has the potential to cover 1.4 square meters (15 square feet) of spawning habitat. Of the estimated 2,041 acres of spawning habitat present in Lake Tahoe, 1,482 acres remain undisturbed. Considering the loss of habitat associated with an individual pier, only 0.0003 acres or 0.00002% of the total undisturbed acres that remain could be impacted by the construction of a single new pier.

Conservatively assuming 100% of the 128 allowable new private piers are located in spawning habitat, up to 179 square meters (1,920 square feet, or 0.04 acres) would be disturbed by new pier construction. This conservative estimate of 0.04 acres of potential spawning habitat disturbance represents approximately 0.003% of the total undisturbed spawning habitat that exists in Lake Tahoe. This estimate represents a worst-case scenario by assuming all of the new piers are located in spawning habitat. In reality, only a fraction of new pier construction would occur in these areas. With regard to percent removal of total habitat, the individual and cumulative impacts to spawning habitat resulting from new pier development are less than significant.

Existing regulatory oversight provides adequate protection

The addition of new piers is subject to local, state and regional approval processes. Any pier construction project at Lake Tahoe must implement resource impact mitigation measures described by TRPA's amended shoreline Code, including complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, and fisheries habitat restoration requirements.

New pier development at Lake Tahoe must conform to parcel eligibility and density criteria specified by the TRPA. The only parcels eligible for new piers are littoral parcels (1) where fee title is owned to at least the high-water mark (6221.9 feet); (2) that can accommodate a pier outside of specified stream mouth setbacks (ranging between 50 feet-1000 feet); and (3) that are outside of established drinking water intake setbacks unless allowed by permission from the water purveyor. Under TRPA's amended Code, the approval and placement of shoreline structures will be limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers along Lake Tahoe's California and Nevada shoreline. Initially, TRPA will permit up to 96 piers over a 16-year period.

Importantly, new pier construction is also subject to stringent Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. Exemptions to these prohibitions require the implementation of appropriate Best Management Practices and the restoration of impacted area in an and require impacted area be restored in an amount 1.5 times the area disturbed. The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and require needed mitigation of any potential impact.

VIII. ENVIRONMENTAL CHECKLIST AND DISCUSSION

On October 24, 2018 the TRPA Governing Board certified a comprehensive Environmental Impact Statement (EIS) (State Clearinghouse No. 2017072020) that assessed the environmental effects of four shoreline program alternatives. The analysis identified several areas of controversy, including:

- the number and location of new shoreline structures,
- processes for allocating new shoreline structures,
- effects of structures and boating on non-motorized water recreation,
- visual effects of shoreline structures,
- water and air pollution from boating, and
- effects on public access along the shoreline.

The final approved EIS identifies necessary mitigation measures to reduce overall program impacts to less than significant levels.

The answers to environmental checklist questions below only focus on the impacts of the proposed Basin Plan amendments rather than the full programmatic impacts analyzed by TRPA's EIS. The proposed Basin Plan amendments will not change the number of allowable piers constructed, nor will it influence the number or type of boats on Lake Tahoe. The proposed Basin Plan amendments will narrowly influence the allowable location of future pier construction.

An SED is required to include an analysis of the reasonably foreseeable methods of compliance with the project. (Cal. Code Regs., tit.23, § 3777.). The project is not expected to lead to more stringent conditions or permit terms, or activities to comply with the designation and de-designation of the beneficial uses. Therefore, no reasonably foreseeable methods of compliance are identified for the project and there are no environmental impacts associated with reasonably foreseeable methods of compliance an environmental analysis of impacts of the project.

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

I. AESTHETICS:

The potential aesthetic impacts are less than significant. TRPA project approvals require that all pier projects comply with design standards, meet the eligibility criteria, and incorporate measures to offset increases in visual magnitude.

Key elements of the pier design standards address the length, width, and lighting of piers and pierheads, pile placement, catwalk dimensions, and other features affecting the visual magnitude and contrast. Compliance with design standards ensures that the visible impact of a pier will be minimized.

To further ensure that scenic resources are not being impacted, TRPA's limited authorization of new piers will allow TRPA to monitor the effects of new pier construction and refine scenic requirements, as needed, to ensure that pier development complies with scenic code and scenic threshold requirements. Since new piers must include built-in scenic mitigation, new pier construction will not significantly degrade the existing visual quality of the project site or broader expanses of Lake Tahoe's shoreline.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES- 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? 				Х
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

II. AGRICULTURAL RESOURCES:

There are no impacts to agricultural resources, as there are no farm lands or agricultural uses along the shoreline of Lake Tahoe.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY- Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				Х
 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?				Х

III. AIR QUALITY:

There are no air quality impacts, as the Water Board's proposed Basin Plan amendment will not alter the number of allowable piers or boats on Lake Tahoe nor will it change the magnitude of traffic associated with pier construction or use.

