

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

**MEETING OF JULY 23 AND 24, 2008
Truckee**

ITEM: 10

**SUBJECT: CONSIDERATION OF A SETTLEMENT OF ADMINISTRATIVE CIVIL LIABILITY, THROUGH THE ADOPTION OF AN ADMINISTRATIVE CIVIL LIABILITY ORDER, NORTHSTAR MOUNTAIN PROPERTIES, LLC, FOR VIOLATION OF NPDES GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES, STATE WATER RESOURCES CONTROL BOARD ORDER NO. 99-08-DWQ, VIOLATION OF WATER QUALITY CERTIFICATION ORDER DATED JUNE 9, 2006, VIOLATION OF PROHIBITIONS PRESCRIBED IN THE *WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION*, AND VIOLATION OF CLEANUP AND ABATEMENT ORDER NO. R6T-2006-0049 FOR THE FOLLOWING PROJECTS:
NORTHSTAR VILLAGE, WDID NO. 6A31C325917; NORTHSTAR INTERCEPT LOTS, WDID NO. 6A31C335494; NORTHSTAR EMPLOYEE HOUSING, WDID NO. 6A31C335581; NORTHSTAR DRIVE & BASQUE ROAD INTERSECTION, WDID NO. 6A31C329713; NORTHSTAR HIGHLANDS DRIVE AND HWY 267 INTERCHANGE, WDID NO. 6A31C333755; NORTHSTAR HIGHLANDS DRIVE, WDID NO. 6A31C333756; NORTHSTAR DRIVE ROUNDABOUT, WDID NO. 6A31C333754; NORTHSTAR HIGHLANDS RESORT HOTEL, WDID NO. 6A31C333910; NORTHSTAR TRAILSIDE TOWNHOMES, WDID NO. 6A31C333949; NORTHSTAR SCHAFFER'S CAMP RESTAURANT, WDID NO. 6A31C324687; NORTHSTAR VILLAGE RUN FILL SITE, WDID NO. 6A31C342716**

CHRONOLOGY: This is a new item before the Board.

ISSUES: Should the Lahontan Water Board adopt the proposed ACL Order effectuating a settlement between the Lahontan Water Board and Northstar Mountain Properties?

Does the proposed \$2,750,000 liability sufficiently address the alleged violations?

Does the proposed Supplemental Environmental Project (SEP) meet the criteria established by the State Water Board in its *Water Quality Enforcement Policy* (Enforcement Policy)?

DISCUSSION:

Background

Northstar Mountain Properties, LLC (NMP), is constructing numerous projects at the Northstar Resort Community in Placer County. The projects are intended to renovate existing mountain facilities and to develop additional residential areas within Northstar and to provide the necessary infrastructure to serve the same. NMP obtained coverage under the terms of the NPDES General Permit for Storm Water Discharges Associated with Construction Activities, State Water Resources Control Board Order No. 99-08-DWQ (General Permit) for all of its projects. NMP also obtained Clean Water Act section 401 Water Quality Certification for the two Highlands Drive projects. NMP developed a Storm Water Pollution Prevention Plan (SWPPP) in compliance with the General Permit, which describes the Best Management Practices (BMPs) to be implemented in order to protect water quality from construction-related impacts such as sedimentation and erosion.

The eleven projects listed above are the subject of the proposed ACL Order. Lahontan Water Board staff inspected these sites on numerous occasions throughout the 2006 and 2007 construction seasons. Lahontan Water Board staff issued several verbal and written notices during the 2006 construction season due to NMP's alleged failure to adequately implement site BMPs which resulted in unstable soil conditions. These conditions created the potential for sediment discharges during storm events.

As a result of alleged permit violations related to deficiencies in adequately implementing the BMPs described in the project SWPPPs, and due to alleged discharges from the projects during October and November, 2006, storm events, the Lahontan Water Board issued Cleanup and Abatement Order (CAO) No. R6T-2006-0049. The CAO required NMP to implement required BMPs, to clean up the effects of the alleged discharge, and to comply with additional provisions to prevent future discharges from occurring. NMP's allegedly continued to comply with the terms of its permits and the terms of the CAO. This resulted in additional sediment discharges into nearby surface waters during subsequent storm water runoff events. This failure to comply also maintained the threat of future discharges during periods of snowmelt runoff in the spring of 2007.

The conditions on the project sites that have led to these alleged violations created a significant threat to water quality. The dry water year during the 2006/2007 winter period was considered in recommending a penalty that is less than the potential maximum of \$12,614,000, as the number of discharge events was greatly reduced by the very limited number of precipitation events and low spring runoff conditions.

Beginning in the late fall of 2006, and in response to Lahontan Water Board's direction to come into compliance, NMP to its credit dedicated significant financial and personnel resources to implement the necessary activities to bring the construction sites into compliance as directed for the 2007 construction season. Following receipt of the CAO in November 2006, NMP reported that its management initiated an internal cultural change within the organization and engaged an experienced, well-qualified SWPPP consulting team to assist with the design and implementation of this change. Through extensive training, implementation and monitoring efforts, NMP was able to achieve a zero-violation goal for the period of May 1 - December 31, 2007. This turnaround demonstrates NMP's commitment to compliance with its water quality obligations and mitigates the extent, gravity and seriousness of the alleged 2006 violations.

The settlement includes NMP paying an administrative civil liability of **\$2.75 million**, of which **\$600,000** will be a cash payment distributed between the State Cleanup and Abatement Account (\$480,000) and the Waste Discharge Permit Fund (\$120,000), and **\$2.15 million** will be directed to a Supplemental Environmental Project (SEP). The SEP consists of implementing restoration efforts and watershed improvements on the Waddle Ranch property. The Waddle Ranch is located in the Martis Valley, eastern Placer County, and was recently acquired by the Truckee Donner Land Trust to establish a conservation easement. The SEP also includes developing two products that will address specific gaps in watershed and forestry management: (1) the "Watershed Evaluation, Treatment and Monitoring Handbook," and (2) the "Forest Fuels Treatment/Water Quality Protection Handbook."

The SEP meets the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002, in that it (1) consists of measures that go above and beyond the current and future obligation of NMP; (2) will directly benefit surface water quality and associated beneficial uses by identifying pollutant sources through a watershed assessment for impacts

associated with past development practices, and implementing corresponding public awareness projects and corresponding watershed restoration projects addressing the identified pollutant sources; (3) will not directly benefit the Water Board functions or staff; and (4) is not otherwise required of NMP.

The SEP also has a nexus with the alleged violations in that it (1) provides a watershed assessment and watershed improvements and restoration in an area immediately adjacent to and down gradient from NMP's Projects, and (2) provides a community educational element through the development of guidance documents that will assist other land managers to understand the technical nature of erosion potential.

A thirty-day comment period was provided for the proposed settlement agreement, which ended June 25, 2008, at 5:00 pm. Four letters were received by the published comment period deadline, and those letters are included in the agenda package. Three Water Board staff response letters are enclosed.

Two additional letters were received after the comment period deadline: one letter of support from the current land owner of the Waddle Ranch (Truckee Donner Land Trust), and one letter of support from the future land owner of the Waddle Ranch (Truckee Tahoe Airport District). Both letters provide permission from the current and future Waddle Ranch property owner to carry out the SEP on their property. However, these two letters from the current and future Waddle Ranch property owners could not be included in the agenda package distribution because they were received after the published comment period.

RECOMMENDATION:

Adoption of the Administrative Civil Liability Order as proposed.

ENCLOSURES:

1. Proposed Administrative Civil Liability Order with the following attachments:
 - a. Alleged Violations and Penalty Summary Table
 - b. Monitoring Data of Projects' Storm Water Runoff Impacts to Area Surface Waters
 - c. Supplemental Environmental Project Proposal
 - d. Settlement Agreement
2. Northstar Community Services District (NCSD) comment letter dated June 6, 2008.

3. Water Board staff response letter to NCSD.
4. Northstar Community Services District – Northstar Fire Department (NCSD – Fire) comment letter dated June 4, 2008.
5. Water Board staff response to NCSD – Fire letter.
6. Truckee River Watershed Council letter dated April 11, 2008.
7. Northstar Property Owners Association letter dated June 16, 2008.
8. Water Board staff response to NPOA letter.

ENCLOSURE 1

10-0005

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R6T-2008-(PROPOSED)

ADMINISTRATIVE CIVIL LIABILITY

NORTHSTAR MOUNTAIN PROPERTIES, LLC, FOR ALLEGED VIOLATION OF NPDES GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES, STATE WATER RESOURCES CONTROL BOARD ORDER NO. 99-08-DWQ, ALLEGED VIOLATION OF WATER QUALITY CERTIFICATION ORDER DATED JUNE 9, 2006, ALLEGED VIOLATION OF PROHIBITIONS PRESCRIBED IN THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION, AND ALLEGED VIOLATION OF CLEANUP AND ABATEMENT ORDER NO. R6T-2006-0049

FOR THE FOLLOWING PROJECTS:

**NORTHSTAR VILLAGE, WDID NO. 6A31C325917
NORTHSTAR INTERCEPT LOTS, WDID NO. 6A31C335494
NORTHSTAR EMPLOYEE HOUSING, WDID NO. 6A31C335581
NORTHSTAR DRIVE & BASQUE ROAD INTERSECTION, WDID NO. 6A31C329713
NORTHSTAR HIGHLANDS DRIVE AND HWY 267 INTERCHANGE, WDID NO. 6A31C333755
NORTHSTAR HIGHLANDS DRIVE, WDID NO. 6A31C333756
NORTHSTAR DRIVE ROUNDABOUT, WDID NO. 6A31C333754
NORTHSTAR HIGHLANDS RESORT HOTEL, WDID NO. 6A31C339910
NORTHSTAR TRAILSIDE TOWNHOMES, WDID NO. 6A31C339949
NORTHSTAR SCHAFFER'S CAMP RESTAURANT, WDID NO. 6A31C324687
NORTHSTAR VILLAGE RUN FILL SITE, WDID NO. 6A31C342716**

The California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) has been presented with a proposed settlement of claims for administrative liability against Northstar Mountain Properties, LLC (hereinafter referred to as NMP). The settlement was developed during negotiations between the Lahontan Water Board's prosecution team and NMP. This Order and the attached Settlement Agreement (Attachment 4) resolve the claims listed in this Order through the payment of an administrative civil liability in the amount of \$2,750,000 (\$2,150,000 of which will be directed to the Supplemental Environmental Project (SEP) described herein).

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NMP has represented and warranted that the contributions to the project that would serve as a SEP under this Order are not and were not previously being contemplated, in whole or in part, by NMP, for any purpose other than to partially satisfy NMP's obligations in this Order, and that NMP's contributions to the project that serves as a SEP would not be made in the absence of the enforcement action.

In accepting the proposed settlement, the Lahontan Water Board has considered each of the factors prescribed in California Water Code sections 13327 and 13385, as set out more fully below. The Lahontan Water Board's consideration of these factors is based upon information obtained by the Lahontan Water Board in investigating the claims or otherwise provided to the Lahontan Water Board, including the information and comments received from the public. In addition to these factors, the administrative civil liability recovers the costs incurred by the staff of the Lahontan Water Board in investigating the claims and pursuing enforcement action.

A Notice of Proposed Settlement has been published in the *Sierra Sun* and the *Reno Gazette-Journal*, papers of general circulation in the Truckee, Lake Tahoe and Reno areas, notifying the public of the review period and soliciting public comments on the terms of the settlement. The proposed settlement supports the assessment of administrative civil liability in the amount of \$2,750,000 for the full and final resolution of each of the claims and alleged violations set forth herein, and is in the public interest. The settlement and assessment of administrative civil liability provides for the release and discharge of NMP for all known and unknown storm water program claims and violations for the project areas listed in Finding No. 2, below prior to December 31, 2007, including all alleged violations set forth in the Violation Summary, the settlement, and this ACL Order.

Having provided public notice of the proposed settlement for public comment the Lahontan Water Board finds:

1. Permit Holder

NMP is the project permit holder for all the projects listed in Finding No. 2, below. NMP is owned, in part, by NMP Holdings, LLC, East West Resort Development V, L.P., L.L.L.P., and HF Holding Corp.

NMP obtained coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities, State Water Resources Control Board Order No. 99-08-DWQ (General Permit) from the State Water Resources Control Board (State Water Board) on various dates for the

projects listed in Finding No. 2, below. NMP, as permit holder, is responsible for constructing all projects in compliance with the General Permit.

2. Projects

NMP is constructing numerous projects at Northstar, Placer County, California. The projects are intended to renovate existing mountain facilities and to develop additional residential areas within Northstar and to provide the necessary infrastructure to serve the same. Eleven specific projects are the subject of this Order, and collectively the eleven facilities are hereinafter referred to as the Projects.

The Projects are all part of a planned development of approximately 325 acres within the existing Northstar resort community. The Projects are located within the central portion of the Marin Valley region, approximately six miles southeast of the Town of Truckee, and approximately five miles northwest of the northern shore of Lake Tahoe.

- A. Northstar Village, WDID No. 6A31C325917. The project consists of: (1) demolishing the previously-existing activity center, gondola building, photo shop, and clock tower buildings; (2) constructing seven mixed-use buildings, two ancillary buildings, ice skating rink, roadway and circulation improvements, off-site intersection improvements, parking facilities, trail systems, and infrastructure improvements; and (3) transporting and depositing fill material in two separate areas. The project site is located on approximately 28 acres at the base of the Northstar-at-Tahoe mountain facilities (Northstar), and south of Northstar Drive and Big Springs Drive. It is located on Placer County Assessor Parcel Nos. 110-080-24, -38, and -42, and 110-250-01 through -07.
- B. Northstar Intercept Lots, WDID No. 6A31C33549. The project consists of constructing a day skier parking lot with 1,200 parking spaces. The project site is on approximately 31 acres of land located west of State Route 267, north of Northstar Drive, near the entrance to Northstar, and approximately six miles from the Town of Truckee. The land is identified by Placer County Assessor Parcel Nos. 110-030-061 and 110-080-015.
- C. Northstar Employee Housing, WDID No. 6A31C335581. The project consists of constructing three employee housing apartment buildings and associated access roads and infrastructure. The project size is six acres.
- D. Northstar Drive & Basque Road Intersection, WDID No. 6A31C329713. The project consists of utility and storm water improvements located at

the intersection of Northstar Drive and Basque Road. The project site is two acres.

