Comment	Response
CENTENNIAL RANCHES **652 W. Cromwell, Suite 103** **Fresno, CA 93711** **Respond to:** **William J. Thomas** **500 Capitol Mall, Suite 1700** **Sacramento CA 95814** **(916) 325-4000** October 18, 2012 Don Jardine, Board Chair Peter Pumphrey, Vice Chair Jack Clarke, Board Member Keith Dyas, Board Member Amy Horne, Ph.D., Board Member Eric Sandel, Board Member Patricia Kouyoumdjian, Executive Officer Richard Booth, Unit Chief, TMDL/Basin Planning Unit Bruce Warden, Ph.D California Regional Water Quality Control Board Lahontan Region 2501 Lake Tahoe Blvd. South Lake Tahoe, CA 96150 **RE: SUPPLEMENTAL COMMENTS RE BASIN PLAN AMENDMENTS – TRIENNIAL REVIEW - FECAL COLIFORM PATHOGEN OBJECTIVE** Dear Board Chair, Board Members, Ms. Kouyoumdjian, Mr. Booth and Dr. Warden: Centennial Ranches has submitted several documents to the Lahontan Board on the pathogen basin plan issue during workshops, Board waiver hearings, and relative to this triennial review. In our October 5 submittal, we had officially requested that all relevant materials, public record request items, and meeting transcripts be placed in the administrative record for the triennial review. We hereby renew that request. **1.** We now submit additional comments to respond to newly presented information/charts and to respond to questions that have been raised at the two triennial review scoping meetings. The staff has presented for the Board's review 21 proposed projects for possible basin plan amendment prioritization. Such triennial review decisions are always difficult for Regional Boards because the resource and staff availability is limited. That is certainly true of these deliberations at the Lahontan Board. 82226.00001\7627075.1	General Note: Responses are provided to those comments requiring a response. Lack of a response to a comment does not imply agreement with that comment.

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October 18, 2012 Page 2 As Richard Booth pointed out at the triennial review hearing, there are seven ongoing committed projects which will require the dedication of 4.5 pys over the next three years, and 14 uncommitted projects, 13 of which would require (excluding the bacteria objective) 12.3 pys. Additionally, the bacteria issue would require from .5 py to 5 pys, depending on the selected option. On balance, depending on the option chosen for the bacteria objective, doing all the projects would require from 22 to 27 pys. As Mr. Booth further indicated in his PowerPoint, the "current staff allocation is 5.7 pys over three years." He further pointed out on his PowerPoint that "planning staff can complete all the committed projects with 1.1 pys remaining." This 1.1 py would not get much done on the other uncommitted items. It was further indicated that additional flexibility can be realized by utilizing some additional program funds/resources (such as NPS, NPDES/and from external resources (i.e., grants, TMDL contracts), but even with those augmentations only limited additional personnel and resources are available. Therefore, the prioritization of triennial review issues must be evaluated in respect to the staffing availability. As we have pointed out previously and will further embellish below, this makes selecting Option 2 and engaging Phase 1 of the bacteria objective project, the prudent and responsible management decision. **2.** Mr. Booth had prepared a very busy PowerPoint page reflecting each of the 20 possible triennial review topics, including each of the three options for the 21st issue, our pathogen objective reform. (See Attachment A.) The colors in each of the issue columns reflect a best guess as to when the commitment of personnel and resources would be required as between year 2012/13, year 2013/14, year 2014/15 and on into the future. The chart is very informative, but is also partly misleading, in it does not break the options associated with the pathogen objective into its various phases. Consequently, at first brush, one could easily see that each of the other 20 programs call for the commitment of 2 or less pys; but as to each of the three options relative to the pathogen objective, the chart indicates that those would require from 5 to 6.5 pys (those upper bound numbers, however, are inconsistent with actual documents associated with the pathogen objective, which indicates that either 3.5 or 5 pys would be required for the options, if all phases were fully concluded). As to the pathogen issue, Phase 1 of Option 2 would require only .5 py, and that would be committed and completed in the first half of 2013. Thereby, by comparison to the other 20 columns, the .5 py commitment of resources would only slightly exceed seven of the other possible projects and would be <u>less</u> than 16 of the other possible projects. Consequently, invoking Phase 1 of Option 2 would result in the amendment of the pathogen standard for Bridgeport with a minimum commitment of resources and the shortest possible time. Clearly, a sound business decision. **3.** Mr. Booth also distributed a grading matrix whereby his suggested nine criteria can be comparatively weighted. We certainly believe that correcting the basin plan error relative to the bacteria standard is the highest priority and is completely ripe for action after the many years of focus and extensive data collection. We will present our evaluation of this item as against the suggested 82226.00001\7627075.1	**CentennialOct18-1**: The options presented at the Board meeting in September/October were provided as possible avenues for amending the basin plan for bacteria. Although PYs are taken into account when developing options for a basin plan amendment, defensible science to provide recommendations is necessary. The 2012 Triennial Review Staff Report (see Attachment A) recommends that Water Board staff continue to work on the water quality bacteria objectives as one of its highest basin planning priorities over the next three years. The Triennial Review Staff Report does not include a recommendation for choosing one of the three options previously listed in a scoping report. Rather, the 2012 Triennial Review Staff Report describes specific tasks that need completion as part of continuing focus on the water quality bacteria objectives project. State Water Board Resolution No. 68-16 requires that before changes to standards that maintain high quality water are made, it must be "demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies." Changes to numeric water quality objectives must be scientifically defensible and be consistent with Resolution 68-16. **CentennialOct18-2**: The PYs estimated for amending the basin plan for bacteria are rough estimates for the Board. They do not always reflect actual PYs needed. In a basin plan amendment, staff evaluates PYs needed, available science to support the amendment, and priority of such an amendment. All weigh heavily in deciding to amend the Basin Plan. The 2012 Triennial Review Staff Report (see Attachment A) recommends that Water Board staff continue to work on the water quality bacteria objectives as one of its highest basin planning priorities over the next three years. The Triennial Review Staff Report does not include a recommendation for choosing one of the three options previously listed in a scoping report. Rather, the 2012 Triennial Review Staff Report describes specific tasks that must be completed as part of continuing focus on the water quality bacteria objectives project. Please refer to Table 3, Water Quality Bacteria Objectives tasks.

