

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

RESOLUTION NO. R6T-2004-0017

**RESOLUTION AUTHORIZING THE EXPENDITURE OF THE REMAINING
BALANCE OF FUNDS FROM THE FLEUR DU LAC WATER QUALITY
MITIGATION FUND**

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

1. Fleur Du Lac Estates is a residential development located on the west shore of Lake Tahoe, approximately six miles south of Tahoe City, California. The development is located on a 15-acre lakefront parcel and consists of residential units and a marina.
2. On April 8, 9, 10, 1989, illegal dredging was conducted within the Fleur Du Lac marina. Bypass suction dredging removed accumulated bottom sediments from within the marina and discharged dredged sediments below the high-water rim of Lake Tahoe. The dredging operation was in violation of a conditional waiver issued by the Regional Board and in violation of a prohibition contained in the Water Quality Control Plan for the Lahontan Region.
3. On February 9, 1990, the Regional Board referred the matter to the California Attorney General to recover civil liabilities against the Fleur Du Lac Estates Association and other persons or entities responsible for directing or authorizing the dredging of the Fleur Du Lac marina pursuant to California Water Code Section 13350 (a) and (e). Concurrently, the California State Lands Commission (CSLC) and the Tahoe Regional Planning Agency (TRPA) had filed actions against Fleur Du Lac Association and Fred Sahadi (owner) based on the illegal discharge. The Regional Board, CSLC, and TRPA agreed to settle their claims for civil liability when the Fleur Du Lac Association agreed to establish a fund in the amount of \$275,000. The \$275,000 and the accrued interest were placed into a Special Deposits Fund to be used for water quality mitigation projects to be located in the Lake Tahoe Basin. The Regional Board, the CSLC, and the TRPA agreed that the Regional Board would select the water quality mitigation project(s).
4. Between January 1992 and April 2004, the Regional Board awarded and grantees accepted 10 grants totaling \$377,991 from the Fleur Du Lac Water Quality Mitigation Fund. The current fund balance of about \$81,500 includes significant increases from accrued interest on the fund balance in the nearly 14 years since the fund was established.
5. At the Regional Board's regular April 2004 Board Meeting, staff recommended the Regional Board allocate the remaining balance, including interest accrued, from the Fleur Du Lac Water Quality Mitigation Fund to fund tasks associated with the

implementation plan for the Lake Tahoe TMDL. Staff also presented comments from the Tahoe Lakefront Owners' Association requesting the Board consider other projects for funding. The Board agreed to authorized \$81,500 (approximately half of the remaining balance) for the TMDL related tasks and consider additional project proposals at the May 2004 Board Meeting.

6. On April 27, 2004, Jan Brisco, Tahoe Lakefront Owners' Association recommended several projects for consideration. Since the project proponents have not requested funds, no details on project implementation or funding was provided, staff is recommending the remaining balance and the interest accrued be allocated to the Lake Tahoe TMDL Implementation planning effort. Implementation planning needs to begin in 2004 to meet schedules for the update of the Tahoe Regional Planning Agency's Regional Plan in 2007. Specifically, funds will be used to develop protocols for estimating pollutant load reductions from various control measures for reducing sediment, phosphorus and nitrogen from air, land and water. Further, load reduction planning will be conducted in a collaborative manner with stakeholders. No more than 20% of the fund balance will be used to support collaborative efforts. These tasks will support development of a sustainable plan to reduce pollutants to Lake Tahoe and achieve the Regional Board's lake clarity. Funds will be matched (75% federal funds to 25% state funds) with watershed assistance grants from the U.S. Army Corps of Engineers (USACOE) through a partnership agreement with the Tahoe Regional Planning Agency (TRPA). The agreement also supports the TRPA in updating its Clean Water Act Section 208 Water Quality Management Plan.
7. The Regional Board heard and considered public comments at its regular May 2004 Board Meeting.

THEREFORE, BE IT RESOLVED THAT:

The Regional Board authorizes allocation of the remaining balance, approximately \$81,500 and additional accrued interest from the Fleur Du Lac Water Quality Mitigation Fund to the USACOE through a funding agreement between the TRPA and the USACOE.

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 Water Quality Control Board, Lahontan Region, on May 12, 2004.

HAROLD J. SINGER
EXECUTIVE OFFICER