- E. Northstar Highlands Drive and Hwy 267 Interchange, WDID No. 6A31C333755. The project consists of pavement widening on State Route 267, realignment, and pavement of an existing dirt road (Northstar Drive), and installation of a traffic signal. The project is located between mile posts 3.7 and 4.0 on State Route 267. The project site is 1.6 acres.
- F. Northstar Highlands Drive, WDID No. 6A31C333756. The project consists of constructing a new road from State Route 267 to the newly-developed Highlands Resort area. The project includes in-stream disturbances, which are subject to a Clean Water Act section 404 permit and Clean Water Act section 401 Water Quality Certification. The project site is 38.6 acres.
- G. Northstar Drive Roundabout, WDID No. 6A31C333754. The project consists of constructing a new roundabout on Northstar Drive located at the intersection with Sawmill Flat Road and the entrance to the Northstar Intercept Lots project. The project site is 1.2 acres.
- H. Northstar Highlands Resort Hotel (Ritz-Carlton Hotel), WDID No. 6A31C339910. The project consists of constructing a hotel structure, associated condominiums, and associated amenities. The project also includes relocation of ski and multipurpose trails. The project site is 24 acres.
- I. Northstar Trailside Townhomes, WDID No. 6A31C339949. The project consists of constructing eight new townhome duplexes and associated access roads and infrastructure. The project site is 4.7 acres.
- J. Northstar Schaffer's Camp Restaurant, WDID No. 6A31C324687. The project consists of constructing a restaurant facility and appurtenant utility installation at the top of a ski lift. The project size is five acres.
- K. Northstar Village Run Fill Site, WDID No. 6A31C342716. The project consists of depositing 150,000 cubic yards of material excavated from surrounding projects to regrade the Village Run ski trail. The ski trail extends from Highlands View Road down to the Northstar Village. The project size is 9.8 acres. It is located on Placer County Assessor Parcel Nos. 110-050-42 and -43.

3. Facts and Alleged Violations

NMP enters into the Settlement Agreement and the ACL Order without the admission or denial of any fact or the adjudication of any issue in this matter. The following represents the facts and alleged violations as they appear in the files of the Lahontan Water Board. NMP submitted Notices of Intent to comply with the terms of the General Permit for each of the listed Projects. The General Permit was adopted by the State Water Board on August 19, 1999, pursuant to Clean Water Act sections 208(b), 301, 302, 303(d), 304, 306, 307, 402, and 403. NMP was granted coverage under the General Permit on varying dates for each of the Projects, and prior to commencing construction on each of the Projects.

The General Permit requires NMP to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the Projects. NMP prepared separate SWPPPs for the Village, Northstar Drive and Basque Road Intersection, Northstar Highlands Drive and Hwy 267 Interchange, and Schaffer's Camp projects. NMP prepared a single SWPPP for the Northstar Intercept Lots, Northstar Employee Housing, Northstar Highlands Drive, and Northstar Drive Roundabout projects. NMP also prepared a single SWPPP for the Northstar Highlands Resort Hotel, Northstar Trailside Townhomes, and Northstar Village Run Fill Site projects.

The Lahontan Water Board issued a Clean Water Act section 401 Water Quality Certification (Water Quality Certification) to NMP for the Northstar Highlands Drive project on June 9, 2006. The Northstar Highlands Drive project is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have Received State Water Quality Certification," which requires compliance with all conditions of the Water Quality Certification.

Lahontan Water Board staff inspected the Projects on June 15, 2006, July 5, 2006, August 7, 2006, October 5, 2006, and November 14, 2006. Alleged violations of the General Permit, the Water Quality Certification, and the Lahontan Water Board's *Water Quality Control Plan for the Lahontan Region* (Basin Plan) that were documented during those inspections are summarized in the alleged violations summary table provided and incorporated herein as Attachment 1 of this Order.

Lahontan Water Board staff (Eric Taxer and Harold Singer) also met with NMP's staff at the Projects on July 13, 2006, to discuss NMP's noncompliance. NMP was directed to immediately stabilize unauthorized drainage impacts and was directed to maintain adequate supplies and personnel to ensure compliance with the SWPPP and General Permit.

The Lahontan Water Board issued Notices of Violation (NOVs) to NMP on July 13, 2006, August 16, 2006, and August 24, 2006. The NOVs were issued for the General Permit and Basin Plan alleged violations observed during the June 15, 2006, July 5, 2006, and the August 7, 2006, inspections. The NOVs also documented alleged violations that were discovered during the records and file searches associated with each of the inspections. Each NOV required immediate correction of all observed alleged violations in addition to measures deemed appropriate to help ensure long-term compliance. The duration of alleged noncompliance for violations observed during the inspections and communicated to NMP through each NOV is noted in the alleged violations summary table provided as Attachment 1 of this Order.

The Lahontan Water Board issued Cleanup and Abatement Order (CAO) No. R6T-2006-0049 on November 8, 2006, to NMP for seven of the Projects. The CAO was issued to address NMP's alleged continued failure to implement appropriate storm water controls, particularly prior to a November 2-3, 2006, storm water runoff event. The CAO required NMP to clean up the effects of the discharge resulting from the precipitation event, to comply with additional provisions intended to prevent further discharges, and to monitor the potential impacts during future storm water runoff events. CAO alleged violations are also identified in the alleged violations summary table provided as Attachment 1 of this Order.

Precipitation events occurred on January 3-4, 2007 (0.65 inches of precipitation and subsequent snow), and again on February 8-10, 2007 (2.52 inches of precipitation). Alleged violations associated with these storm events are summarized in the alleged violations summary table provided in Attachment 1 of this Order.

Storm water runoff and surface water monitoring conducted during storm events documented increases in sediment and nutrient concentrations in area surface waters from the disturbed and inadequately-protected construction areas. A summary of available monitoring data of storm water runoff impacts to area surface waters from the Projects is provided and incorporated herein as Attachment 2 of this Order.

4. Administrative Civil Liability Authority

The Lahontan Water Board may impose civil liability pursuant to Water Code section 13385, subdivision (a)(2) and subdivision (a)(4). Water Code section 13385, subdivision (a) states:

Any person who violates any of the following shall be liable civilly in accordance with this section:

* * *

(2) Any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

* * *

(4) Any order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

The Lahontan Water Board may also impose civil liability pursuant to Water Code section 13268, subdivision (a)(1). Water Code section 13268, subdivision (a)(1) states:

Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

The Lahontan Water Board alleges that NMP violated waste discharge requirements prescribed by the General Permit, violated conditions specified by CAO No. R6T-2006-0049, violated waste discharge prohibitions contained in the Lahontan Water Board's Basin Plan adopted pursuant to Water Code section 13243, violated conditions specified in a Clean Water Act section 401 Water Quality Certification, and failed to submit complete technical reports required under Water Code section 13267 as described in Attachment 1 to this Order. The Lahontan Water Board is, therefore, authorized to impose civil liability pursuant to Water Code section 13385, subdivision (a)(2) and subdivision (a)(4), and Water Code section 13268(a)(1).

5. Civil Liability – California Water Code

For the violation of requirements specified in the General Permit, CAO No. R6T-2006-0049, Basin Plan, and Clean Water Act section 401 Water Quality Certification, the Lahontan Water Board may impose civil liability in a maximum amount up to that specified by Water Code section 13385,

subdivision (c). Water Code section 13385, subdivision (c) (emphasis added), states:

*Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 . . . of Chapter 5 in an amount **not to exceed** the sum of both of the following:*

(1) *Ten thousand dollars (\$10,000) for each day in which the violation occurs.*

(2) *Where there is a discharge, any portion of which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.*

For the failure to submit technical or monitoring reports required under the authority established by Water Code section 13267, the Lahontan Water Board may impose civil liability in a maximum amount up to that specified by Water Code section 13268, subdivision (b). Water Code section 13268, subdivision (b)(1) (emphasis added), states:

*Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 . . . of Chapter 5 for a violation of subdivision (a) in an amount which **shall not exceed** one thousand dollars (\$1,000) for each day in which the violation occurs.*

In this matter, the **potential maximum** civil liability is \$12,614,000 under Water Code section 13385, subdivision(c) and Water Code section 13268, subdivision (b)(1) for all the Projects listed in Finding No. 2 above for (i) the discharges and threatened discharges of wastes to a tributary of the Truckee River, (ii) failure to comply with orders of the Lahontan Water Board, and (iii) failure to submit complete technical reports as required by the Lahontan Water Board. The maximum liability amount for each project and for each type of violation incurred by that project is documented in the alleged violations summary table provided as Attachment 1 of this Order.

6. Factors Affecting the Amount of Civil Liability

Water Code sections 13327 and 13385, subdivision (e) require the Lahontan Water Board to consider enumerated factors when it determines the amount of civil liability pursuant to Water Code sections 13268 and

13385. The Lahontan Water Board considered those factors in determining the amount of administrative civil liability under this ACL Order.

In settlement discussions, NMP set forth a different accounting of the appropriate liability under the factors discussed below, including mitigating circumstances. This accounting resulted in a substantially reduced potential liability under the factors discussed below than the liability amount considered in this Order and associated Settlement Agreement. Nonetheless, NMP has agreed to the liability established by this Order and associated Settlement Agreement.

A. The nature, circumstances, extent, and gravity of the alleged violations.

The liability imposed by this Order addresses the alleged violations documented in the alleged violations summary table provided as Attachment 1 of this Order. These alleged violations are associated with construction activities on approximately 325 acres of property under development by NMP over a period of four years. Generally, NMP's alleged violations relate to the control of storm water discharges and resulted from a failure to comply fully with applicable permits, water quality certifications, orders issued by the Lahontan Water Board, Basin Plan prohibitions, and orders for technical reports. The number and frequency of alleged storm water violations that occurred on the Projects were extensive and had the potential to cause significant adverse impacts to the Martis Creek watershed. However, significant adverse impacts as a result of the alleged violations, such as fish mortality, were not realized due to minimal precipitation events during the periods of alleged violation.

The Water Board considers the identified beneficial uses of the waters in question when evaluating the gravity of discharges or threatened discharges. Beneficial uses of the waters that received discharges or were threatened by discharges include water contact and non-water contact recreation, commercial and sport fishing, municipal and domestic supply, cold freshwater habitat, wildlife habitat, spawning/reproduction/development, and rare/threatened/endangered species. Increased sediment discharges to surface waters in the Martis Creek watershed have the ability to adversely affect all of these beneficial uses.

Beginning in the 2004 construction season, Lahontan Water Board staff observed and documented numerous alleged SWPPP-related violations associated with the Northstar Village project as set forth in Finding 6G below. Lahontan Water Board staff worked closely with

NMP prior to and throughout the 2005 construction season to provide education and support on means to comply with the General Permit and the SWPPP. The result was improved compliance during the 2005 construction season.

NMP significantly increased the magnitude of construction area and activity in 2006, but did not effectively implement the necessary SWPPP and General Permit compliance measures as compared to the previous two construction seasons. Non-compliance during the 2006 construction season resulted in the alleged violations documented in the alleged violations summary table provided as Attachment 1 to this Order.

The Lahontan Water Board's Executive Officer met onsite with NMP on July 13, 2006, and reiterated the findings of his staff, required immediate correction of all noted deficiencies, and required NMP to comply with all program requirements for the remainder of the construction season in order to be prepared for the onset of any possible storm water runoff events.

NMP's alleged continued ineffective performance and failure to comply with the General Permit and the CAO, including lack of proper winterization, resulted in sediment discharges into area surface waters during storm water runoff events on October 5, 2006, November 8, 2006, January 3-4, 2007, and February 8-10, 2007. These alleged unauthorized discharges also resulted in adverse in-stream impacts at several locations throughout the Projects, though no significant impacts (such as fish mortality) were realized. (See summary of monitoring data, provided as Attachment 2 of this Order.)

The unstable site conditions also resulted in creating a condition of threatened discharges during periods of snowmelt runoff, though these alleged violations were less serious than they could have been given a light snow and precipitation year during the 2006-2007 winter. In response to Lahontan Water Board's direction to come into compliance, NMP to its credit dedicated significant financial and personnel resources to implement the necessary activities to bring the construction sites into compliance as directed. According to NMP, it realized after the fact that the personnel that it originally directed to bring the construction sites into compliance lacked the experience necessary to achieve compliance.

The violation of reporting and implementation requirements of a Water Board CAO is serious because CAOs are intended to prevent future or ongoing impacts from unauthorized discharges. Again, the violation of CAO reporting and implementation requirements resulted in minimal

impacts due to relatively few precipitation events during the winter 2006-2007 and this mitigates against the potential maximum liability under the Water Code.

Following receipt of the CAO in November 2006, NMP reports that its management initiated an internal cultural change within the organization and engaged an expert SWPPP consulting team to assist with the design and implementation of this change. Through extensive training, implementation and monitoring efforts, NMP was able to achieve a zero-violation goal for 2007. This turnaround demonstrates NMP's commitment to compliance with its water quality obligations and mitigates the extent, gravity and seriousness of the alleged 2006 violations.

B. Whether discharge is susceptible to cleanup or abatement.

For the most part, the alleged violations represented threatened, not actual, discharges of sediments and waste materials to surface waters. The alleged violations were not completely corrected until the beginning of the 2007 construction season.

There were instances of sediment discharge to area surface waters during the October 2006, November 2006, January 2007, and February 2007 storm water runoff events. These discharges are not susceptible to cleanup, though some clean up efforts were implemented by NMP prior to some of these events in response to the November 2006 CAO.

There are four instances of unauthorized flood plain disturbance (fill material, regrading, etc.): the Intercept Lot flood plain crossing, Highlands View Drive Station 50+00 crossing of an unnamed drainage, Highlands View Drive Station 104+00 (West Martis Creek crossing), and Highlands View Drive Station 144+00 (West Fork West Martis Creek crossing). These areas are susceptible to cleanup and to abatement through efforts designed to remove excess waste earthen materials from the drainages and/or stabilize the disturbed drainage areas. Except for the Highlands View Drive Station 50+00, such activities have not been implemented. Abatement efforts are planned to be implemented at the West Martis Creek Crossing and at the West Fork West Martis Creek crossing during summer, 2008. Abatement plans have not yet been finalized for the Intercept Lot flood plain crossing.

C. The degree of toxicity of the discharge.

Many of the alleged violations were permit violations that, for the most part, resulted in threatened, not actual, discharges of waste and waste earthen materials to surface waters. In situations where the threatened discharges did not occur, the toxicity analysis is not applicable.

The times when an unauthorized discharge did occur, the water samples collected during the storm water runoff events were not analyzed for toxicity. Accordingly, the toxicity of the discharge is unknown.