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October 18, 2012 Page 3 criteria by filling in the matrix chart relative to our issue. We will not be grading the other competing projects. We note that the suggested scoring would call for double points (20) for the "benefits" derived from addressing that item. That seems reasonable enough, but two important factors have been omitted from the chart. Those two criteria items would be a "minimum commitment of resources" and the efficiency of completing the project in a "timely manner." In that we have already talked about the timeliness and the efficient commitment of resources of Phase 1 of Option 2, those two additional columns would each achieve the highest ranking of 10. The **Benefits** derived (possible 20), would rank 17. This issue is a holdover item where the Board did not take action during the previous triennial review, and has not addressed it as part of the waiver that was previously adopted. Therefore, the benefit of completing something the Board committed to is very high. Similarly, having a defensible objective in place of this present anomaly which has been embarrassing to this Board, would likewise be a significant benefit. Board members have acknowledged this is presently a non-enforceable objective for agricultural waters; therefore, the benefit of having a proper and enforceable standard is clearly of high benefit. Additionally, avoiding the possibility of this matter being appealed to the State Board or otherwise to court to compel Board action, is a significant benefit to the agency. Lastly, cooperating with the Bridgeport ranchers who have worked closely with this Board for many years also merits a high score in the Benefit column. **Specific Waterbody vs. Regionwide.** The amendment to the basin plan having to do with the pathogen objective involves all agricultural waters of the region. The agricultural waiver has been in place for many years, has been extended for five additional years, and involves all of the waters into the Bridgeport valley. Phase 1 of Option 2 deals with the Bridgeport valley waters and the subsequent Phases deal with all other agricultural waters of the valley. Therefore, this criteria scores as a 9. **Commitment of Resources**. The ag waiver coordination with the University of California, coordination with the Bridgeport ranchers, coordination with the University of California on water quality monitoring, and dealing with sister agencies (i.e., State Water Board, U.S. Forest Service), has made this bacteria objective one of the highest resource commitments by Lahontan staff. Similarly, the many exchanges with the ranchers, hearings and workshops before this Board, all have amounted to a significant commitment of resources. In fact, this is a far greater commitment of resources than it will take to conclude the Phase 1 of Option 2 amendment. Consequently, this column scores a 10. **Expending of Outside Resources**. This criteria also scores a 10 because of the hundreds of thousands of dollars the Bridgeport ranchers have committed to during the seven years of extensive monitoring, meeting with the staff and implementation of BMPs, and best control technologies which have been extraordinary. Similarly, the commitment of resources from the University and through bond and proposition monies by staff have likewise been significant. **External Resources Available**. This criteria again scores very high (9 of 10) because of the ranchers' continual commitment to monitoring and implementing best management practices. 82226.00001\7627075.1	**CentennialOct18-3**: The Lahontan Water Board has been dedicated to gathering and evaluating data/information for reviewing the bacteria standard. In this past Triennial Review cycle, the Lahontan Water Board executed a contract with UC Davis for $60K to evaluate fecal coliform and *E. coli*, initiated bacteria monitoring in the region by Water Board staff, is currently soliciting willing ranchers to participate in a grant funded grazing management practices implementation project, and has contracted for additional lab analysis of bacteria at the Sierra Nevada Aquatic Research Laboratory through UC Santa Barbara. Please also refer to Table 3, Water Quality Bacteria Objectives tasks (2012 Triennial Review Staff Report, Attachment A). **CentennialOct18-4**: The 2012 Grazing Waiver includes a time table for compliance and requires that the enrollees covered under the waiver develop a schedule to implement rangeland water quality best management practices that reduces and/or maintains fecal coliform concentrations to an interim goal of 200 cfu/100mL and attains the highest water quality reasonably achievable. The 2012 Grazing Waiver does not include 20 cfu/100mL as a compliance standard. The Water Board is committed to evaluating the current bacteria objective as is demonstrated in the proposed tasks for this upcoming Triennial Review cycle (Attachment A/Table 3).

