

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

RESOLUTION R6T-2006-0017

**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 SQUAW CREEK, PLACER COUNTY, AND
CERTIFICATION OF A SUBSTITUTE ENVIRONMENTAL DOCUMENT**

WHEREAS, 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;
1. 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, and
2. Squaw Creek in Placer County was placed on the Section 303(d) list of water bodies requiring TMDLs in 1992 because of the impacts of excessive sedimentation. Accelerated sedimentation has been identified as impairing the aquatic life beneficial uses of Squaw Creek, which include cold freshwater habitat; spawning, reproduction, and development; and wildlife habitat, and
3. Lahontan Water Board staff prepared draft Basin Plan amendments incorporating a TMDL to control anthropogenic sources of sediment loading to Squaw Creek. The TMDL Report contains a Problem Statement, Numeric Targets, Source Analysis, sediment Loading Capacity, Linkage Analysis, Load Allocations, Margin of Safety, and an Implementation and Monitoring Plan, and
4. The Lahontan Water Board has determined that the TMDL for sediment in Squaw Creek 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, and
5. The Implementation Plan requires land managers in the Squaw Creek watershed to implement and maintain management practices to control erosion and limit sedimentation to Squaw Creek. The TMDL monitoring plan includes monitoring and reporting of TMDL numeric targets such as biologic community health, and

streambed characteristics of Squaw Creek. These numeric targets will be incorporated into the monitoring programs of new and existing Waste Discharge Requirements, and

6. 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, and
7. 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. (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 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. (23 Cal Code Regs. § 3777.) The Substitute Environmental Document for this project includes the detailed technical report entitled, "Total Maximum Daily Load for Sediment, Squaw Creek, Placer County," 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 Squaw Creek. 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, and
8. 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, and

9. 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 Squaw Creek outweigh unavoidable adverse environmental effects, and
10. A CEQA Scoping hearing was conducted on January 26, 2005 at the Town of Truckee's Town Hall. A notice of the CEQA Scoping hearing was sent to interested parties including counties with jurisdiction in or bordering the Squaw Creek watershed, and
11. 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 (23 California Code of Regulations 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, and
12. 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 April 12 and 13, 2006 meeting, and
13. 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, and
14. 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, and

15. 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, and
16. 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 and recreational enhancement in Squaw Creek, they may have beneficial economic impacts, and
17. 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 section 21159 of the Public Resources Code, and
18. The proposed amendments meet the necessity standard of the Administrative Procedures Act, Government Code section 11353(b), and were developed in accordance with Water Code section 13240, et seq., and
19. The proposed Basin Plan language will be added to Section 4.13 of the Basin Plan implementation chapter, in chronological order of approval with TMDL Basin Plan amendments for other waterbodies.

THEREFORE BE IT RESOLVED THAT:

1. 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 Squaw Creek.

2. The Executive Officer is authorized to sign the Certificate of Fee Exemption and to transmit it to the California Department of Fish and Game (CDFG) in lieu of payment of the CDFG filing fee.
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. 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. 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 April 13, 2006.



HAROLD J. SINGER
EXECUTIVE OFFICER