D. Ability to pay

The liability imposed by this Order represents a settlement with NMP. NMP asserts that it has the ability to pay the proposed liability

E. The effect on NMP's ability to continue its business.

The liability imposed by this Order represents a settlement with NMP, and the proposed liability will not prevent NMP from continuing in business.

F. Any voluntary cleanup efforts undertaken by the violator.

In response to extensive communications with Water Board staff, NMP dedicated substantial resources to water quality compliance in 2006. However, NMP reports that inexperienced NMP staff and poor internal NMP communication reduced the effectiveness of its cleanup efforts.

G. Prior history of violations.

For the Northstar Village project, 11 violations were documented in 2004 (failure to obtain a permit and permit conditions), and 13 violations were documented in 2005 (permit conditions, SWPPP/BMP violations, and Basin Plan prohibitions violations). For the Northstar Schaffer's Camp project, several additional violations were observed in 2004. Enforcement actions were issued to NMP in response to documented violations relating to soil tracking, inadequate stockpile management, breach of ESA fencing and pine needle berming, inadequate personnel training regarding water quality

protection and SWPPP implementation, and failure to properly implement the SWPPP and BMPs. Initial enforcement actions consisted of verbal warnings, and subsequent enforcement actions were elevated to written notices of violation, orders for information pursuant to Water Code section 13267, and a Cleanup and Abatement Order pursuant to Water Code section 13304.

H. Degree of culpability.

NMP oversees all contracts for project construction and is the permit holder for the project. NMP, as permit holder, is directly responsible for project activities, including those of its contractors, and the impacts associated with such activities. NMP is responsible for its initial failures to ensure its contractors' activities protected water quality as required by the General Permit, the Water Quality Certification, and the Basin Plan. NMP is also responsible for the history of continued noncompliance in the face of escalating enforcement actions.

I. Economic benefit or savings resulting from the alleged violations.

The amount of economic savings resulting from the failure to implement or manage required controls is not known. Savings included, but are not limited to: costs associated with purchasing the additional stormwater management and erosion control materials necessary to provide adequate storm water runoff protection, costs of training contractors to properly implement the additional storm water runoff protection measures, and labor costs for implementing and maintaining those materials and structures. NMP expended extensive financial and personnel resources on BMPs and compliance during the 2006 season. However, these efforts were often after direction from the Water Board or were ineffective. As described above, far more effective measures were implemented in 2007. The likely cost savings from delayed implementation (measures that were implemented in 2007 that should have been implemented in 2006) are not significant and are believed to be far less than the total amount of the liability imposed by this Order.

J. Other matters as justice may require.

Estimated staff costs for investigation, enforcement, enforcement follow up and preparation of this Order are \$151,000.

NMP began to implement organizational changes in July 2006 to elevate the priority of its stormwater permit compliance program. The organizational changes occurred too late in the season to result in effective stormwater permit compliance prior to the onset of the 2006/2007 winter season. Additional organizational changes were implemented during the 2006/2007 winter season, and as a result NMP completed its 2007 construction season without violating permit conditions and Basin Plan prohibitions. This represents a significant turnaround from previous experience and resulting water quality impacts and is a significant factor warranting a reduction in the overall potential liability imposed in this ACL Order.

Furthermore, NMP has worked cooperatively with the Lahontan Prosecution Team to develop a comprehensive and significant and valuable supplemental environmental project primarily for the benefit of the affected watershed in the Martis Valley.

7. Supplemental Environmental Project

NMP, as a part of the Settlement Agreement, has proposed that a portion of the liability (\$2,150,000) be directed to the development and construction of the components outlined in the "Northstar Mountain Properties Supplemental Environmental Project, Waddle Ranch Watershed Improvement Program" (SEP) provided in Attachment 3, which is made a part of this Order. This SEP consists of implementing restoration efforts and watershed improvements within the Waddle Ranch property. The Waddle Ranch is located in the Martis Valley, Eastern Placer County, and was recently acquired by the Truckee Donner Land Trust to establish a conservation easement. The SEP also includes two products that will address two specific critical gaps in watershed and forestry management: (1) the "Watershed Evaluation, Treatment and Monitoring Guidance Document", and (2) the "Fuels Treatment/Water Quality Protection Guideline Program".

The aforementioned products and every report, map, study, photograph, computer model, computer disk and other documents prepared by NMP as a component or product of the SEP and provided to the Lahontan Water Board (Deliverables or Deliverable) shall be the property of the Lahontan Water Board. Discharger shall be deemed to transfer to the Lahontan Water Board all right, title and interest in the Deliverables. To the extent any Deliverable constitutes a copyrightable work; Discharger agrees that the Lahontan Water Board is the owner of all right, title and interest in the Deliverable. The Lahontan Water Board shall have the nonexclusive, royalty free, worldwide, perpetual right to use, reproduce, publish, display, broadcast, transmit, exhibit, distribute and exploit any Deliverable and to

prepare derivative and additional documents or works based on any Deliverable.

As a component of this settlement, NMP will provide \$2,150,000 to fund the SEP. To implement this requirement, NMP will establish an interest-bearing account or other impoundment account (SEP Fund) satisfactory to the Executive Officer that must include the following conditions as a requirement for a payment of funds from the account:

- a. funds must only be used by the recipient(s) for the SEP as provided in Attachment 3, or for an alternative supplemental environmental project(s) (Alternative SEP) as provided for in Order No. 3b below, and cannot be used to pay for the independent third party oversight discussed in Finding No. 9.
- b. any interest paid on the SEP Fund will be applied towards NMP's obligations for future payments to the SEP Fund under the schedule set forth in Order No. 3a below to be used towards the SEP or Alternative SEP, or paid to the State Water Board Cleanup and Abatement Account and the State Water Board Waste Discharge Permit Fund as discussed in Order Nos. 3b and 3e below.

8. SEP Criteria

The SEP meets the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002, in that it (1) consists of measures that go above and beyond the current and future obligation of NMP; (2) will directly benefit surface water quality and associated beneficial uses by identifying pollutant sources through a watershed assessment for impacts associated with past development practices, and implementing corresponding public awareness projects and corresponding watershed restoration projects addressing the identified pollutant sources; (3) will not directly benefit the Water Board functions or staff, and (4) is not otherwise required of NMP.

The SEP also has a nexus with the alleged violations in that it (1) provides a watershed assessment and watershed improvements and restoration in an area immediately adjacent to and down gradient from NMP's Projects, and (2) provides a community educational element through the development of guidance documents that will assist other land managers to understand the technical nature of erosion potential.

Whenever NMP, its subsidiaries, corporate parents, affiliates, successors, heirs, assigns, officers, directors, partners, employees, representative agents, subcontractors, attorneys, or any fiscal agent holding SEP funds, publicizes the SEP or an Alternative SEP, it shall state in a prominent manner that the SEP is being undertaken as part of the settlement of an enforcement action.

9. Independent Third Party Review and Financial Audit of SEP

NMP agrees to contract with an independent third party to audit implementation of the SEP or Alternative SEP and report to the Lahontan Water Board. The independent third party will track SEP progress, verify completion and audit expenditures from the trust account or other impoundment account established to fund the SEP, and will submit the following reports to the Lahontan Water Board:

- a. quarterly SEP progress reports;
- b. annual expenditure reports;
- c. a final report certifying completion of the SEP; and
- d. a post-project accounting of all expenditures.

The costs of this third party oversight are in addition to the \$2,150,000 that NMP is required to contribute to fund the SEP and shall not be paid out of the SEP Fund or be credited toward NMP's obligation to fund the SEP.

10. NMP's Waiver of Right to Petition

NMP agrees that if the Lahontan Water Board approves this Administrative Civil Liability Order as specified herein, as part of the settlement, including attachments, NMP will not petition the State Water Board or otherwise challenge this Order. NMP understands that failure to comply with the SEP Fund distribution schedule specified below by **January 31, 2013**, or as modified by the Executive Officer of the Lahontan Water Board or the Lahontan Water Board as provided in the Settlement Agreement, will result in NMP having to pay the suspended portion (\$2,150,000) of liability imposed by this Order (less any amount that has been paid by NMP to the SEP Fund, including interest earned thereon, or directly to the State Water Resources Control Board's Cleanup and Abatement Account or the Waste Discharge Permit Fund or appropriately distributed from the SEP Fund prior to that date) to the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) within 30 days of the relevant compliance date. As NMP pays into the SEP Fund or the Cleanup and Abatement Account or the Permit Fund, that

portion of the liability under this Order shall be completely discharged. The remaining liability shall remain suspended until payment by NMP into the SEP Fund or as otherwise provided in this Order.

11. Notification of Interested Parties

The Lahontan Water Board notified NMP and interested parties of its intent to consider the proposed settlement during its meeting of **July 23-24, 2008**. The Lahontan Water Board, in a public meeting, heard and considered all comments related to the proposed settlement.

12. Other Parties' Right to Petition

Any aggrieved person may petition the State Water Board to review the action in accordance with Water Code section 13320 and the State Water Board's regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at <http://www.waterboards.ca.gov/wqpetitions/index.html> and will also be provided by the Lahontan Water Board upon request.

13. California Environmental Quality Act

This enforcement action is being taken by the Lahontan Water Board to enforce provisions of the Water Code and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, Title 14, section 15321.

IT IS HEREBY ORDERED THAT:

1. The Lahontan Water Board imposes administrative civil liability against NMP in the amount of \$2,750,000.
2. NMP must provide payment in the amount of \$600,000 to the State Water Board to be distributed between the State Water Resources Control Board's Cleanup and Abatement Account (\$480,000) and the Waste Discharge Permit Fund (\$120,000). An initial installment of \$240,000 paid to the Cleanup and Abatement Account and \$60,000 paid to the Waste Discharge Fund must be made **within 10 calendar days** of receiving written notice from the Lahontan Water Board that the State Water Board has not received any petitions for this Order within the time provided in Water Code section

13320 (30 days) and that no judicial challenge has been made within the time provided in Water Code section 13330, or that such challenges were received, but all claims contained therein have been resolved in favor of the Lahontan Water Board such that the ACL Order remains unchanged. NMP must make additional payments of \$240,000 to the Cleanup and Abatement Account and \$60,000 to the Waste Discharge Permit Fund. This second payment is due to the Lahontan Water Board **by close of business (5:00 p.m.) one year from the time for the first payment set forth above.**

3. The remaining \$2,150,000 will be directed to the SEP as specified below in this Order.
 - a. NMP will make quarterly payments over five years in the amounts specified below by the dates set forth therein, into the SEP Fund established as described in Finding No. 7. The SEP Fund must include the success criteria described in Finding No. 7 as a condition of payment of funds from the account. The details regarding establishing the account, maintaining the account and releasing funds from the account must be agreeable to the Lahontan Water Board Executive Officer and conform to the State Water Resources Control Board's *Water Quality Enforcement Policy, 2002*. The payments are due and payable according to the following schedule:
 - i. \$200,000 total for the year 2008
 1. \$100,000 **within 10 calendar days** of receiving written notice from the Lahontan Water Board that the State Water Board has not received any petitions for this Order within the time provided in Water Code section 13320 (30 days) and that no judicial challenge has been made within the time provided in Water Code section 13330, or that such challenges were received, but all claims contained therein have been resolved in favor of the Lahontan Water Board such that the ACL Order remains unchanged; and
 2. \$100,000 by December 31, 2008.
 - ii. \$200,000 total for the year 2009.
 1. \$50,000 by March 31, 2009;
 2. \$50,000 by June 30, 2009;
 3. \$50,000 by September 30, 2009; and
 4. \$50,000 by December 31, 2009.
 - iii. \$500,000 total for the year 2010.
 1. \$125,000 by March 31, 2010;
 2. \$125,000 by June 30, 2010;
 3. \$125,000 by September 30, 2010; and
 4. \$125,000 by December 31, 2010.

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- iv. \$600,000 total for the year 2011.
 - 1. \$150,000 by March 31, 2011;
 - 2. \$150,000 by June 30, 2011;
 - 3. \$150,000 by September 30, 2011; and
 - 4. \$150,000 by December 31, 2011.

- v. \$650,000 total by December 31, 2012.
 - 1. \$162,500 by March 31, 2012;
 - 2. \$162,500 by June 30, 2012;
 - 3. \$162,500 by September 30, 2012; and
 - 4. \$162,500 by December 31, 2012.

NMP agrees to make quarterly payments into the SEP Fund. NMP may, in its sole discretion, make pre-payments into the SEP Fund provided that the total payments into the SEP Fund meet or exceed the total payment required by the dates noted above. NMP must submit to the Lahontan Water Board's South Lake Tahoe office, written documentation that the above-referenced payments have been made by January 15th for the payments for the previous year. The Lahontan Water Board acknowledges that NMP has spent money allocated towards the SEP in the Spring of 2008 to capture peak stream flows at the top and the bottom of the proposed SEP site in the Martis Valley, which was necessary to set a baseline water quality measurement for 2008. The Lahontan Water Board recognizes that this early 2008 peak flow monitoring was essential to the SEP because it establishes a means to measure the effectiveness of the SEP. Lahontan agrees that NMP shall be reimbursed from the SEP Fund, not to exceed \$15,000, upon submission of invoices for said work, once NMP makes its initial 2008 payment to the SEP Fund. NMP shall also have the right, exercisable within its sole discretion, to contract for services due under the SEP on a time and materials basis or a fixed fee.

- b. If the Lahontan Water Board's Executive Officer, or his delegate, and NMP agree that the SEP will not proceed for reasons beyond NMP's control, they shall meet and confer to agree upon an alternative supplemental environmental project(s) for recommendation to the Lahontan Water Board for acceptance. Funds deposited into the SEP Fund per the schedule above will be devoted to the Alternative SEP. In the event that no Alternative SEP can be agreed upon by the parties and/or accepted by the Lahontan Water Board within one (1) year of the parties agreeing that the SEP is not viable, then funds in the SEP Fund and any remaining amount required to bring the total ACL payment to \$2,750,000 will be deposited into the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) within 30 days of written notice by the Executive Officer to NMP of impasse. All payments under the ACL Order,

including payments to the SEP Fund and cash payments to the Cleanup and Abatement Account and the Permit Fund, shall be considered towards the \$2,750,000 payment. In no event shall NMP's total payments exceed \$2,750,000 with no more than \$2,150,000 allocated towards the SEP Fund and no more than \$600,000 to the Cleanup and Abatement Account and the Permit Fund.