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October 18, 2012 Page 4 Also, continuation of the University's efforts, etc., further demonstrate the importance of dealing with this issue. **Volume of Water Affected**. Swauger Creek, Green Creek, Virginia Creek, Summers Creek, East Walker River, Robinson Creek, Buckeye Creek, are waters affected by the first phase of Option 2. All other agricultural waters will be involved in subsequent phases of Option 2, therefore the quantity of water affected clearly ranks a score of 10. **Number of People Affected**. This criteria is a little vague in that all of the Bridgeport ranchers, their employees and guests are affected in the immediate phase. In the subsequent phase, all other ranchers and recreationists in the region would be affected. The affected waters are extensive, and we are developing an appropriate standard for REC-2 exposures; therefore, in the private and public lands areas the number of people could be significant. Consequently, we score that as a 9. **Implementation of State Board Policy**. State Board advanced a policy in 1975 and called for the uniformity of bacteria standards among the regions, but stated that "more stringent limits for waters may be included if substantiated by local epidemiological experience of existing water quality." There were no such studies indicating a different level was required. The Regional Board has never engaged such a study; therefore, the 20 col FC/100mL standard has always been outside the State Board policy. State Board policy also calls for enforceable objectives. As has been stated, this pathogen objective has not been viewed by this Board as an enforceable standard, and it could not be a standard for enforcement. This action would therefore entirely harmonize this basin plan with the State Board policy. We score this as a 10. **Basin Plan Consistency**. As has been pointed out many times, and has been expressly acknowledged by this Board, this pathogen objective is wholly inconsistent with pathogen standards in all other basin plans. Part of this amendment would be to bring this pathogen objective consistent with other basin plans, therefore this scores a 10. **Summary Review**. With the two additional criteria categories that had been overlooked in this chart (addressed above), the total possible points would be 120. The pathogen item scores 114 of 120 possible points. (See Attachment B, Richard Booth's Chart as amended.) In addition to evaluating the importance of taking on any particular issue, it should be considered whether a particular issue is ripe for amendment because it has been thoroughly vetted, has all appropriate supportive data, and has the support from the main constituencies. Dealing with the pathogen objective and moving towards implementing of Phase 1 of Option 2 meets all those criteria. This issue has been ripe for action for some seven years, the constituency has called for and has been active in supporting such an amendment for many years, and there is a robust database supporting this amendment in the nature of monitoring water quality data in Bridgeport, compared to the paucity of supporting information behind adoption of the 20 col FC and its applicability to agricultural waters. Further, the record is clear that this objective, and consequently this basin plan, is wholly inconsistent with other regions of 82226.00001\7627075.1	**CentennialOct18-5**: State Board developed bacterial objectives of 200 cfu/100mL. With any objective developed by State Board, the regional boards must either adopt that objective or have objectives more stringent based on the beneficial uses of the region. For the bacteria standard in our Basin Plan, the Board in 1974 chose the 20 cfu/100mL standard, which was subsequently adopted by the State Water Board and USEPA in 1975. 20 cfu/100mL is the enforceable standard in the region, except for the enrollees under the 2012 Grazing Waiver, where 200 cfu/100mL is the standard that must be met in 2017. Please refer to Centennial Ranches response CentennialOct18-4 and CentennialOct18-6. **CentennialOct18-6**: The state of California recognizes distinct geographic differences exist across the state so it developed nine, geographically-based, regional boards. Each regional board is responsible for developing standards to protect the region's beneficial uses. In recognition of such differences among the state, the informational document *Public Scoping Meeting for Proposed Revision to the Bacterial Standards for Water Contact Recreation in Fresh Waters in California* circulated in September 2008 by the State Board states, "The proposed policy may be applied statewide or may exclude waters under the jurisdiction of the Los Angeles Water Board and the Lahontan Water Board."

