

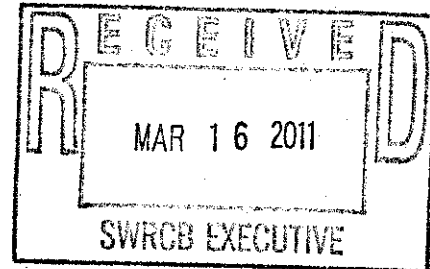


## City of South Lake Tahoe

*"making a positive difference now"*

March 15, 2011

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
PO Box 100  
Sacramento, CA 95812-2000  
commentletters@waterboards.ca.gov



**Re: Comment Letter – Lake Tahoe TMDL**

Dear Madam Clerk,

Preservation of Lake Tahoe and its Basin is a paramount concern for the City of South Lake Tahoe ("City") and its residents. As the only municipal government entity in the Basin, we feel keenly the burden and benefits of our duty as a steward of the Lake environs.

The work of the Lahontan Regional Water Quality Control Board's ("Lahontan") staff on the TMDL is greatly appreciated as a forward step in improving the process and standard for measuring the success of our restoration efforts. However, when reviewing the proposed regulations, we believe that there is still work to be done in certain areas to achieve a balanced implementation of the TMDL standard.

For that reason, the City respectfully requests that the State Water Resources Control Board's comment period on Lahontan's Basin Plan Amendments be extended for a period of six weeks to May 2, 2011 to allow for dialogue between City staff and Lahontan regarding implementation of the TMDL. We are unaware of any funding or statutory requirements that would preclude approval of this request. During the extended comments period, the City plans to specifically address:

- Establishing a balanced multi-pronged approach to Lake preservation which prioritizes near-shore protections in the TMDL. Such prioritization is vital to ensuring the environmental and economic health of South Lake Tahoe.
- Threshold attainment. The City contends that as currently written the thresholds create unfunded mandates that unduly burden the City because of its unique position as the Basin's only municipal agency. We believe a more balanced threshold plan can be implemented which will meet these goals.

This letter sets forth our position with respect to these areas of concern. In the coming weeks, the City plans to meet with Lahontan staff in order to articulate and address these concerns. At that point, we plan to submit a revised comment letter proposing more specific solutions to these issues.

### **Economic Impact of TMDL Implementation**

The Basin Plan Amendments require permittees/implementers to submit a Pollution Load Reduction Plan and complete a jurisdiction-specific 2004 baseline load estimate for fine sediment particles, phosphorus, and nitrogen. The Lake Tahoe TMDL's annual pollutant load reduction milestones will then be included in the municipal stormwater permit that Lahontan is expected to consider later this year.

While the City recognizes the benefits of the TMDL and Lahontan's Basin Plan Amendment, the City is simply not in the position to fund the extraordinary cost that will be incurred in implementing the Plan. The City is concerned by the lack of provisions in the Plan projecting the future costs to local jurisdictions subject to the TMDL. Because of the lack of clarity regarding projected costs of TMDL implementation in Lake Tahoe, the City has no indication of, or ability to accurately budget for implementation costs.

When the City commented on Lahontan's TMDL Substitute Environmental Document, the City expressed serious concern over the fact that it may not be able to fund the TMDL while still providing critical public services to the City's residents. The City also suggested that the Economic Considerations section should discuss options to modify load reduction milestones if availability of funding limits the implementers' ability to achieve the required pollutant load reduction. Lahontan's response to the City's comments indicated that these concerns were too speculative to be addressed in the Substitute Environmental Document. However, Lahontan did amend the TMDL prior to adoption to include language stating: "Should funding and implementation constraints impact the ability to meet load reduction milestones, the Regional Board will consider amending the implementation and load reduction schedules."

One of the Lake Tahoe TMDL's scientific peer reviewers, Professor Lewis, had concerns about the "enormous cost" of the implementation phase, and recommended "outlining the results that could be obtained for expenditures of 50 percent or 25 percent of the proposed expenditure." Professor Lewis also noted that it is "necessary that any evidence of failure in a specific control strategy lead to the cessation and reformulation of the control strategy, rather than inertial continuation of expenditures on an ineffective strategy. Projects such as this often founder on the inflexibility of the action plan once implementation begins."

The City believes it is vitally important that the State Board and Lahontan provide some direction as to a funding strategy and implementation plan so that local jurisdictions are better able, in difficult financial times, to assess and budget for the costs associated with implementation of the TMDL.

### **Near-Shore Water Quality and Aesthetics in Lake Tahoe**

For almost a decade, the City has worked with various environmental organizations around Lake Tahoe to determine a reasonable and obtainable measure and plan to preserve and restore Lake Tahoe's famed water clarity. In the interim, the Lake has seen increased algal growth, invasive species, and a rise in water temperatures, all of which are likely contributors to near-shore water

quality and aesthetic degradation in Lake Tahoe. Near-shore water quality degradation is visible to the naked eye and is particularly noticeable in late summer and early fall.