- c. If NMP fails to perform the SEP in accordance with the specific terms and conditions, including the time schedule, detailed in Attachment 3 for any reason within the reasonable control of NMP or its agents then the remaining balance due under the Administrative Civil Liability amount of \$2,750,000 will become due and payable by NMP to the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time) within 30 days of the relevant compliance date, unless the Lahontan Water Board Executive Officer finds that NMP's failure to comply within SEP compliance dates was for good cause. The Lahontan Water Board shall provide notice to NMP and a reasonable opportunity to cure (no less than 60 days) any perceived violation of this ACL Order or the Settlement. Upon written request from NMP, the Executive Officer may approve a reasonable extension of time to comply with the specific terms and conditions of the SEP, which approval shall not be unreasonably withheld. Any payments by NMP under the ACL Order towards the SEP Fund or the Cleanup and Abatement Account and the Permit Fund shall discharge the suspended portion of the ACL Order liability to the extent of the payment and shall reduce the total suspended portion of ACL liability by the amount of the payment. In no event shall NMP's total payments under this ACL Order exceed \$2,750,000 with no more than \$2,150,000 allocated towards the SEP Fund and no more than \$600,000 allocated towards the Cleanup and Abatement Account and the Permit Fund.
- d. All SEP Fund monies shall be distributed before January 31, 2013, unless the schedule for the SEP is extended as provided below. Any funds remaining in the SEP Fund as of January 31, 2013, or the time for completion of the SEP as extended below, will be paid to the State Water Board's Cleanup and Abatement Account (80%) and the State Water Board's Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time) within sixty days. NMP may make a written request to the Executive Director to extend any SEP deadline by up to one year for good cause. The Executive Director may approve extensions of the SEP of up to one year, which approval shall not be unreasonably withheld. The Lahontan Water Board may in its discretion approve an

extension of more than one year for implementation of the SEP, if requested in writing by NMP.

- e. Any interest paid into the SEP Fund will be allocated to the SEP, Alternative SEP, or otherwise allocated to the State Water Board Cleanup and Abatement Account and the State Water Board Waste Discharge Permit Fund as specified in Order Nos. 3b or 3c, above and shall be applied towards NMP's payments owing to the SEP Fund and shall decrease NMP's future payments owing to the SEP Fund.
4. This Order settles all claims and liability for the alleged violations documented in the violations summary table provided in Attachment 1 of this Order and all unsuspected or unknown storm water program claims or violations for the project sites listed in Finding No. 2 of this Order that exist or may exist as of December 31, 2007. The Order does not settle any claims that the Lahontan Water Board may have for unknown non-storm water program violations prior to December 31, 2007, and the Lahontan Water Board retains authority to enforce any and all prospective violations.
 5. If NMP fails to provide liability or SEP payments by the dates specified in Order Nos. 2 and/or 3a through 3c, then any remaining amount required to bring the total Administrative Civil Liability amount to \$2,750,000 will become due and payable by NMP to the State Water Board Cleanup and Abatement Account (80%) and the State Water Board Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time) within 30 days of the relevant compliance date, unless NMP is relieved from the relevant compliance date in writing by the Lahontan Water Board Executive Officer based on a finding that NMP's failure to comply within the prescribed timeframe was for good cause. NMP may make a written request to the Executive Officer to extend any SEP deadline by up to one year to accommodate minor changes or good cause for delay, which request shall not be unreasonably withheld. The Lahontan Water Board may in its discretion approve an extension of more than one year for a SEP deadline or major changes to the SEP, if requested in writing by NMP. The Lahontan Water Board shall provide notice to NMP and a reasonable opportunity to cure (no less than 60 days) any perceived violation of this ACL Order or the Settlement. NMP shall receive credit for any payments made to the SEP Fund or otherwise in payment of the liability hereunder towards the Cleanup and Abatement Account or the Permit Fund. In no event shall NMP's total payment exceed \$2,750,000 with no more than \$2,150,000 allocated towards the SEP Fund and no more than \$600,000 allocated towards the Cleanup and Abatement Account and the Permit Fund.

6. If NMP fails to make the specified payments to the State Water Board Cleanup and Abatement Account, the State Water Board Waste Discharge Permit Fund, or to the approved SEP Fund within the time limits specified in this Order, the Lahontan Water Board may enforce this Order as it sees fit, including application for a judgment pursuant to Water Code section 13328. The Lahontan Water Board's Executive Officer is hereby authorized to pursue a judgment pursuant to Water Code section 13328 if the criteria specified in this paragraph are satisfied, or to take whatever action he or she deems necessary. Provided, however, that the Lahontan Water Board shall provide notice to NMP and a reasonable opportunity to cure (no less than 60 days) any perceived violation of this ACL Order or the Settlement before taking any enforcement action hereunder.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on July 23, 2008.

HAROLD J. SINGER
EXECUTIVE OFFICER

Attachment 1: Alleged Violations and Penalty Summary Table

Attachment 2: Monitoring Data of Projects Storm Water Runoff Impacts to Area Surface Waters

Attachment 3: Supplemental Environmental Project Proposal

Attachment 4: Settlement Agreement

ENCLOSURE 1

10-0005

ATTACHMENT A

Alleged Violations and Penalty Summary Table

<p>Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385.</p>	<p>Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385</p>	
<p>DAYS:</p>	<p>11</p>	<p>61</p>	<p>1</p>	<p>3</p>	<p>0</p>
<p>June 15-17, 2006 (3 days). Failure to install adequate drop inlet protection pursuant to section XI.F of the SWPPP. Reference: Water Board's June 15, 2006, inspection report.</p> <p>August 8-10, & 21-23, 2006 (6 days). Failure to correct identified BMP deficiencies within 24 hours pursuant to Amendment 8 of the SWPPP. Reference: (1) Discharger's August 7 & 8, 2006, self inspection reports note drop inlet BMP delays in H Plaza and Upper H Plaza. (2) Discharger's August 19, 2006, self inspection report documents delays installing silt fence at teh Phase III entrance, protecting stockpiles below the gondola and above the work site, installing filter fabric in all 6-inch drains, and reinstalling wattles around the grand staircase.</p> <p>November 1-2, 2006 (2 days). Failure to correct BMP deficiencies prior to storm events, pursuant to Amendment 8 of the SWPPP. Reference: Discharger's November 1 and 2, 2006, self inspection reports provide to its contractors 24-hours to implement site cleanup, change fabric in drains, and install plastic and berm around a mixing station. However the Discharger's November 10, 2006, electronic mail to Water Board staff documents total rainfall of 1.28 inches during this period, with rainfall predicted to occur on November 1 and 2, 2006.</p>	<p>May 4 through July 16, 2006, excluding days noted below (61 days). Failure to conduct and record daily site inspections pursuant to Section IX.D of the SWPPP (inspections prior, after, and 24-hour intervals during storm events), pursuant to Amendment No. 19 of the SWPPP (requires daily site inspections), and pursuant to Amendment No. 26 to the SWPPP (requires daily BMP inspections in the form of daily notes). Reference: (1) Discharger's July 16, 2006 letter documents inspections conducted only on May 3, 8, 25, and June 15, 2006 (40 days). (2) Discharger's August 2, 2006 letter documents failure to document (and possibly failure to conduct) self inspections from June 16 through (and including) July 18, 2006 (33 days). Includes failure to conduct pre-storm inspections for storms predicted the week of June 5, and on June 14, 2006. (3) Discharger's November 6, 2007 submittal documents inspections completed on May 3, 8, 25, 26, June 15, 16, 26, 27, 28, and July 12, 17, 18, 2007. Submittal documents inspections not needed on June 18, July 2, and July 4 due to no work conducted.</p>	<p>November 1-3, 2006, storm event (1 day). Failure to conduct storm water runoff water quality monitoring for a single runoff event that produced 1.28 inches of rainfall, pursuant to Section IX.B of the SWPPP. Reference: Discharger's November 10, 2006 electronic mail to Water Board staff documenting the precipitation event.</p>	<p>January 4, February 9 & 10, 2007 (3 days). Discharge of sediment and nutrient-laden storm water runoff into the West Fork West Martis Creek from the project site. Reference: (1) Discharger's water quality data collected January 4, 2007, between 11:40 a.m. and 12:05 p.m. (data collected approximately 18 hours after storm commenced on January 3, 2007); (2) Discharger's water quality data collected February 9, 2007, between 3:15 p.m. and 3:45 p.m.; (3) Discharger's water quality data collected February 10, 2007, between 11:15 a.m. and 11:45 a.m.; and (4) Discharger's water quality data collected February 10, 2007, between 3:45 p.m. and 4:15 p.m.</p>	<p>This violation is already noted in the discharge of sediment-laden storm water discharge section.</p>	

Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268	Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268	TOTAL DAYS	PENALTY PER SITE
13	0	42	35	166	\$967,000.00
<p>November 8, 2006 CAO required immediate response. Discharger submitted inadequate response on November 22, 2006 identifying 9 individuals instead of one individual. Water Board staff deemed the response inadequate in a letter dated February 26, 2007. Adequate response was not submitted until March 13, 2007 - 124 days after the CAO was issued. Days of violation are 13 days, assuming a corrected response should have been submitted immediately by February 28th.</p>	<p>The Discharger submitted information on November 6, 2007, verifying the site was fully winterized by the due date.</p>	<p>The Discharger submitted a deficient report on November 14, 2006. The report was deficient because it did not fully document winterization measures installed in all disturbed areas, it did not provide a chronology of BMPs installed after October 28th, and it identified several disturbed areas to be mulched in the spring of 2007 without specifying the temporary winterization measures to be installed for the interim period. Water Board did not identify the report as deficient until March 7, 2007. The Discharger never re-submitted the report. Assuming a reasonable re-submittal date of March 21, and assuming a May 1st date when such a report no longer is necessary, the violation period would be 42 days.</p>	<p>The Discharger submitted a monitoring plan on time on November 17, 2006, but it was deficient. Water Board staff declared it was deficient in a letter dated February 22, 2007, because no monitoring points for storm water run-on into the Village Core area were identified, nor were any monitoring points identified for storm water run-on into the existing parking area where construction staging existed. The Discharger submitted a revised and adequate plan on April 12, 2007. Assume that the Discharger should have been able to resubmit a revised plan 2 weeks from the date of the Water Board letter, violation period from March 8 until April 12 is 35 days.</p>		

<p>Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385</p>
<p>0</p>	<p>10</p>	<p>0</p>
	<p>June 15 & 16, 2006 (2 days of violation). Discharging waste earthen material into the identified Class III drainage. References: (1) Water Board's report of its June 15, 2006, inspection; (2) Discharger's June 20, 2006 electronic mail to Water Board staff noting placement of unauthorized rip rap material in the drainage.</p> <p>July 5, 2006 (1 additional day). Discharge of additional rock and sediment (from a tree stump removal and sloughing from the drainage crossing), and construction of a silt fence across the flow line within the drainage. Reference: Water Board's report of its July 5, 2006 site inspection.</p> <p>August 7, 2006 (1 additional day). Discharge of topsoil material within the drainage. Reference: Water Board's report of its August 7, 2006 site inspection.</p> <p>September 21-26, 2006 (6 additional days). Discharge of waste earthen materials while constructing an arched culvert within the flood plain boundaries of the Class III drainage. Reference: Construction period is documented by the Discharger's self inspection reports for the period September 19-25, and September 26-October 2, 2006. Water Board staff report of its November 14, 2006, inspection documents a 3 to 4-foot span over the drainage, not the required 7-foot span.</p>	<p>Flood plain impacts occurred, but days of violation are already considered under the previous column.</p>

<p>Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385</p>
<p>DAYS:</p>	<p>19</p>	<p>17</p>	<p>0</p>	<p>0</p>
<p>June 15 & 16, 2006 (2 days of violation). Failure to install and maintain adequate drain inlet BMPs as required by the SWPPP (page 17 and Appendix E.6) - lack of wattle and inlet filter. Failure to install and maintain erosion and sediment control BMPs for an unpaved construction road. References: (1) Water Board report of June 15, 2006 inspection; (2) Discharger's June 20, 2006, electronic mail to Water Board staff documenting installation of BMPs; (3) Discharger's July 31, 2006 correspondence to Water Board staff.</p> <p>June 20 - 26, 2006 (7 additional days). Failure to install and maintain adequate stockpile management BMPs in accordance with the SWPPP, Appendix E.24. (A precipitation event occurred June 26th). Reference: Discharger's June 20, 23, and 26, 2006, self inspection reports.</p> <p>July 27, 2006 (1 additional day). Failure to install and maintain drain inlet protection at south end, after BMP inspector required its installation. Reference: Discharger's July 27 and 28, 2006, self inspection reports.</p> <p>July 28, 2006 (1 additional day). Failure to maintain adequate stockpile of BMP materials as required by VIII.D.1 of the SWPPP (page 17). Reference: Discharger's July 28, 2006, self inspection report.</p> <p>August 4, 2006 (1 additional day). Failure to maintain adequate concrete washout facility in accordance with SWPPP requirements - concrete washout occurred outside of designated facility. Reference: Discharger's August 4, 2006, self inspection report.</p> <p>October 2 - 5, 2006 (4 additional days). Failure to maintain BMPs (sediment remained in drainages, v-ditches, etc.) prior to predictions of rain on October 2nd - 5th. Failure to install slope protection prior to predictions of rainfall (tackifier placed October 4th, but rain was predicted that day, and tackifier needs 12 to 24-hours to cure, Amendment No. 23 to the SWPPP). References: Discharger's self inspection reports for the period.</p> <p>November 1-3, 2006 (3 additional days). Failure to stabilize two slope areas prior to rain event on November 2nd and 3rd, in violation of SWPPP requirements for slope stabilization and scheduling BMPs. The BMP inspector noted need for slope stabilization for 2 weeks prior to rain event. References: Discharger's self inspection reports from October 14 - November 3, 2006.</p>	<p>May 19-21, June 5, 6, 13, and 14, 2006 (7 days of violation). Failure to conduct and record pre and post storm inspections prior to predictions of rainfall events. References: (1) Northstar CSD Inspection Reports of its TH-2 Water Facilities project documenting predictions for precipitation at a neighboring project; (2) Discharger's July 16, 2006, submittal of all inspection reports conducted and documented from May 2 through June 15, 2006, which do not include the necessary pre and post storm inspections for the noted events.</p> <p>August 3, 2006 (1 additional day). Failure to conduct inspection on August 2nd prior to a precipitation event that evening. References: (1) Discharger's August 2, 2006 self inspection form noting no inspection conducted; (2) Discharger's August 3, 2006 self inspection report noting precipitation overnight.</p> <p>January 2-5, 2007 (4 additional days). Failure to conduct and record inspections prior to, during, and after a storm event that occurred January 3-4, 2007.</p> <p>February 7-11, 2007 (5 additional days). Failure to conduct and record inspections prior to, during, and after a storm event that occurred February 8-10, 2007.</p>			

Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268	Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268	TOTAL DAYS	PENALTY PER SITE
0	17	0	0	53	\$530,000.00
<p>Only one report needed, considered in the penalty calculation for the Village.</p>	<p>A site winterization plan was developed on September 28, 2006 by the Discharger's consultant, IERS (contained in Discharger's November 14, 2006 response to CAO Item No. 3). The Discharger's response notes that slopes were tackified and that drain inlets and sediment basins were cleaned out pursuant to the plan. However, there is no evidence provided to indicate other critical elements of the plan were implemented, including: cleaning out and repairing rock lined drainage ditches, installing wattles at drainage outflows, installing wattles at toe of slopes (in addition to tackifying slopes), establishing and protecting a snow storage area, and installing rock check dams. Further, there is no evidence that winterization BMPs were inspected and maintained during the winter, especially before and after precipitation events.</p> <p>Water Board's report of its November 15, 2006, inspection documents the Discharger's failure to install effective source control BMPs on disturbed slopes and stockpiles.</p> <p>Snowfall on November 27, 2006, prevented further installation of winterization BMPs for the remainder of the season. Violation existed for 17 days from November 11 through 27, 2006.</p>	<p>Only one report needed, considered in the penalty calculation for the Village.</p>	<p>Only one report needed, considered in the penalty calculation for the Village.</p>		

<p>Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge (or threatened) of waste to lands within the 100-year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385</p>
<p>65</p>	<p>0</p>	<p>27</p>
<p>May 6 - June 21, 2006 (47 days). Failure to submit a completed SWPPP (& BMP Plan) 30 days prior to the commencement of construction, and ensuring the SWPPP includes informatin to demonstrate that appropriate measures are incorporated into the final design, as required by Additional Condition No. 2 of the WQC. References: (1) June 9, 2006 WQC; (2) Discharger's June 22, 2006 electronic mail to Water Board staff submitting a construction BMP plan for the site and documenting that site construction commenced June 5, 2006.</p> <p>October 15 - November 1 (18 additional days). Failure to winterize site, and failure to halt site soil-disturbing activities, between October 15 and May 1, as required by Additional Condition No. 2 (referencing Enclosure C) of the 401 WQC. Soil grading, erosion control mat installation, tub grinding placement, and spraying tackifier are described during the noted period. Reference: (1) June 9, 2006, 401 WQC, (2) October 17-November 1, 2006, Discharger Self Inspection Reports.</p> <p><i>It is noted that all permit and basin plan violations are also violations of the conditions of a 401 WQC, but the violations will not be duplicated here.</i></p>		<p>July 5-13, 2006 (9 additional days). Failure to adequately install check dams in accordance with Section 3 of the California Stormwater BMP Handbook, resulting in a threatened discharge of waste earthen material to lands within the 100 year flood plain of Middle Martis Creek. References: (1) Water Board report of its July 5, 2006, site inspection; (2) July 13, 2006, letter from Discharger documenting stating that observed deficiencies had been corrected.</p> <p>July 23-24, 2006 (2 additional days). Failure to correct BMP deficiencies (rock on silt fence, additional fiber rolls, additional gravel bag check dams) identified in July 22, 2006 self inspection until July 24th, creating a condition of threatened discharge. Reference: July 22 and 24, 2006, self inspection reports.</p> <p>July 29-August 1, 2006 (4 additional days). Failure to protect a stockpile that exceeded its original limits for 3 days, creating a condition of threatened discharge. The deficiency was reported July 28th, and was not corrected until August 1st. Reference: July 28, 29, 31, and August 1, 2006, self inspection reports.</p> <p>August 4-7, 2006 (4 additional days). Failure to correct BMP deficiencies (lack of soil stabilization, break in a silt fence) prior to a prediction for possible precipitation on August 4th, creating a threatened discharge. (Failing to stabilize site prior to a possible rain event is also a permit violation, but will be noted here instead). Reference: August 4 & 7, 2006, self inspection reports.</p> <p>August 8-15, 2006 (8 additional days). Failure to stabilize/revegetate a disturbed area. The disturbance was observed August 7th, and it was not stabilized until the 15th, creating a condition that threatens a discharge. Reference: August 7-15, 2006, self inspection reports.</p>

<p>Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution of threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385</p>
<p>DAYS: 99</p>	<p>10</p>	<p>3</p>	<p>9</p>	<p>2.1</p>
<p>May 16-18, 2006 (3 days of violation). Failure to correct deficient BMPs (stockpiles, drain inlets and outlets, silt fence) on days with forecasted precipitation, pursuant to section IX.D of the SWPPP. Reference: Discharger's May 16 - 18, and 22, 2006, self inspection reports.</p> <p>June 12-14, 2006 (2 additional days). Failure to repair deficient BMPs and clogged drainages prior to and during predicted rain event, pursuant to section IX.D of the SWPPP. Reference: Discharger's June 12-13, 2006, self inspection Reports.</p> <p>May 16 - June 17, 2006 (27 additional days). Failure to stabilize eroding slopes that were previously revegetated and maintain the BMPs that were installed (eroded slopes due to winter season, first inspection of site was May 16th, but didn't note eroded slopes). Failure to install adequate drop inlet protection. Reference: (1) Water Board's June 15, 2006, inspection report; (2) Discharger's June 17, 2006, electronic mail stating that all items discussed during inspection have been completed; (3) Discharger's May 16, 2006, self inspection report.</p> <p>July 5 - 13, 2006 (9 additional days). Failure to comply with SWPPP requirements for adequate BMPs due to the failure to protect stockpiles and inappropriate placement of stockpiles within a flowline (see SWPPP Appendix E.24), locating a temporary sanitary facility within a flowline (see SWPPP Appendix E.17), failure to install and maintain adequate drain inlet protection (SWPPP Appendix E.9), failure to adequately install and maintain silt fences (SWPPP Appendix E.19), failure to install and maintain adequate drain outlet protection (SWPPP Appendix E.14), failure to stockpile adequate quantities of BMP materials pursuant to page 17 of the SWPPP. References: (1) Water Board's report of its July 5, 2006 site inspection; (2) Discharger's July 13, 2006, letter verifying correction of identified deficiencies.</p> <p>June 15 - July 13, 2006 (17 additional days from June 18 - July 4). Failure to revegetate eroded slopes. The slope failures were identified on June 15th, and Water Board staff issued a verbal warning to correct deficiency by June 16th, but no later than the next storm. The next storm was predicted to occur on June 28, 2006. The Discharger submitted an e-mail on June 17 (and additional information dated June 22, 2006) that the slope areas had been corrected. However, the same slope areas were still unstable during the Water Board's July 5, 2006 inspection. Reference: see above-two entries.</p> <p>May 16 - July 13, 2006 (no additional days). Failure to limit grading activities to areas that can be completed and stabilized prior to anticipated storm events pursuant to page 16 and to Appendix E.18 of the SWPPP. Reference: Water Board's report of its July 5, 2006 site inspection.</p> <p>June 23, 26, 27, and 29, 2006 (no additional days). Failure to document implementation of corrective action measures identified in Discharger's self inspection reports to correct noted BMP deficiencies. Reference: July 6, 2006 Discharger facsimile submitting all all inspection reports conducted since June 15, 2006.</p> <p>August 4-11, 2006 (8 additional days of violation). Failure to install and maintain BMPs for a utility box installation in violation of Sections A.5 and A.6 of the permit. References: (1) Water Board staff report of its August 7, 2006, inspection; (2) Discharger's August 25 2006 electronic mail verifying the area was stabilized August 11.</p> <p>August 7-19, 2006 (7 additional days). Failure to comply with Water Board verbal warning issued on the 7th to install sediment tracking controls at a utility materials staging area, located at Station 33+00. References: (1) Water Board staff report of its August 7, 2006 inspection; (2) Discharger's August 19, 2006 self inspection report.</p> <p>August 20-24, 2006 (5 additional days). Failure to maintain adequate drain inlet BMPs at Station 51+68 in accordance with the SWPPP. The Discharger's August 22 self inspection report requires compliance by August 24th. References: (1) Discharger's August 19, 20, 21, and 22 self inspection reports.</p> <p>August 29 - September 8, 2006 (11 additional days). Failure to adhere to SWPPP requirements by placing (and failing to remove) a stockpile within a flowline. This issue was raised to the Discharger during the July 5th inspection. References: (1) Discharger's self inspection reports dated August 29, 30, and September 8, 2006.</p> <p>September 14-15, 2006 (2 additional days). Failure to adequately maintain drain inlet BMPs in accordance with SWPPP requirements. References: (1) Discharger's September 13, 14, and 15, 2006, self inspection reports.</p> <p>October 4 - 6, 11-13, 16-17, 2006 (8 additional days). Failure to install BMPs within time frame noted by inspector, and/or prior to storm event, pursuant to SWPPP requirements. Multiple sites with BMP deficiencies are recorded on any single day. References: (1) Dischargers October 4, 5, 6, 7, 10-13, 16-17, 2006, self inspection reports; (2) Water Board's February 22, 2007, NOV.</p>	<p>June 17, 19, 21, 22, 24, 25, 28, 30, and July 1, 3, and 5, 2006 (10 days of violation). Failure to conduct and record daily BMP inspections pursuant to Section IX.D of the SWPPP. Reference: July 6, 2006 Discharger facsimile submitting all inspection reports conducted since June 15, 2006.</p>	<p>February 8 - 10, 2007 (3 days of violation). Failure to conduct storm water runoff sampling within West Martis Creek, Station 104+00. Reference: (1) IERS March 29, 2007 letter.</p>	<p>October 5, 2006 (1 day of Violation). Discharge of sediment-laden storm water runoff into West Martis Creek (station 104+00). Reports also indicate BMP deficiencies. Reference: Discharger's October 5, 2006, self inspection report.</p> <p>November 2-3, 2006 (2 additional days of violation). Discharge of sediment-laden storm water runoff into West Martis Creek (Station 104+00). Placer County Inspection Report notes significant BMP deficiencies. Reference: (1) Discharger's December 1, 2006, electronic mail submitting laboratory date for November 2nd; (2) Placer County's November 6, 2006, electronic mail submitting its inspection reports and photodocumentation of discharges occurring November 3rd; (3) Psomas's November 7, 2006 electronic mail submitting photo logs for photodocumentation of its November 3, 2006, inspection.</p> <p>November 2-3, 2006 (2 additional days of violation). Discharge of sediment-laden storm water runoff into West Fork West Martis Creek (Station 144+00). Placer County Inspection Report notes significant BMP deficiencies. Reference: (1) Discharger's December 1, 2006, electronic mail submitting laboratory date for November 2nd; (2) Placer County's November 6, 2006, electronic mail submitting its inspection reports and photodocumentation of discharges occurring November 3rd; (3) Psomas's November 7, 2006 electronic mail submitting photo logs for photodocumentation of its November 3, 2006, inspection.</p> <p>January 4, 2007 (1 additional day). Discharge of sediment-laden storm water runoff into West Fork West Martis Creek at Station 144+00. References: (1) Discharger's January 18, 2007 electronic mail with laboratory results of collected samples.</p> <p>February 8-10, 2007 (3 additional days). Discharge of sediment-laden storm water runoff into West Fork West Martis Creek at Station 144+00. References: (1) IERS March 9, 2007 discharge report.</p>	<p>October 10, 2006 (1 day of violation, but use 2.1 in above list of total days to account for volume of discharge at \$10 per gallon). Discharge of sediment laden water into West Fork West Martis Creek. Contractor hit a water line, and directed the water into a DI that drains directly into the creek instead of onto vegetated overland areas. 2100 gallons discharged. Further, the area was not stabilized with mulch as required by BMP inspector. References: (1) October 10, 2006, Discharger self inspection report; (2) Discharger's October 31, 2006 spill report letter.</p>

Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268	Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268	TOTAL DAYS	PENALTY PER SITE
0	17	0	0	314.7	\$3,147,000.00
<p>Only one report needed, considered in the penalty calculation for the Village.</p>	<p>The Discharger initially submitted documentation that the site was stabilized one day late on November 10, 2006 (Discharger's self inspection reports for the period November 7-11, 2006). However, the November 11, 2006, inspection report by Psomas for Placer County indicates that as of November 11, 2006, there remained areas still in need of winterization. Further, the Discharger's November 14, 2006, technical report contained the following deficiencies as part of winterization: (1) interim measures were not installed on newly-revegetated sites that did not have sufficient plant growth; (2) filter fabrics were removed from drain inlets without alternative equal measures installed; (3) fiber rolls and wattles were installed inappropriately on slopes parallel to runoff direction instead of perpendicular to runoff flows; (4) tackified slopes did not have redundant sediment and erosion control BMPs in place, especially for those slopes greater than 10 feet in length (5) previously tackified areas that had been driven on were not addressed no alternative and additional BMPs were noted.</p> <p>The Water Board staff report of its November 14-15, 2006, inspections documents the Discharger's failure to install effective source control BMPs and to stabilize disturbed rough-graded roadways, disturbed slopes, disturbed landings/parking areas, and drop-inlet areas throughout the project site.</p> <p>The project site remained without adequate winterization measures until May 1, 2007, but snowfall on November 27, 2006, prevented further installation of winterization BMPs for the remainder of the season.</p> <p>Violation existed for 17 days from November 11 through 27, 2006.</p>	<p>Only one report needed, considered in the penalty calculation for the Village.</p>	<p>Only one report needed, considered in the penalty calculation for the Village.</p>		

Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385	Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385	Discharge (or threatened) of waste to lands within the 100- year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385
0	0	0