	Potentially Significant Impact	Less than Significant with Mitigation	Less Than Significant Impact	No Impact
		Incorporated		
IV. BIOLOGICAL RESOURCES Would				
the project:				
a) Have a substantial adverse effect,			Х	
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				
and Wildlife Service?				
b) Have a substantial adverse offect on			V	
any riparian babitat 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?				
c) Have a substantial adverse effect on			Х	
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?				
d) Interfere substantially with the			Х	
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?				V
ordinances protecting biological resources				^
such as a tree preservation policy or				
ordinance?				
f) Conflict with the provisions of an adopted			Х	
Habitat Conservation Plan. Natural				
Community Conservation Plan. or other				
approved local, regional, or state habitat				
conservation plan?				

IV. BIOLOGICAL RESOURCES:

The potential impacts to biological resources are less than significant. Without adequate regulatory oversight, the construction and placement of new piers could (1) displace suitable spawning gravels, (2) potentially obstruct fish migration, (3) potentially disturb riparian plant communities, and (4) potentially disturb known or unknown areas that contain Tahoe Yellow Cress plants. TRPA and Water Board pier approval processes ensure these potential impacts are less than significant. New pier construction is subject to stringent Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. The basin plan amendment does not remove those protections, and exemptions can only be granted in certain circumstances.

Spawning Gravels

Impacts to spawning gravels are less than significant. Pier piling placement in fish spawning habitat results in a small habitat loss. Assuming a typical pier requires 20 pilings for support and each piling displaces 0.07 square meters of bottom substrate, an individual pier constructed in spawning habitat has the potential to cover 1.4 square meters (15 square feet) of spawning habitat. Of the estimated 2,041 acres of spawning habitat present in Lake Tahoe, 1,482 acres remain undisturbed. Considering the loss of habitat associated with an individual pier, only 0.0003 acres or 0.00002% of the total undisturbed acres that remain could be impacted by the construction of a single new pier. New private, multi-use, and public pier projects with the potential to displace spawning habitat are required by the Basin Plan and TRPA to offset any lake bottom disturbance at a 1.5:1 ratio. New piers cannot be approved unless this requirement is met.

Fish Migration and Reproduction

Impacts to migrating and reproducing fish are less than significant. TRPA Code requires new piers be placed outside of established stream mouth setbacks. Stream mouth setbacks, which range between 50-2000 feet depending on the stream, have been determined by TRPA based on historic records that document the natural meander pattern of a stream mouth. Furthermore, new piers must obtain exemptions to Basin Plan requirements that prohibit the disturbance to stream environment zones and areas below Lake Tahoe's high-water rim. Necessary exemption criteria cannot be met in sensitive stream mouths areas.

Native Riparian Vegetation

Impacts to native riparian vegetation are less than significant. TRPA's Code and the Water Board Basin Plan both require that new projects disturbing riparian plant communities restore disturbed area in a ratio of 1.5:1 (restoration:disturbance). New pier projects cannot be approved unless restoration of riparian habitat is included in the proposed project.

Tahoe Yellow Cress (Rorippa subumbellata)

Impacts to TYC are considered less than significant. Tahoe Yellow Cress (TYC) us a rare plant species found only along the shores of Lake Tahoe in California and Nevada. TYC is listed as endangered in California (California Fish and Game Code 2050 et seq.) and critically endangered in Nevada (Nevada Revised Statutes (NRS 527.260 et seq.) and considered a species of concern by the U.S. Fish and Wildlife Service.

Conservation strategies for protection of TYC involve TRPA contacting property owners and educating them about ways to protect the plants. Additional measures are in place to protect TYC populations present at public beaches.