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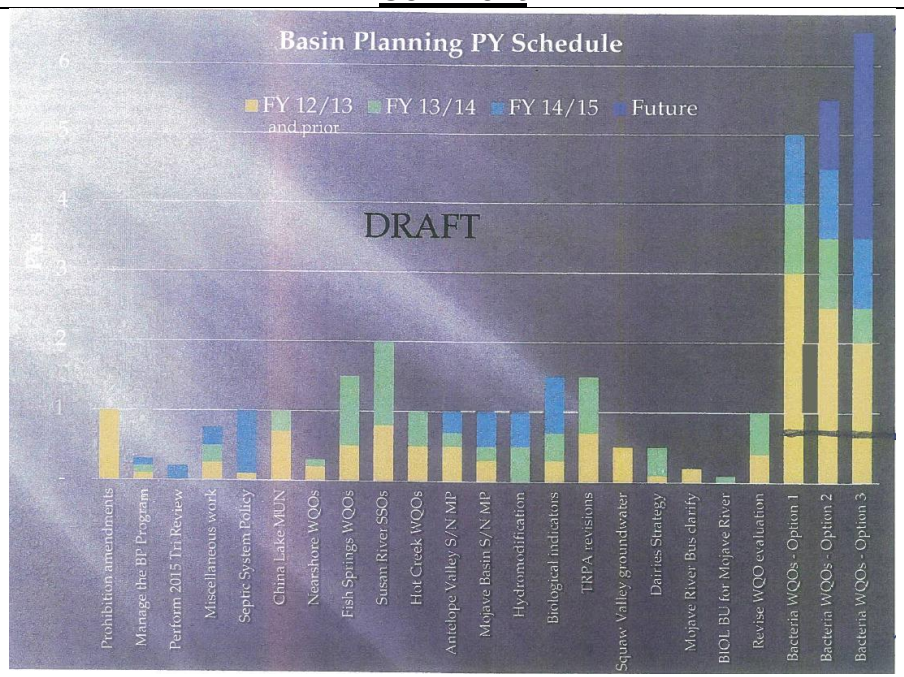	

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Lahontan Staff Criteria for Evaluation of Triennial Review Projects "B"

Proposed Project	Benefits	Specific Waterbody vs Regionwide	Staff Resources Already Expended	External Resources Already Expended	External Resources Available	Volume of Water Affected	Number of People Affected	Implement State Board Policy	Basin Plan Consistency	Minimum Commitment of Resources	Timeliness	Total
Maximum points available	**20**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**10**	**120**
Prohibiion Amendments												
Manage the BP Program												
Perform 2015 Tri Review												
Miscellaneous work												
Septic System Policy												
China Lake MUN	15	5	10	10	10	1	5	0	0			56
Nearshore WQOs												
Fish Springs WQOs												
Susan River SSOs												
Hot Creek WQOs												
Antelope Valley S/N MP												
Mojave Basin S/N MP												
Hydromodification												
Biological indicators												
TRPA revisions												
Squaw Valley groundwater												
Dairies Strategy												
Mojave River BUs clarify												
BIOL BU for Mojave River												
Revise WQO evaluation												
Bacteria WQOs - Option 1												
Bacteria WQOs - Option 2	17	9	10	10	9	10	9	10	10	10	10	114
Bacteria WQOs - Option 3												

BP = Basin Plan
BU = Beneficial Uses
S/N MP = Salt and Nutrient Management Plan
SSOs = Site Specific Objectives
TRPA = Tahoe Regional Planning Agency
WQOs = Water Quality Objectives