<p>Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385.</p>	<p>Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385</p>
<p>DAYS:</p>	<p>103</p>	<p>19</p>	<p>0</p>	<p>0</p>
<p>June 15, 2006 (1 day of violation). Failure to install and maintain adequate sediment, erosion, and run-on control BMPs throughout the site, in violation of permit section A.6 and in violation of the SWPPP. References: (1) Water Board staff report of its June 15, 2006, inspection; (2) Discharger's June 22, 2006 letter stating that noted violations were corrected on June 16, 2006.</p> <p>July 5 - 13, 2006 (8 additional days). Failure to install and maintain adequate sediment, erosion, and run-on control BMPs throughout the site, in violation of permit section A.6 and in violation of the SWPPP. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's July 13, 2006, letter documenting correction of identified deficiencies.</p> <p>June 20, 2006 - July 13, 2006 (23 additional days). Failure to install and maintain stockpile management BMPs for up to 7 waste soil stockpiles, in violation of Attachment O of the SWPPP. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's July 13, 2006, letter documenting correction of identified deficiencies.</p> <p>August 7, 2006 (1 additional days). Failure to implement adequate BMPs for wind erosion control pursuant to Section 500.3.7 and Attachment O of the SWPPP, resulting in fugitive dust emissions; failure to implement adequate hazardous waste storage BMPs pursuant to Section 500.3.9 and Attachment O of the SWPPP, resulting in storage of hazardous waste materials on bare ground. References: (1) Water Board's staff report of its August 7, 2006, inspection.</p> <p>August 7-26 2006 (19 additional days from that noted above). Failure to stage and install adequate erosion and sediment control BMPs prior to construction pursuant to Attachment O of the SWPPP, resulting in inadequate storm water retention and containment. References: (1) Water Board's staff report of its August 7, 2006, inspection; (2) Discharger's August 26, 2006 self inspection report.</p> <p>June 9 - September 9, 2006 (48 additional days from that noted above). Failure to install and maintain site run-on controls prior to any construction and grading activity, as required by Attachment A, Sheet C3, of the SWPPP project plans. References: (1) Discharger's June 9, 2006, self inspection report of timber clearing activities; (2) Water Board staff inspection reports for its June 15, July 5, and August 7, 2006, inspections; (3) Discharger's September 9, 2006 self inspection report documenting completion of site run-on control BMPs.</p> <p>November 1-3, 2006 (3 additional days). Failure to install and maintain adequate sediment and erosion controls prior to a forecasted rain event - disturbed were not tackified as required by the BMP inspectors and the SWPPP. References: Discharger's November 1-3, 2006, self inspection reports.</p>	<p>June 13, and 14, 2006 (2 days of violation). Failure to conduct and record pre and post storm inspections prior to predictions of rainfall events. References: (1) Northstar CSD Inspection Reports of its TH-2 Water Facilities project documenting predictions for precipitation at a neighboring project; (2) Discharger's July 16, 2006, submittal of all inspection reports conducted and documented through June 15, 2006.</p> <p>June 26 and 27, 2006 (2 additional day). Failure to inspect and record BMP site inspection prior to forecast of rain and after rain event, as required by section 500 of the SWPPP. Reference: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's submittal of inspection reports for the period.</p> <p>June 16, 17, 19, 22-27, 29, 30, and July 1, 3, and 5 (15 additional days). Failure to conduct and record daily inspections of implemented BMPs (such as stockpile management BMPs), as required by Attachment O of the SWPPP. References: Discharger's submittal of inspection reports for the period.</p>			

<p>Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385</p>	<p>Discharge (or threatened) of waste to lands within the 100- year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385</p>
0	0	18
		<p>August 2-18, 2006 (16 additional days). Presence of a large stockpile (40 feet high, 100 feet long, 20 to 30 feet wide) on site, and it was protected by a single row of silt fence which would be quickly overwhelmed in the event of storm water runoff, creating a threatened discharge in the event of a storm. Reference: (1) Water Board's report of its August 7, 2006, inspection; (2) Discharger's September 8, 2006 electronic mail documenting additional erosion and sediment control protection installed on August 18th.</p>

Failure to comply with 401 Conditions. Maximum penalty of \$10,000 per day, WC Section 13385	Discharge of wastes to surface waters of the Truckee River HU. Maximum penalty of \$10,000 per day, WC Section 13385	Discharge (or threatened) of waste to lands within the 100- year floodplain of the Truckee River and tributaries. Maximum penalty of \$10,000 per day, WC Section 13385
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0	0	0

TRUCKEE RIVER BASIN WQIP NO. 6A31C32716

0	0	0

NORTHSTAR DRIVE/BASQUE ROAD IMPROVEMENTS - WQIP NO. 6A31C329713

0	0	0

Failure to install and maintain BMPs. Maximum penalty of \$10,000 per day, WC Section 13385	Failure to conduct and record daily site inspections and pre-storm inspections. Maximum penalty of \$10,000 per day, WC Section 13385	Failure to conduct storm water sampling. Maximum penalty of \$10,000 per day, WC Section 13385	Discharge of sediment laden storm water to surface waters (Order No. A3 of the General Permit, pollution or threatened pollution). Maximum penalty of \$10,000 per day, WC Section 13385.	Creating a condition of Pollution or Threatened Pollution. Maximum penalty of \$10,000 per day, WC Section 13385
DAYS:	22	21	0	0
<p>June 22, 2006 - July 13 2006 (22 days of violation). Failure to adequately install appropriate BMPs to prevent the discharge of pollutants associated with concrete wastes from the project site in violation of the SWPPP, as amended on February 11, 2005. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's June 22, 26, 28, and July 5, 2006 self inspection reports documenting the continued BMP inadequacy; (3) Discharger's July 13, 2006 letter stating that adequate BMPs have been installed.</p> <p>July 5 - 13, 2006 (no additional days). Failure to install and maintain adequate stockpile management BMPs as required by the SWPPP, as amended on February 11, 2005. References: (1) Water Board staff report of its July 5, 2006, inspection; (3) Discharger's July 13, 2006 letter stating that adequate BMPs have been installed.</p> <p>July 5 - 13, 2006 (no additional days). Failure to install and maintain adequate BMPs for equipment storage pursuant to the SWPPP, as amended on February 11, 2005. References: (1) Water Board staff report of its July 5, 2006, inspection; (2) Discharger's July 13, 2006, letter documenting the implementation of all required BMPs</p>	<p>June 8-14, 16-21, 23-25, 27, 29, 30, and July 1 and 3, 2006 (21 days violation). Failure to conduct and record 23 daily BMP inspections in violation of the August 24, 2004 NOV and tin violation of the permit. References: (1) Water Board staff report of its July 5, 2006 inspection; (2) Discharger's July 6, 2006 submittal of available inspection reports; (3) Discharger's August 31, 2006, letter verifying that inspections were not conducted for the noted days.</p>			

Violation of terms of Order No. 1: Failure to designate a single qualified individual. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 2: Failure to winterize by November 9, 2006. Maximum penalty of \$10,000 per day, WC Section 13385	Violation of terms of Order No. 3: Failure to document winterization activities. Maximum penalty of \$1000 per day, WC Section 13268	Violation of terms of Order No. 4: Failure to submit an adequate site monitoring plan. Maximum penalty of \$1000 per day, WC Section 13268	TOTAL DAYS	PENALTY PER SITE
0	0	0	0	43	\$430,000.00
Facility not subject to the Cleanup and Abatement Order.	Facility not subject to the Cleanup and Abatement Order.	Facility not subject to the Cleanup and Abatement Order.	Facility not subject to the Cleanup and Abatement Order.		

ATTACHMENT B

Monitoring Data of Projects Storm Water Runoff Impacts to Area Surface Waters

10-0056

NORTHSTAR VILLAGE

On November 2-3, 2006, an extended rain event created storm water runoff. The Discharger reported an accumulation of 1.28 inches of precipitation during this period. The Discharger's self-inspection reports do not contain monitoring results verifying storm water runoff monitoring was conducted within the West Fork West Martis Creek, as required by the project SWPPP.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow.

Table 1. West Fork West Martis Creek Monitoring Data Summary, January 4, 2007, Discharge from Village at Northstar.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Kjeldahl Nitrogen (mg/L)*
Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)	36	54	240	0.21	1.4
West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7)	1.5	<5	110	<0.02	0.2
West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)	5.4	6	140	0.02	0.4

*Nitrate Nitrogen was non-detectable in all samples; therefore, Total Nitrogen in samples consists entirely of Kjeldahl Nitrogen.

A precipitation event occurred on February 8 through 10, 2007, which produced up to 3 inches of precipitation at the Mt. Rose monitoring station and a trace at the Truckee monitoring station.

Table 2. West Fork West Martis Creek Monitoring Data Summary, February 9, 2007, 3:15 p.m. through 3:45 p.m., Discharge from Village at Northstar.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)	100	85	280	0.18	2.7
West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7)	4.1	<5	100	<0.02	0.4
West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)	16	9	140	0.03	0.7

**Table 3. West Fork West Martis Creek Monitoring Data Summary,
February 10, 2007, 11:15 a.m. through 11:45 a.m., Discharge
from Village at Northstar.**

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)	60	88	270	0.18	1.6
West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7)	5.4	25	110	0.04	0.7
West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)	25	55	180	0.11	1.2

**Table 4. West Fork West Martis Creek Monitoring Data Summary,
February 10, 2007, 3:45 p.m. through 4:15 p.m., Discharge from
Village at Northstar.**

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Point of Storm Water Runoff Discharge into West Fork West Martis Creek (Station V6)	34	210	250	0.20	1.7
West Fork West Martis Creek above the point of storm water runoff discharge (Background Sample – Station V7)	6.0	17	120	0.03	0.7
West Fork West Martis Creek, Downstream from Point of Discharge (Station V5)	20	23	150	0.05	0.9

INTERCEPT LOT

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow (See Exhibit 14 from Northstar Village draft ACL - January 18, 2007, Electronic Mail from Vanessa Sandoval to Eric Taxer and Dale Payne, "Sample Results from Storm 1-4-07"). The Discharger did not conduct a pre-storm inspection, inspections during the storm, nor a post-storm inspection, nor did the Discharger sample storm water run-on or run-off into wetland areas at the project site, as required by the SWPPP.

Table 1. Intercept Lot Monitoring Data Summary, February 10, 2007, 12:00 p.m. through 12:45 p.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
I-ED1 (Class III Drainage)	21	14	170	0.80	0.4
I-F3 (Basin F3 Outfall)	110	1700	210	0.60	2.2
I-E3 (Basin E3 Outfall)	110	370	100	0.22	1.7
I-3 (Basin 3 Outfall)	100	79	230	0.23	2.6

Table 2. Intercept Lot Monitoring Data Summary, February 10, 2007, 4:20 p.m. through 4:30 p.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
I-ED1 (Class III Drainage)	70	76	160	0.19	0.6
I-3 (Basin 3 Outfall)	21	66	160	0.08	0.6

HIGHWAY 267/HIGHLANDS VIEW DRIVE INTERCHANGE

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period.

Table 1. Middle Martis Creek Monitoring Data Summary, October 5, 2006, Discharge from Middle Drain Inlet, 12:45 pm – 1:00 pm.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Point of Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Mid)	900	960	140	0.31	0.58
Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4)	8.4	19	130	0.14	0.38
Middle Martis Creek, Downstream from Point of Discharge (Station M-5)	17	30	120	0.17	0.45

10-0062

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation.

Table 2. Middle Martis Creek Monitoring Data Summary, November 2, 2006, Discharge from Middle Drain Inlet. Sampled 4:45 pm – 5:30 pm

Monitoring Station	Turbidity (NTU)	Settleable Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Point of Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Mid)	190	<4	200	0.32	1.23
Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4)	3.8	<4	130	0.06	0.2
Middle Martis Creek, Downstream from Point of Discharge (Station M-5)	5.7	<4	140	0.07	0.2

Oil and Grease was sampled in the discharge (12 mg/L), and in the downstream sample (non detectable), but not analyzed in the upstream sample.

A rain event on January 3-4, 2007, produced 0.65 inches of precipitation. Site was not sampled due to chain control restrictions and safety considerations.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation.

Table 3. Middle Martis Creek Monitoring Data Summary, February 8, 2007, Discharge from Middle Drain Inlet, 10:50 am – 11:30 am.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Point of Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North culvert)	180	220	790	0.39	1.2
Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4)	8.8	7	180	0.03	<0.3
Middle Martis Creek, Downstream from Point of Discharge (Station M-5)	3.7	16	160	0.03	<0.4

Table 4. Middle Martis Creek Monitoring Data Summary, February 9, 2007, Discharge from Middle Drain Inlet, 10:15 am – 12:00 pm.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Middle Culvert)	130	260	340	0.30	0.6
Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North Culvert)	290	92	220	0.80	1.3
Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4)	120	92	180	0.22	0.7
Middle Martis Creek, Downstream from Point of Discharge (Station M-5)	96	95	220	0.17	0.7

Table 5. Middle Martis Creek Monitoring Data Summary, February 10, 2007, Discharge from Middle Drain Inlet, 1:15 pm – 1:55 pm.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Middle Culvert)	28	64	350	0.10	<0.35
Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North Culvert)	23	46	240	0.08	0.6
Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4)	26	64	170	0.10	0.6
Middle Martis Creek, Downstream from Point of Discharge (Station M-5)	35	77	170	0.14	0.6

Table 6. Middle Martis Creek Monitoring Data Summary, February 10, 2007, Discharge from Middle Drain Inlet, 4:40 pm – 5:15 pm.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Storm Water Runoff Discharge into Middle Martis Creek (Station 267-Middle Culvert)	32	42	310	<0.02	0.4
Storm Water Runoff Discharge into Middle Martis Creek (Station 267-North Culvert)	12	26	290	0.02	0.7
Middle Martis Creek above the point of storm water runoff discharge (Background Sample, Station M-4)	33	72	190	0.14	0.7
Middle Martis Creek, Downstream from Point of Discharge (Station M-5)	24	54	180	0.11	0.6

HIGHLANDS VIEW DRIVE

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period.

Table 1. West Martis Creek Monitoring Data Summary, Discharge from Station 104+00, October 5, 2006, Approximately 3:00 p.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Off site, Upstream	22.1	Not Sampled	Not Sampled	Not Sampled	Not Sampled
Onsite, Upstream from Discharge	66.9	Not Sampled	Not Sampled	Not Sampled	Not Sampled
Onsite, Downstream from Discharge	386	Not Sampled	Not Sampled	Not Sampled	Not Sampled

Table 2. West Fork West Martis Creek Monitoring Data Summary, October 5, 2006, Discharge from Station 144+00, Approximately 4:00 p.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge	3.64	Not Sampled	Not Sampled	Not Sampled	Not Sampled
Downstream from Discharge	3.38	Not Sampled	Not Sampled	Not Sampled	Not Sampled

A contractor hit a water line on October 10, 2006, and directed all runoff into a Drain Inlet with a direct link to West Fork West Martis Creek. 2,100 gallons was discharged.

Table 3. West Fork West Martis Creek Monitoring Data Summary, October 10, 2006, Discharge from Station 144+00, 10:05 a.m. to 10:15 a.m. Samples collected 15 minutes after the discharge was stopped.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVD4)	13	44	100	0.09	0.24
Downstream from Discharge and Road Crossing (Station HVD5)	38	67	120	0.11	0.29

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation.

