

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

RESOLUTION R6T-2008-0019

**APPROVAL OF AMENDMENTS TO THE WATER QUALITY CONTROL PLAN
FOR THE LAHONTAN REGION TO INCORPORATE A TOTAL MAXIMUM
DAILY LOAD (TMDL) AND TMDL IMPLEMENTATION PLAN FOR SEDIMENT
IN THE MIDDLE TRUCKEE RIVER WATERSHED,
PLACER, NEVADA AND SIERRA COUNTIES,
AND CERTIFICATION OF A SUBSTITUTE ENVIRONMENTAL DOCUMENT**

The California Regional Water Quality Control Board, Lahontan Region, finds:

1. The proposed amendments to the Water Quality Control Plan were developed in accordance with Water Code section 13240 et seq;
2. Section 303(d) of the federal Clean Water Act requires states to identify surface waters that do not meet water quality standards, to prepare strategies called Total Maximum Daily Loads (TMDLs) incorporating load and/or wasteload allocations to ensure attainment of standards in these waters, and to incorporate those allocations into their water quality control plans.
3. For the purposes of this TMDL, the "middle Truckee River" is defined as the Truckee River segment from the outlet of Lake Tahoe in Tahoe City to the California/Nevada state line. This reach flows through parts of Placer, Nevada, and Sierra counties in eastern California. All references to the "Truckee River" shall refer to that reach as described.
4. The Truckee River and three of its tributaries, Squaw, Bronco and Gray creeks, were placed on the Section 303(d) list of water bodies requiring TMDLs in 1992 because of the impacts of excessive sedimentation. The Water Board adopted a TMDL to reduce excessive sediment in Squaw Creek in 2006. The Squaw Creek TMDL was subsequently approved by the State Water Board and the US Environmental Protection Agency in 2007.
5. Water Board staff's analysis, presented in the TMDL staff report, indicate that suspended sediment levels in the river are above those recommended to protect aquatic life, and site-specific studies show that bottom-dwelling insects (benthic macroinvertebrates) are impacted in areas with increased deposited sediment.

6. Lahontan Water Board staff prepared draft Basin Plan amendments incorporating a TMDL to control anthropogenic sources of sediment loading to the Truckee River. The TMDL Report contains a Problem Statement, Numeric Targets, Source Analysis, Sediment Loading Capacity and Allocations, a Margin of Safety, and an Implementation and Monitoring Plan.
7. The Lahontan Water Board has determined that the TMDL for sediment in the middle Truckee River is set at levels necessary to attain and maintain the applicable water quality objectives taking into account seasonal variations and any uncertainty in the TMDL analysis.
8. The Implementation Plan requires land managers in the Truckee River watershed to implement and maintain management practices to control erosion and limit sedimentation to Truckee River and its tributaries. The TMDL monitoring plan includes monitoring and reporting of the TMDL numeric target of suspended sediment concentrations in the river, and tracking permit compliance of sediment and erosion control provisions.
9. The proposed amendments include changes in response to comments by independent scientific peer reviewers on an earlier draft, pursuant to Health and Safety Code section 57004. The record includes a response to peer review comments documenting the reasons for not making some of the changes recommended in the peer review comments.
10. 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, § 3782.) As such, the Lahontan Water Board's basin planning documents together with an environmental assessment, including an Environmental Checklist, are the "substitute documents" that contain the required environmental documentation under CEQA. (Cal. Code Regs., tit. 23, § 3777.) The Substitute Environmental Document for this project includes the detailed technical report entitled, "Total Maximum Daily Load for Sediment, Middle Truckee River Watershed, Placer, Nevada and Sierra Counties," the proposed amendments, responses prepared by staff to address comments raised during the development of the TMDL, and this resolution. The project itself is the establishment of a TMDL for sediment in the Truckee River watershed. While the Lahontan Water Board has no discretion to not establish a TMDL (the TMDL is required by federal law), the Lahontan Water Board does exercise discretion in assigning waste load allocations and load allocations, determining the program of implementation, and setting various milestones in achieving the narrative water quality objectives and protecting the beneficial uses.