Residents and visitors are more likely to see this near-shore water quality degradation than to observe the decline in deep-water lake clarity. As visitors to Lake Tahoe account for the greatest source of South Lake Tahoe's economy and industry, it is of vital importance to ensure that their experience on the shores of Lake Tahoe is pristine and clean. Accordingly, the City believes it is of great value to ensure that near-shore water quality is addressed concurrently with deep water lake clarity. While deep water clarity is critical to the long-term environmental health of Lake Tahoe, near-shore water quality is as critical and potentially more impactful to residents, businesses and tourists in South Lake Tahoe.

The final revisions to the adopted Basin Plan Amendment included language stating "The Regional Board is committed to ongoing investigation of Lake Tahoe's near-shore water quality and to taking regulatory actions needed to improve near-shore conditions." The October 2010 revisions to the Basin Plan removed the July 2010 proposed Basin Plan Amendment language which stated that "Appropriate standards and indicators for the near-shore condition should be developed along with specific management actions." While it is reasonable to assume that reducing pollutant loads of fine sediment particles, nitrogen, and phosphorus should benefit near-shore water quality, the general understanding of the causes, sources, and solutions for near-shore water quality degradation lags far behind that of deep-water transparency standards and processes in Lake Tahoe.

Accordingly, as the City and other entities in Lake Tahoe struggle to develop fiscal strategies and implementation plans to restore deep water transparency, the City is gravely concerned that sufficient resources may not be available to address immensely important near-shore water quality issues. Until more is known about near-shore pollutant sources, the City questions whether the TMDL's emphasis on reducing deep-water clarity sufficiently sets forth a strategy to improve near-shore water quality. In light of the tourist economy's impact on the City's ability to sustain itself, particularly in these fiscally difficult times, the City believes the TMDL should place greater emphasis on programs and plans which provide the most benefit to near-shore water quality. Further, support from residents and visitors who generate much of Lake Tahoe's economic activity would be more readily obtained if Lahontan could clearly show that those programs most effective in improving deep-water transparency would also provide significant benefits to near-shore water quality.

The City thus requests that the State and Lahontan commit to a prompt and thorough review of processes and pollutant sources contributing to near-shore water quality degradation, and to the development of appropriate standards, indicators and regulatory actions to help ensure that municipal permittee stormwater programs help protect near-shore as well as deep water resources in Lake Tahoe.

#### **Maximizing Benefits to Lake Tahoe, the City, and the Community**

The City, as well as all other jurisdictions in the Lake Tahoe Basin, face the extraordinarily difficult task of balancing State and federal water quality mandates with federally mandated

TRPA thresholds and general public services. Thus, the City believes it is vitally important to be able to show its citizens that financial investments in water quality do more than just improve lake clarity. That is, the City believes the TMDL should include a means of accounting for water quality benefits which also provide ancillary benefits to the community and/or attain TRPA thresholds. Allowances of increased commercial floor area, relaxation of coverage requirements for linear public service projects, and increased building allocations are just some examples that may serve as crediting "rewards" for achieving the goal set by this ambitious Plan. Concessions should be provided to agencies and jurisdictions that implement projects which address other federally mandated thresholds, particularly those of TRPA.

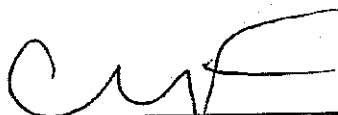
As stated above, support from residents and visitors who generate much of Lake Tahoe's economic activity would be more readily obtained if Lahontan could clearly show that those programs most effective in improving water quality would also provide significant benefits to public services and amenities as well as to TRPA threshold attainment.


In closing, the City asks that the State consider the issues set forth in this letter. The City believes it is of the utmost importance, and it is essential to the success of the TMDL that that the Plan incorporate funding strategies, address near-shore water quality issues, and acknowledge the needs of our community in balancing water quality with other federally mandated environmental thresholds and public services. This notice comes later than we would have wished. However, changes in elected officials, management and staffing levels diverted our attention temporarily from this vital issue. Your cooperation is greatly appreciated in granting us the grace period to achieve the best public policy possible in the area of TMDL implementation.


Sincerely,


SOUTH LAKE TAHOE CITY COUNCIL:

  
\_\_\_\_\_  
Hal Cole, Mayor

  
\_\_\_\_\_  
Clair Fortier, Mayor Pro-Tem

  
\_\_\_\_\_  
Tom Davis, Councilmember

  
\_\_\_\_\_  
Bruce Grego, Councilmember

  
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Angela Swanson, Councilmember