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

V. CULTURAL:

A less than significant adverse change of known or unknown cultural resources could occur as a result of the construction of any new pier. The construction of new piers could potentially disturb artifacts or remnants of Washoe Indian campsites and historic shoreline remnants of the Comstock Era and from the 1900s to 1950s. CEQA and TRPA policy require project applicants to identify and evaluate all historic structures, retain a qualified archaeologist to conduct surveys, follow survey recommendations, including but not limited to conducted subsurface testing, cultural resource monitoring during construction, avoidance of identified resources, and/or preservation in place. By avoiding disturbance, disruption, or destruction of archaeological resources, cultural impacts are less than significant.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	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:				Х
 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?				Х
iii) Seismic-related ground failure, including liquefaction?				Х
iv) Landslides?				Х
b) Result in substantial soil erosion or the loss of topsoil?			Х	
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?				Х
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

VI. GEOLOGY AND SOILS:

Geology and soil impacts associated with the project are less than significant. Although additional piers may encourage the conversion of shoreline areas from native vegetation to non-native landscaping (e.g., turf grass) and removal of native vegetation may increase soil erosion and result in more nutrient loss to the Lake associated with fertilizer needs for non-native species, the potential impacts are less than significant through compliance with county, TRPA, and Water Board requirements, permit conditions, and regulations.

The small number of allowable piers (12 new piers every two years, lake-wide) coupled with required design standards and construction best management practices inherent in project approval ensure there will be no substantial soil erosion or other geologic impacts.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
VII. GREENHOUSE GAS EMISSIONS				
Would the project:				
a) Generate Greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			x	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X

VII. GREENHOUSE GAS EMISSIONS

Greenhouse gas emission impacts will be less than significant. Implementation of the proposed Basin Plan changes will not alter the number of allowable piers or boats on Lake Tahoe, nor will it alter the magnitude of existing traffic patterns. Any greenhouse gas emissions resulting from pier construction will be short term. Furthermore the small number of allowable piers in Lake Tahoe (12 new piers every two years, lake-wide) and required design standards prevent any significant impact.

The project is not expected to have an impact on an applicable plan, policy or regulation adopted for the purposes of reducing the emissions of greenhouse gases.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HAZARDS AND HAZARDOUS				
MATERIALS Would the project:				
a) Create a significant hazard to the public				Х
or the environment through the routine				
transport, use, or disposal of hazardous				
materials?				
b) Create a significant hazard to the public			Х	
or the environment through reasonably				
foreseeable upset and accident conditions				
involving the release of hazardous				
materials into the environment?				

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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
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

VIII. HAZARDS AND HAZARDOUS MATERIALS:

Established regulatory oversight ensures less than significant hazards and hazardous materials impacts.

The proposed Basin Plan Amendment will allow additional shoreline pier projects that have the potential to impact public facilities such as waste water facilities. Since areas of Lake Tahoe's shoreline contain a sewer main below highwater, pier projects constructed in these areas could cause the release of hazardous waste if the sewer line was severed during pier construction (e.g., pile driving).

To protect underground infrastructures, California law requires that persons conducting excavation contact established regional notification centers, such as Underground Service Alert, before digging so any underground utilities can be identified and properly

marked. (California Government Code, Chapter 3.1, Article 2, Section 4216-4216.9). Since the California law requires person to contact the appropriate regional notification center prior to commencing excavation work, exposure of hazardous wastes from accidents associated with pier construction is identified as a less than significant impact.

To further ensure pier projects do not impact public facilities, water quality, or human health, pier project approvals may require the project applicant to prepare and implement a Spill Contingency Plan. The Spill Contingency Plan must identify measures that will be employed if a utility line is damaged during construction or if the utility line requires repair in the future. In addition, when utility lines are identified within the project area, the affected utility district should review the proposed project to ensure that placement of the structure will not interfere with routing maintenance, repair, or replacement of the utility line.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HYDROLOGY AND WATER QUALITY Would the project:				
a) Violate any water quality standards or waste discharge requirements?				Х
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 stormwater drainage systems or provide substantial additional sources of polluted runoff?				X

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Otherwise substantially degrade water quality?				Х
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
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				Х
 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? 				Х
j) Inundation by seiche, tsunami, or mudflow?				Х

IX. HYDROLOGY AND WATER QUALITY:

New piers, especially floating piers, along Lake Tahoe's shoreline could affect littoral drift processes and stream environment zones which cross the shorezone at the mouth of each river and creek. These impacts are expected to be less than significant.

Littoral Drift

The construction of new piers that may affect littoral drift processes. Implementation of required best management practices will lead to less than significant impacts to littoral drift. TRPA's Code amendments prohibit the construction of floating piers that 1) float along their full length, and 2) interrupt natural littoral processes.