Table 4. West Martis Creek Monitoring Data Summary, November 2, 2006, Discharge from Station 104+00, 10:50 a.m. to 11:50 a.m.

Monitoring Station	Turbidity (NTU)	Settleable Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR2)	0.3	<4	86	0.02	0.39
Downstream from Discharge and Road Crossing (Station HVR3)	23	<4	100	<0.02	0.33

Table 5. West Fork West Martis Creek Monitoring Data Summary, November 2, 2006, Discharge from Station 144+00, 11:45 a.m. to 11:50 a.m. Samples collected 15 minutes after the discharge was stopped.

Monitoring Station	Turbidity (NTU)	Settleable Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR4)	0.5	<4	100	0.02	0.39
Downstream from Discharge and Road Crossing (Station HVR5)	38	67	120	0.11	0.29

A small rain and sampling event occurred on December 15, 2006. The monitoring results do not indicate conditions of pollution, and the results are not tabulated for the proposed ACL Complaint.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. West Martis Creek at Station 104+00 was not sampled, presumably because there was no flow present.

Table 6. West Fork West Martis Creek Monitoring Data Summary, January 4, 2007, Discharge from Station 144+00, 2:00 p.m. to 2:25 p.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR4)	1.4	<5	100	<0.02	<0.6
Downstream from Discharge and Road Crossing (Station HVR5)	2.6	<5	110	<0.02	<0.6
Further Downstream from Discharge and Road Crossing (Station HVR6)	1.1	<5	110	<0.2	<0.6

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. The Discharger reported flows only at Station 144+00 (West Fork West Martis Creek). However, a subsequent report by IERS indicates that there were flows within West Martis Creek.

Table 7. West Fork West Martis Creek Monitoring Data Summary, February 8, 2007, Discharge from Station 144+00, 8:45 a.m. to 9:15 a.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR4)	0.5	<5	90	<0.02	0.3
Downstream from Discharge and Road Crossing (Station HVR5)	0.4	<5	120	0.02	0.4
Further Downstream from Discharge and Road Crossing (Station HVR6)	0.6	<5	100	<0.02	0.5

Table 8. West Fork West Martis Creek Monitoring Data Summary, February 9, 2007, Discharge from Station 144+00, 12:30 p.m. to 1:30 p.m.

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR4)	12	12	100	0.02	0.7
Downstream from Discharge and Road Crossing (Station HVR5)	24	28	120	0.05	0.8
Further Downstream from Discharge and Road Crossing (Station HVR6)	6.2	8	120	0.02	0.4

**Table 9. West Fork West Martis Creek Monitoring Data Summary,
February 10, 2007, Discharge from Station 144+00, 10:15 a.m. to
10:45 a.m.**

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR4)	6.2	23	120	0.04	1.0
Downstream from Discharge and Road Crossing (Station HVR5)	4.7	33	100	0.04	0.6
Further Downstream from Discharge and Road Crossing (Station HVR6)	7.5	28	120	0.03	0.6

**Table 10. West Fork West Martis Creek Monitoring Data Summary,
February 10, 2007, Discharge from Station 144+00, 3:45 p.m. to
4:05 p.m.**

Monitoring Station	Turbidity (NTU)	Suspended Solids (mg/L)	Total Dissolved Solids (mg/L)	Total Phosphorus (mg/L)	Total Nitrogen (mg/L)
Upstream from Discharge and Road Crossing (Station HVR4)	7.7	20	130	0.06	1.8
Downstream from Discharge and Road Crossing (Station HVR5)	1.1	150	120	0.17	1.6
Further Downstream from Discharge and Road Crossing (Station HVR6)	7.1	71	120	0.03	0.7

EMPLOYEE HOUSING

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

**HIGHLANDS RESORT HOTEL
(RITZ CARLTON HOTEL)**

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

TRAILSIDE TOWNHOMES

A rain event on October 5, 2006, produced 0.3 inches of precipitation in a 24-hour period. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event on November 2-3, 2006, produced 1.28 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A precipitation event occurred on January 3-4, 2007, which produced approximately 0.65 inches of rain in addition to subsequent snow. No sampling was conducted, presumably because there was no discharge from the storm water basins.

A rain event February 8-10, 2007, produced 2.52 inches of precipitation. No sampling was conducted, presumably because there was no discharge from the storm water basins.

ATTACHMENT C

Supplemental Environmental Project Proposal

**Supplemental Environmental Project
for Lahontan Regional Water Quality Control Board
(Waddle Ranch Watershed Improvement Program)**

Prepared by Michael Hogan, IERS, Inc. on behalf of Northstar Mountain Properties, LLC
May 13th, 2008

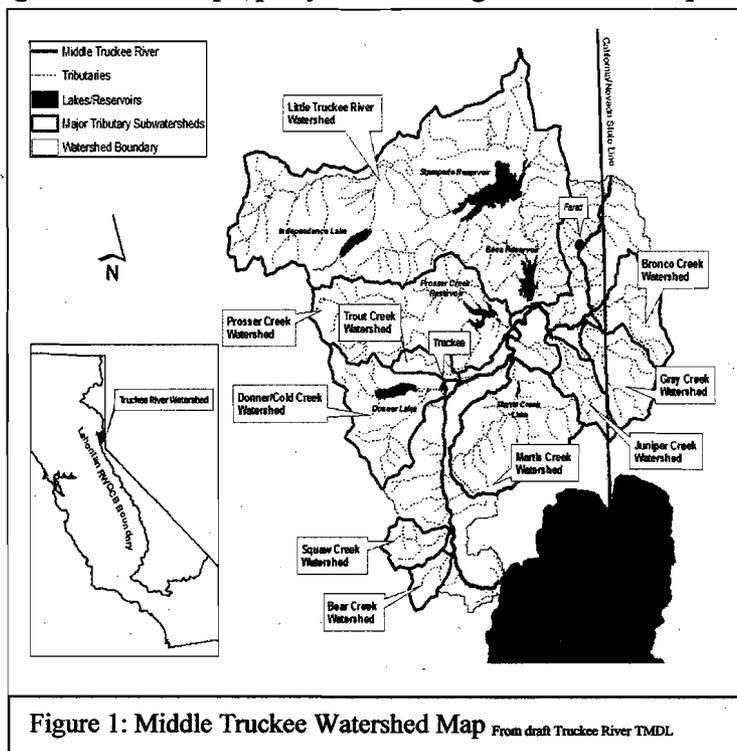
Executive Summary

As part of a proposed settlement for water quality violations, Northstar Mountain Properties, LLC is submitting this Supplemental Environmental Project to improve water quality and biological resources. The improvements will be phased over five years at the Waddle Ranch, which is in the same watershed as the violations occurred (see Figure 1) and is owned and managed by the Truckee Donner Land Trust. The exact improvements will be defined collaboratively by an advisory group that will include representatives from the Truckee River Watershed Council, Truckee Donner Land Trust, Northstar Mountain Properties, Integrated Environmental Restoration Services the Lahontan Regional Water Quality Control Board. The improvements will include projects within the following three categories: road and upland restoration, stream restoration and forest fuel removal.

Targeted, real-time monitoring will be conducted at each project before and after treatments. In-stream water quality monitoring will also be conducted to measure reductions in sediment loading for the entire property. Monitoring results will help fill critical gaps in

understanding the impacts of various treatments and management activities on erosion and water quality and validate a set of treatment tools.

Technology transfer is also a key component of the project. Two handbooks will be produced to assist land managers and owners within the Sierra Nevada in planning, implementing and monitoring watershed improvement and forest fuels reduction projects.



Part 1: Introduction and Location Maps

The Waddle Ranch Watershed Improvement Program Supplemental Environmental Project (SEP) is designed to enhance and improve watershed conditions within the Waddle Ranch property, located in the Martis Valley, eastern Placer County, California. Further, this project is intended to serve as a model for other watershed activities in the region. This project has been triggered by water quality violations incurred by contractors working for Northstar Mountain Properties, LLC (NMP) on their property at Northstar-at-Tahoe during the 2006 construction season. This SEP will be funded by NMP as a result of those violations and is being implemented in an attempt to offset environmental impacts related to some of those violations. The SEP is designed and managed such that overall water and environmental quality will be improved in the same watershed as Northstar-at-Tahoe, which is the Martis Valley. The location of these improvements is the Waddle Ranch, which is owned by the Truckee Donner Land Trust (TDLT) (see Figure 2). The planned improvements will be demonstrated using quantitative measurement in three key areas: 1) road removal, 2) stream restoration/improvement, and 3) forest fuels management.

Beyond the obvious water quality and biological benefits produced by this SEP, the project is designed to fill two significant gaps in watershed restoration and management: 1) an erosion-focused, rapid watershed assessment methodology that is user-friendly and cost effective and 2) a science-based program for fuels reduction efforts that focuses on erosion/water quality impacts of those efforts. The first product will be a guidebook to provide land managers, land trust staff, watershed councils, agency staff and others with a direct, accessible and cost effective method of evaluating, repairing and monitoring watersheds and sub-watersheds for water quality related issues.

The second product is a set of science-based guiding principles and an adaptive management process for addressing forest fuels treatments that directly incorporates water quality protection. This product is based on the Sediment Source Control Handbook process

(www.swrcb.ca.gov/rwqcb6/cerec.html).

These guiding principles and toolbox would be the first stage in a larger effort to produce a highly useful handbook. This larger effort is supported by the Lahontan Regional

Water Quality Control Board (LRWQCB) staff and a broad range of stakeholders including Lake Valley, Meeks Bay and Northstar Fire districts as well as the Lake Tahoe Regional Fire Chiefs Association, Tahoe Regional Planning Agency (TRPA) staff and others.

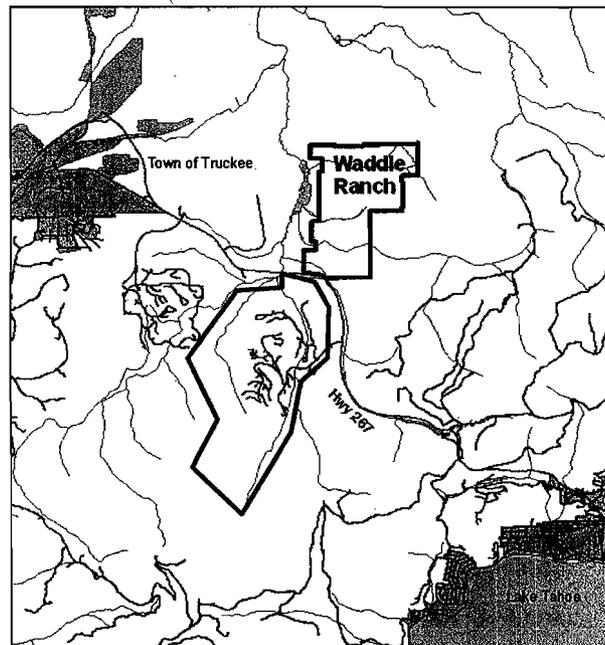


Figure 2 Location of Waddle Ranch and Northstar

Both of these handbooks produced by the SEP build on work done by Integrated Environmental (IERS) over the last decade. This work has incorporated true adaptive management into field projects and provides a process for quantitative assessment and continual improvement for erosion and water quality issues throughout the Sierra Nevada. Integrated Environmental Restoration Services, Inc. (IERS), the preparer of this document and the contractor to Northstar Mountain Properties for SEP implementation, has created and continues to evolve collaborative, science-based products that fill critical knowledge and/or process gaps, as exhibited in the Sediment Source Control Handbook (see link, above). The handbook has been a collaborative effort between the Lahontan RWQCB, six California Ski Resorts, the US Forest Service and other stakeholders.

The SEP allocates the majority of funding to on-the-ground, direct water quality improvements (almost 80% of the budget is dedicated to this work). Without the funding provided by the SEP, the work needed to provide these direct water quality improvements in the Martis Creek watershed, the same watershed as Northstar-at-Tahoe, would take a decade or more to complete. The SEP funding will result in immediate improvements to the water quality and biological resources in the Martis Valley. SEP-funded improvements will take place over five years and are designed to provide the foundation for continued watershed management efforts at the Waddle Ranch.

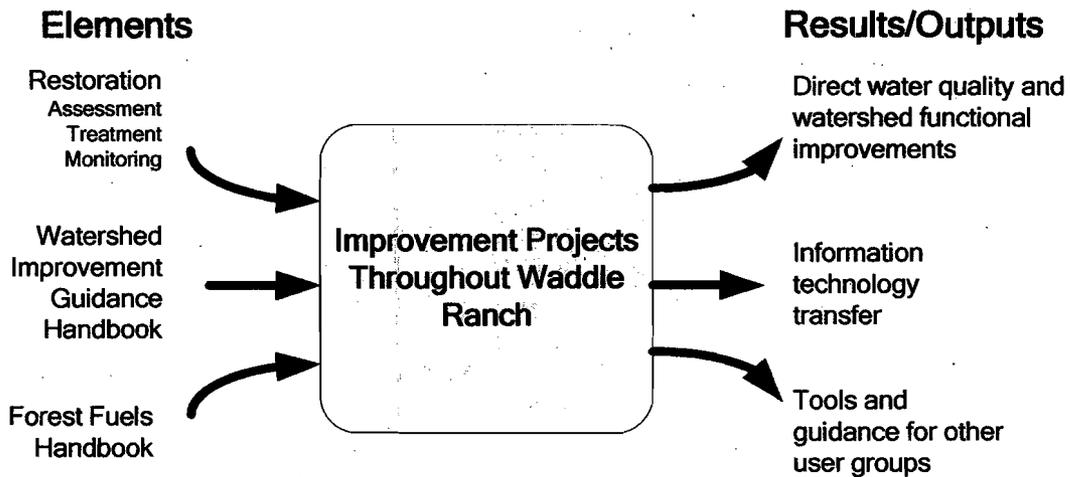


Figure 3: Diagram indicating relationships between the Waddle Ranch projects, results at Waddle Ranch and beyond.

Part 2: General Project Description

The Northstar Mountain Properties Waddle Ranch Watershed Improvement Program is structured as a Supplemental Environmental Project. This SEP is designed to be

implemented as a truly adaptive management project¹ in that it will integrate goal setting, engagement of appropriate partners and stakeholders, planning, implementation, monitoring, management response where necessary and targeted information sharing. It is designed to apply a broad range of techniques, processes and practices for upland restoration, stream zone restoration and forest fuels management while at the same time filling information gaps within those practices.