11. The 20-year implementation period allowed by the TMDL will allow many compliance approaches to be pursued. In preparing the accompanying CEQA substitute documents, the Lahontan Water Board has considered the requirements of Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187, and intends the substitute documents to serve as a tier 1 environmental review. Nearly all of the compliance obligations will be undertaken either by public agencies that will have their own obligations under CEQA or by landowners that must seek permits from public agencies that have CEQA obligations. Project level impacts will need to be considered in any subsequent environmental analysis performed by other public agencies, pursuant to Public Resources Code section 21159.2. If not properly mitigated at the project level, there could be adverse environmental impacts. The Substitute Environmental Document for this TMDL, including staff's responses to comments, identifies broad mitigation approaches that should be considered at the project level. Consistent with CEQA, the substitute documents do not engage in speculation or conjecture and only consider the reasonably foreseeable environmental impacts of the methods of compliance, the reasonably foreseeable feasible mitigation measures, and the reasonably foreseeable alternative means of compliance, which would avoid or eliminate the identified impacts.
12. The proposed amendment could have an indirect significant adverse effect on the environment. However, there are feasible alternatives, feasible mitigation measures, or both that would substantially lessen any significant adverse impact. The public agencies responsible for those parts of the project or that are permitting those parts of the project can and should incorporate such alternatives and mitigation into any subsequent projects or project approvals. Possible alternatives and mitigation are described in the CEQA Substitute Environmental Document, including the TMDL technical report and staff's responses to comments. To the extent the alternatives, mitigation measures, or both are not deemed feasible by those agencies, the necessity of implementing the federally required sediment TMDL (an action required to achieve the express, national policy of the Clean Water Act) and the environmental benefits to be gained by restoring the beneficial uses of the Truckee River outweigh unavoidable adverse environmental effects.
13. A CEQA Scoping hearing was conducted on August 9, 2007 in the Town of Truckee. A notice of the CEQA Scoping hearing was sent to interested parties including counties with jurisdiction in or bordering the middle Truckee River watershed.

14. A Notice of Filing, a written TMDL staff report, a CEQA environmental checklist, and the draft amendment were prepared and distributed to interested individuals and public agencies for review and comment in accordance with state environmental regulations (California Code of Regulations, title 23, section 3775 et seq.) and federal Clean Water Act regulations, 40 Code of Federal Regulations Part 25 and 40 Code of Federal Regulations (CFR) Part 131.
15. The Lahontan Water Board heard and considered all written public comments and all testimony presented at a duly noticed public hearing held at its regular May 14 and 15, 2008 meeting.
16. The Lahontan Water Board considered costs of implementing measures to achieve the TMDL. The costs to implement the TMDL will be incurred by identified responsible parties. These costs are reasonable relative to the water quality benefits to be derived from implementing the TMDL.
17. The record as whole, including the TMDL staff report and environmental document, indicates that this order is consistent with the provisions of the State Water Resources Control Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California" and 40 CFR Section 131.12. The TMDL will result in improved water quality and will maintain the level of water quality necessary to protect existing and anticipated beneficial uses.
18. The environmental document, when considered together with the record of the public review process as a whole, indicates that adoption of the proposed amendments to the Water Quality Control Plan for the Lahontan Region will have no direct significant adverse impacts on the environment, and potential indirect impacts on the environment from reasonably foreseeable means of compliance with the proposed amendments should be mitigated to less than significant levels due to existing regulations and required project-level environmental analyses and mitigation. The environmental document, when considered together with the record of the public review process as a whole, shows that there is no potential for adverse impact, either individually or cumulatively, on wildlife.
19. The environmental document, when considered together with the record of the public review process as a whole, also indicates that the adoption of the proposed amendments will have no adverse economic impacts related to the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California. In that the amendments will lead to improvement of the aquatic life habitat conditions in the Truckee River, they may have beneficial economic impacts.

20. The Lahontan Water Board finds that the analysis contained in the TMDL staff report, the substitute environmental document, the CEQA Checklist and the responses to public and peer review comments comply with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in California Code of Regulations title 23, section 3775 et seq. Furthermore, the Lahontan Water Board finds that the analysis fulfills the Lahontan Water Board's obligations attendant with the adoption of regulations "requiring the installation of pollution control equipment, or a performance standard or treatment requirement," as set forth in Public Resources Code section 21159.
21. The proposed amendments meet the necessity standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b), and were developed in accordance with Water Code section 13240, et seq.

THEREFORE BE IT RESOLVED THAT:

1. The substitute environmental document prepared by Lahontan Water Board staff pursuant to Public Resources Code Section 21080.5 reflects the independent judgment of the Lahontan Water Board. This environmental document is hereby certified.
2. The Lahontan Water Board adopts the amendments to the *Water Quality Control Plan for the Lahontan Region* to incorporate a TMDL for sediment and TMDL implementation program for the Middle Truckee River watershed.
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 section 13245 of the Water Code.
4. The Lahontan Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of sections 13245 and 13246 of the Water Code and forward them to the California Office of Administrative Law (OAL) and the U.S. Environmental Protection Agency 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 Resources Agency. The record of the final substitute environmental document 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 language of the amendment or policy 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, Harold J. Singer, 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 May 14, 2008.



HAROLD J. SINGER
EXECUTIVE OFFICER