Stream Environment Zones

Loss of SEZs and beach soils may result from the construction of access pathways associated with new shoreline structures. Potential SEZ impacts are less than significant. Both TRPA and Water Board approval processes for new shoreline structures require protective vegetation BMPs be built into the project. New pier construction is subject to stringent Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. The basin plan amendment does not remove those protections. TRPA's Code and the Water Board Basin Plan both require that new projects disturbing riparian plant communities include an in-kind restoration at a 1.5:1 ratio (restoration:disturbance). New pier projects cannot be approved unless restoration of riparian habitat was built-in to the proposed pier project.

As a result, the project is expected to have a less than significant impact on water quality and hydrology.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. LAND USE AND PLANNING - Would				
the project:				
a) Physically divide an established				Х
community?				
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?				Х

X. LAND USE AND PLANNING:

No significant land use and planning impacts are identified. The Water Board action is being taken to align with recent changes to the TRPA shoreline Code and previous Basin Plan amendments that defer development authority to the TRPA. The shoreline Code provisions providing a framework for development within the shoreline that is consistent with that existing plans. The allowed pattern of development is restricted not only by land use designations identified in local plans, but also by other existing provisions of the code that would remain unchanged, as well as by the requirement for compliance with environmental thresholds.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. 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?				Х

XI. MINERAL RESOURCES:

No significant impacts on mineral resources are identified, as there are no mapped deposits or identified mineral resources along Lake Tahoe's shoreline.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. 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? 				Х
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				Х
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			Х	
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

XII. NOISE:

New pier construction will not result in substantial noise increase, and the impacts will be less than significant. The Basin Plan amendment will allow projects which could result in temporary increases of ambient noise associated with the construction of a pier. Projects within Lake Tahoe's shoreline in the City of South Lake Tahoe and El Dorado and Placer Counties are referred to the TRPA for review and permitting. The city and counties defer to TRPA's conditions for noise and incorporate these same conditions if city or county building permits are required in addition to TRPA permits. Shoreline projects must comply with the following condition:

Any normal construction activities creating noise in excess of the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 am and 6:30 pm.

Construction outside of this specified timeframe may take place only if the noise associated with the construction activity complies with TRPA's noise thresholds.

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

XIII. POPULATION AND HOUSING:

No impacts to population growth and housing needs associated with new pier construction along Lake Tahoe's shoreline have been identified.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. 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?				Х
Police protection?				Х
Schools?				Х
Parks?				X
Other public facilities?				Х

XIV. PUBLIC SERVICES:

No impacts on public services are identified or expected to occur as impacts of the proposed Basin Plan amendment. The proposed basin plan amendments will not effectively change the number of constructed piers, nor will it influence the number or type of boats on Lake Tahoe. The proposed Basin Plan amendments will narrowly influence the allowable location of future pier construction.

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

XV. RECREATION:

Potential recreation impacts associated with the Basin Plan amendment are less than significant. The proposed basin plan amendments will not effectively change the number of constructed piers, nor will it influence the number or type of boats on Lake Tahoe. The proposed Basin Plan amendments will narrowly influence the allowable location of future pier construction. The location of those piers is not expected to increase the use of existing neighborhood and regional parks or expected to require construction or expansion of facilities. Under the amended shoreline Code, the approval and placement of shoreline structures is limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers, and a total buildout of up to 10 new public piers.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. TRANSPORTATION/TRAFFIC				
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

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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?				Х
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				Х
 e) Result in inadequate emergency access? 				Х
f) Result in inadequate parking capacity?				Х
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

XVI. TRANSPORTATION/TRAFFIC: No impacts on transportation or traffic are identified or expected to occur as direct or indirect impacts of the proposed Basin Plan amendment.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. TRIBAL CULTURAL RESOURCES - - Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?				X

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?				X

XVII. TRIBAL CULTURAL RESOURCES:

No impacts on tribal cultural resources are identified or expected to occur as direct or indirect impacts of the proposed Basin Plan amendment. The construction of new piers could potentially disturb artifacts or remnants of Washoe Indian campsites and historic shoreline remnants of the Comstock Era and from the 1900s to 1950s. CEQA and TRPA policy require project applicants to identify and evaluate all historic structures, retain a qualified archaeologist to conduct surveys, follow survey recommendations, including but not limited to conducted subsurface testing, cultural resource monitoring during construction, avoidance of identified resources, and/or preservation in place.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. UTILITIES AND SERVICE SYSTEMS Would the project				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				Х
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?				Х
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?				Х
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				Х

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Result in a determination by the				Х
wastewater treatment provider which				
serves or may serve the project that it has				
adequate capacity to serve the project's				
projected demand in addition to the				
provider's existing commitments?				
 f) Be served by a landfill with sufficient 				Х
permitted capacity to accommodate the				
project's solid waste disposal needs?				
g) Comply with federal, state, and local				Х
statutes and regulations related to solid				
waste?				

XVIII. UTILITIES AND SERVICE SYSTEMS:

No new domestic water or wastewater treatment systems will be associated with future pier projects located along Lake Tahoe's shoreline.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIV. 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	X
 c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? 				X

All potential impacts of the proposed Basin Plan Amendment are considered less than significant. The Water Board and TRPA currently allow pier construction at Lake Tahoe. As the responsible land use regulatory agency, TRPA has set limits on the number, distribution, and allocation of allowable piers and has established detailed design criteria for shoreline development. The proposed action does not change the current regulatory oversight condition regarding pier construction. Therefore, the project has a less the significant impact to potentially 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.

In addition, any cumulative impacts are expected to be less than significant. Pier piling placement in fish spawning habitat results in a small habitat loss, as the piling directly covers spawning substrates and renders the substrate unusable by fish. Assuming a typical pier requires 20 pilings for support and each piling displaces 0.07 square meters of bottom substrate, an individual pier constructed in spawning habitat has the potential to cover 1.4 square meters (15 square feet) of spawning habitat. Of the estimated 2,041 acres of spawning habitat present in Lake Tahoe, 1,482 acres remain undisturbed. Considering the loss of habitat associated with an individual pier, only 0.0003 acres or 0.00002% of the total undisturbed acres that remain could be impacted by the construction of a single new pier.

Conservatively assuming 100% of the 128 allowable new private piers are located in spawning habitat, up to 179 square meters (1,920 square feet, or 0.04 acres) would be disturbed by new pier construction. This conservative estimate of 0.04 acres of potential spawning habitat disturbance represents approximately 0.003% of the total undisturbed spawning habitat that exists in Lake Tahoe. This estimate represents a worst-case scenario by assuming all of the new piers are located in spawning habitat. In reality, only a fraction of new pier construction would occur in these areas. With regard to percent removal of total habitat, the individual and cumulative impacts to spawning habitat resulting from new pier development are less than significant.

The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Other Considerations. California Water Code Section 13241 includes a list of factors that must be considered by Water Boards when establishing water quality objectives. Section 13241 does not apply to Basin Planning projects that do not establish or revise water quality objectives.

DETERMINATION:

On the basis of this initial evaluation:

<u> X </u>	I find that the proposed project COULD NOT have a significant effect on the environment
	I find that the proposed project MAY have a significant effect on the environment. However, there are feasible alternatives and/or feasible mitigation measures available which would substantially lessen any significant adverse impact. These alternatives and mitigation measures are discussed in the attached written report.
	I find that the proposed project MAY have a significant effect on the environment. There are no feasible alternatives and/or feasible mitigation measures available which would substantially lessen any significant adverse impacts. See the attached written report for a discussion of this determination.

Signature

Date

XI. ALTERNATIVES

California Code of Regulation Title 23, Section 3777 states that any standard, rule, regulation, or plan proposed for board approval or adoption must be accompanied by a discussion of reasonable alternatives to the project and consideration of reasonably foreseeable methods of compliance that could feasibly avoid or substantially reduce any potentially significant adverse environmental impacts. The Preferred Alternative (i.e., this proposed Basin Plan Amendment) and a No Action Alternative are discussed in this section. The adoption of Basin Plan amendments will not result in significant adverse environmental impacts (defined as physical changes in the environment.)

A. Alternative I. No Project

Under this alternative, the Basin Plan would not be amended to remove the discharge prohibition; the current prohibition would remain in place. The Water Board's prohibition would be inconsistent with provisions in TRPA's amended shoreline Code that allow new piers in spawning habitat. Areawide location standards for piers would not be consistent along the shoreline of Lake Tahoe. On the Nevada-side of the Lake, new piers would be allowed on private and public littoral parcels located in significant spawning habitat or areas immediately offshore of important stream outlets; new piers, however, would not be allowed in these areas along the California-side of the Lake.

B. Alternative 2. Remove the Basin Plan Prohibition

Under this alternative, the Basin Plan prohibition restricting new pier development in specific areas along the California-side of Lake Tahoe would be removed. Provided all applicable regulatory requirements are met, new piers could be built within public and private littoral parcels located in significant spawning habitat or areas immediately offshore of important stream inlets. Littoral parcels located immediately offshore of important stream outlets would only be able to construct a new pier provided the pier was located outside of the established stream mouth setback which ranges between 50 and 1000 feet depending on the stream.

LIST OF PREPARERS

The proposed Basin Plan amendments, the technical staff report, and this draft environmental document were prepared by Robert Larsen, Senior Environmental Scientist at the Water Board's South Lake Tahoe office.

The September 12, 2018 CEQA Scoping Meeting was prepared and presented by Mr. Larsen.

The following additional Water Board staff provided management direction regarding the project, provided information used in preparation of the Basin Plan amendment, and related documents, and/or reviewed preliminary drafts:

(1) At the Water Board's South Lake Tahoe Office

Doug Smith Ben Letton

LIST OF PERSONS/AGENCIES/ORGANIZATIONS CONSULTED

California State Clearinghouse Tahoe Regional Planning Agency

ENCLOSURE 4

RESPONSE TO COMMENTS RECEIVED DURING PUBLIC COMMENT PERIOD

	Comment	Response
EMAIL From: To: Subject: Date:	carol mazerall Lahontan Lake Tahoe Pier Basin Plan Amendment Friday, January 25, 2019 5:43:30 PM	As noted in the Staff Report, the proposed action will not change the number of allowable piers at Lake Tahoe. The Tahoe Regional Planning Agency (TRPA) is the responsible authority responsible for land use and development distribution at Lake Tahoe. Although the Basin Plan amendment will allow piers to be constructed in previously prohibited areas, pier development remains subject to stringent regulatory oversight by both the
I strongly opp place to prote grand plan TC Water Board v would be no n to believe you wildlife's best	ose removing the existing protective measures in ect spawning habitat. It makes no sense in the D PROTECT LAKE TAHOE. If the TRPA and the were making decisions to protect the Lake, there more development IN THE LAKE. It is not logical a can mitigate interests by adding piers.	TRPA and the Water Board. TRPA requirements prevent pier development in near stream mouths and specify detailed design criteria to limit impact. Similarly, existing (and remaining) Basin Plan requirements prohibit the disturbance to sensitive lands, including Stream Environment Zones, lands within the 100-year floodplain, and land beneath the high-water rim of Lake Tahoe. Exemptions to these prohibitions can only be made if (1)
Thank you for Sincerely, Carol Mazeral	r the opportunity to comment.	there is no feasible alternative; (2) impacts are fully mitigated; and (3) sensitive areas are restored in an amount 1.5 times the area disturbed for the project. These protections, coupled with other local and regional requirements, ensure water quality and wildlife habitat are protected.

	Comment	Response
EMAIL		The proposed action will not reduce the protections to
From:	Tom Carter	Lake Tahoe and associated habitats. The Tahoe
To:	Lahontan	Regional Planning Agency (TRPA) is the responsible
Subject:	Lake Tahoe Pier Basin Plan Amendment	authority responsible for land use and development
Date:	Tuesday, February 5, 2019 7:11:16 AM	distribution at Lake Tahoe. Although the Basin Plan
		amendment will allow piers to be constructed in
l just realize	ed my public comment was not sent by the	previously prohibited areas, pier development remains
February 1,	2019 deadline. I have been out of the country and	subject to stringent regulatory oversight by both the
would ask ti	hat you include my comments.	TRPA and the Water Board. TRPA requirements prevent
		pier development in near stream mouths and specify
Reducing th	ne protections on the Lake and its fauna in the	detailed design criteria to limit impact. Similarly, existing
interests of	more development and intrusion of man made	(and remaining) Basin Plan requirements prohibit the
constructior	n of more piers and buoys, does not reflect the	disturbance to sensitive lands, including Stream
regulatory a	agencies of TRPA and The Lahontan Water Board's	Environment Zones, lands within the 100-year floodplain,
stewardship	o to protect Lake Tahoe. Please do not remove any	and land beneath the high-water rim of Lake Tahoe.
protective n	neasures on spawning areas in California.	Exemptions to these prohibitions can only be made if (1)
		there is no feasible alternative; (2) impacts are fully
Thank you 1	for this opportunity.	mitigated; and (3) sensitive areas are restored in an
		amount 1.5 times the area disturbed for the project.
Sincerely,		These protections, coupled with other local and regional
		requirements, ensure water quality and wildlife habitat
Tom Carter		are protected.

ENCLOSURE 5



