The task of effective watershed assessment, treatment and monitoring is often overwhelming for many land managers. This project is intended to serve as a functional, understandable, working model for the many Land Trusts, Watershed Councils and landowners across the Sierra Nevada.

Waddle Ranch Watershed Improvement Program Elements:

Waddle Ranch Restoration Improvements (79% of budget)

The focus of the proposed SEP is restoration of impacted areas of Waddle Ranch in the Martis Valley. Waddle Ranch has been selected due to its location in the same watershed as Northstar, the similarity of types of improvements needed and the overall value of restoration on that site to the region. Work on the Waddle Ranch is supported by significant public interest. The Waddle Ranch is a recently purchased property that includes a great deal of open space and public access in the Martis Valley. Projects in this watershed are expected to improve water quality in the East Fork of Martis Creek, which enters Martis Reservoir just below the project area. Projects under the proposed SEP will complement other projects such as the Martis Creek Restoration Project. The SEP will use an adaptively managed process to set goals, plan, implement and monitor watershed improvements and will disseminate the information gained through site tours and two handbooks (described below).

The watershed improvement process will focus on water quality related to erosion and forest management. Specifically, watershed improvement will entail the Erosion-focused Rapid Assessment (EfRA) process, field verification of problem (sediment producing) areas, treatment/restoration of problem areas identified in the EfRA and post treatment monitoring of those areas for quantification of improvement. Monitoring will be based on strategies developed elsewhere and will include: 1) real-time and indicator measurement of several functional parameters in the treatment area, including infiltration, runoff, sediment production and a range of soil and vegetation parameters and 2) water quality monitoring above and below project areas. The functional monitoring processes are similar to and based on those used to develop portions of the Lake Tahoe Total Maximum Daily Load (TMDL) implementation strategies. Background monitoring is planned to begin in the spring of 2008, dependant on funding initiation.

Watershed Evaluation, Treatment and Monitoring Handbook (3% of budget)

¹ This process is described in detail in the Sediment Source Control Handbook <http://www.swrcb.ca.gov/rwqcb6/cerec.html>

This element of the SEP involves the development and application of a systematic, cost-effective and transferable approach to watershed evaluation, treatment and monitoring. This document will fill a void that currently exists and will provide land managers and agencies with a user-friendly process to: 1) focus watershed assessment on erosion problem areas, 2) provide an adaptive management-based planning and implementation guidance process and 3) provide clear direction on how and what to monitor in order to quantitatively assess impacts of watershed improvement efforts. This handbook and process is directly applicable to TMDL implementation² within and beyond the Martis Valley and Middle Truckee River.

Forest Fuels Treatment/Water Quality Protection Handbook (6% of budget)

This portion of the project will define an adaptive management approach to fuels treatment and forest management with special emphasis on water quality protection and prevention of erosion. This handbook will be based on the Sediment Source Control Handbook and will use a similar adaptive, collaborative process to define and achieve goals. Deliverables will be a set of guiding principles for forestry practices with a foundation in adaptive environmental management, a 'toolbox' for fuels reduction and forest management that quantifies the impacts and potential impacts on water quality and a set of related mitigation procedures where applicable. This portion of the project is designed to serve as a foundation for a more robust understanding of the impacts of forest fuels treatments currently underway or planned for the Tahoe-Truckee region. If used appropriately, this handbook will help maintain or improve water quality while allowing land managers to implement cost-effective fuels reduction treatments.

The funding from this SEP will additionally serve as seed money for a more robust, region-wide Forest Fuels and Erosion Management Handbook which can be used throughout the region. Potential funding has already been identified from a number of other sources and interest groups including the Nevada Fire Safe Council (John Pickett), the Truckee-Tahoe Fire Chiefs Association (Mark Shadowans, Chief, Northstar FPD, President, John Pang, Meeks Bay FPD) and other private land holders and entities. Funding has also been requested from the Sierra Nevada Conservancy to enhance this handbook (final response pending).

Nexus Discussion

Nexus to Violations

During the summer and fall of 2006, a number of technical violations were noted and notices of violation issued by Water Board staff on NMP projects at Northstar. During November of 2006, turbid discharges related to technical violations were noted and a Clean Up and Abatement Order was issued by the Water Board. The extent of discharge and impacts to water bodies is difficult to ascertain but it is clear that turbid water entered Martis Creek. The vast majority of violations prior to November were technical in nature. This SEP is designed to offset impacts to

² TMDL is an acronym for Total Maximum Daily Load. Essentially, TMDL is the estimated amount of pollutant that can enter a water body without causing long term impairment. This recently developed regulatory tool is being used to attempt to help a number of water bodies to recover. The Middle Truckee River, into which Martis Creek flows, is in the process of developing a TMDL.

beneficial uses through 1) direct improvement to the Martis Creek watershed and 2) development of two handbooks that will assist other developers and land managers in understanding the technical nature of erosion potential and to implement watershed protection and improvements projects.

Note: IERS and NMP developed and produced a SWPPP Handbook in 2007, which was 'above and beyond' water quality BMP requirements. This handbook was developed in direct response to lack of clear understanding by contractors and contract managers of the requirements and implications of water quality regulations. This lack of understanding has been noted across the construction industry. While this Handbook is not part of this SEP, it served to offset the lack of understanding by construction personnel at Northstar in 2006 and demonstrates NMP's desire to improve the effectiveness of their water quality protection efforts. The SWPPP Handbook is available and has been distributed by Water Board staff to other dischargers in the Lahontan region. The SWPPP Handbook serves as an example of the two handbooks that are proposed as part of this SEP. The impetus of these handbooks is to translate experience gained in achieving watershed protection and improvement into information widely available and useable by others.

Nexus to other regional projects. The Waddle Ranch Watershed Improvement Program is designed to be complementary to other projects in the Martis-Truckee region. For example, the Truckee River Watershed Council (TRWC) has received funding (\$150,000) under Prop 50 IRWMP Implementation (as part of the Tahoe Sierra Partnership) for Truckee River TMDL monitoring. These efforts will be coordinated with the Waddle Ranch SEP through the TRWC.

Forest fuels management efforts are increasing in intensity throughout the Lahontan Region. Preparation of the Forest Fuels Treatment/Water Quality Protection Handbook will encompass the development of a steering group that will serve to coordinate this and other efforts beyond the Martis Valley. This handbook will include a set of guiding principles that can be used across the Truckee-Tahoe region as guidance for fuels reduction efforts that will focus on erosion protection.

The Middle Truckee River TMDL will include implementation of treatments to reduce sediment loading. TMDL implementation has been problematic in cases where clear guidance as to approach, goal setting, implementation and monitoring is not available. The Watershed Evaluation, Treatment and Monitoring Handbook will provide this guidance.

Placer County and the Town of Truckee are in the process of developing Stormwater Management Plans. While the Waddle Ranch is not an urbanized watershed, many of the assessment issues are similar. Further, source control approaches can be very similar between the two types of landscape. This SEP program will be coordinated with those efforts through the TRWC. Further, water quality monitoring efforts on the Middle Truckee River will be coordinated to the greatest extent possible with this SEP, also through the TRWC.

All efforts within this SEP will be coordinated with the TRWC (who assisted in developing this description document and are primary collaborators), the Regional Board, the Truckee Donner Land Trust (TDLT) and other stakeholders as appropriate.

A SEP Advisory Group will be formed which will include, at a minimum, Lisa Wallace from the Truckee River Watershed Council, Sara Taddo from the Truckee Donner Land Trust, Hayes Parzybok from Northstar Mountain Properties, Michael Hogan from IERS and a representative from the Lahontan Regional Water Quality Control Board, with Susan Clark from Dynamic Competence facilitating the process. This core group will collaborate with other team members as appropriate. The TRWC and the SEP Advisory Group will coordinate and leverage all tasks between the TMDL, the Cumulative Effects Monitoring and other ongoing related efforts.

Part 3: Work Plan

Description of Key Tasks and Work Items

Work Item 1: Project Initiation This work item will begin actual coordination of the SEP with the appropriate parties.

1.1 SEP Advisory Group Development and Facilitation

A SEP Advisory Group will be formed that will offer input into the entire SEP project. In this process, we will clarify and agree on project goals and discuss steps needed to achieve those goals. The SEP Advisory Group will be a small working group that will also develop a strategy for keeping appropriate groups and individuals (stakeholders) connected to and apprised of this project.

1.2 SEP Advisory Group Meetings (3)

We intend to hold three meetings per year for the life of this SEP unless the Advisory Group determines that we need either less or more meetings.

1.3 SEP Advisory Group Coordination

This work item is for coordination of the SEP Advisory Group between actual meetings and will entail such tasks as phone, email and web updates, coordination of group activities, concerns and discussions between meetings.

1.4 Review and Integration of Pertinent Martis Valley Projects

There are a number of planned and ongoing projects in the Martis Valley that may impact and/or be impacted by this project. This work item will include tracking and coordinating with those projects. Projects may include the Middle Truckee TMDL efforts, the Martis Valley and Middle Truckee Cumulative Water Quality efforts, other Waddle Ranch efforts (CA Resources Agency grant work, Truckee River Watershed Council early TMDL implementation work, the Sierra Business Council/IERS Sediment Source Control Handbook and ongoing Truckee Donner Land Trust Waddle Ranch management work. These related efforts will be accounted for within our planning and implementation efforts to the greatest degree possible in an effort to eliminate redundancy and maximize efficiency.

Work Item 2: Project Administration (5 years)

2.1 Quarterly Progress Reports

IERS staff will produce quarterly progress reports in March, June, September and December that will include all activities undertaken and/or completed, cost tracking, minutes of meetings and other pertinent information. This report will be provided to the 3rd party oversight entity for review and submittal to the Water Board. Format of this report will be agreed to in advance by IERS, the 3rd party entity and the Water Board staff so that it will contain what is needed in a format that is understandable and acceptable to all parties.

2.2 Draft Project Report

IERS will prepare a draft project report that will include a summary of all tasks listed in this document. The project report will include an introduction section, objectives of the SEP project, and a discussion of the nexus of this project to other related regional efforts and accomplishments both directly and indirectly related to the tasks and lessons learned from this project. The project report will also include the task list and a brief description of task completion. This task includes submittal of the draft project report to the Truckee Donner Land Trust, the 3rd party oversight entity, NMP staff, the Truckee River Watershed Council and the Lahontan RWQCB staff for review and comment.

2.3 Final Project Report

IERS will incorporate comments and suggestions as appropriate, from the draft Project Report that have been submitted in a timely manner (30 days from submittal of the Draft Report) and will prepare and submit a final report within 60 days of receipt of the comments from the reviewers or no later than 90 days from submittal of the Draft Report to reviewers.

2.4 Project Coordination

This work item entails general coordination of each project element, coordination between project elements, coordination among project elements and coordination between this SEP and other partner groups. We recognize that coordination and high level communication will be critical to the success of the various elements of this project and thus this general task has been included to support that communication and coordination.

Specific tasks and actions that may be covered by this work item include coordination meetings in-house, phone, web and in-person meetings and communication between partner groups as well as outside entities interested in assisting with this project. Since this project consists of three integrated but individual elements that will likely play a role in other related projects in the Martis-Truckee-Tahoe region, adequate coordination will be crucial. We have not included a specific work item to cover requests for information sharing and presentations outside of Waddle Ranch-specific outreach and tours.

2.5 Direct Overhead

Direct overhead will cover production of copies, travel expenses and expenses related to direct project tracking.

Work Item 3: Project Assessment and Evaluation Plan (PAEP) and Quality Assurance and Quality Control (QA/QC) Document

3.1 PAEP Table Preparation

Prepare PAEP table and iterate elements as a basis for the full PAEP document, as described on Water Board website.

3.2 PAEP Document

Prepare PAEP document per guidance on Water Board website http://www.waterboards.ca.gov/funding/paep_training.html, as foundation for performance goal setting, indicators and assessment.

3.4 PAEP Oversight and Documentation

Assure coordination between activities and PAEP document, perform annual review and report of PAEP document and submit as part of quarterly report each March for previous year.

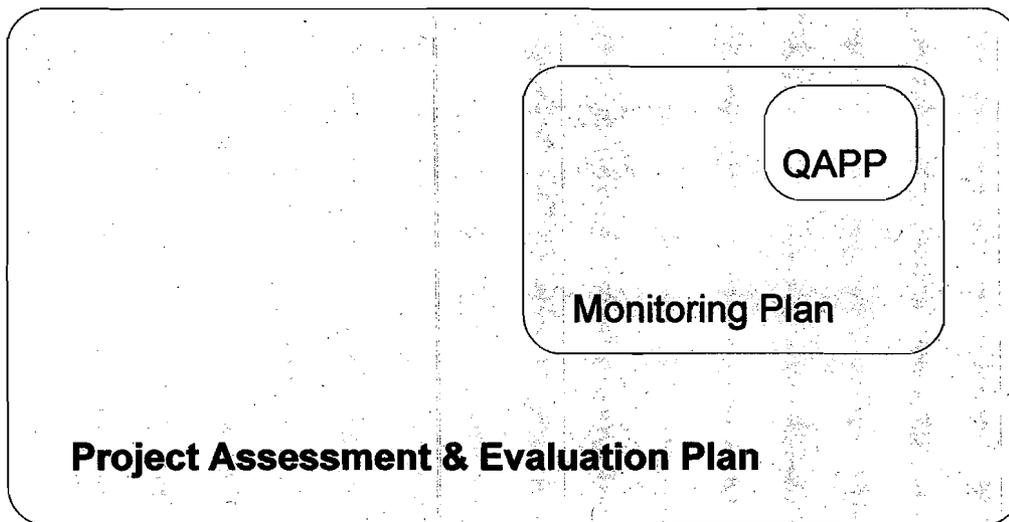


Figure 4: graphic representation of PAEP and its relationship to Monitoring Plan and QAPP per Water Board Guidance presentation.

3.5 Monitoring Plan

Prepare a monitoring plan linked to project goals as described in the PAEP table. Monitoring will be based primarily on real time, soil-sediment source measurements as developed by IERS, UC Davis and others, and as used and reported in the Lake Tahoe Basin TMDL Forest Upland Source Reduction Report (in review.) The monitoring plan will also include water quality monitoring at the top and bottom of the Waddle Ranch property. Monitoring will focus on quantitative, real-time monitoring wherever possible.

3.5 QAPP Preparation

Prepare QAPP plan as described in <http://www.waterboards.ca.gov/swamp/qapp.html> as adapted to this project.

Work Item 4: Waddle Ranch Restoration

4.1 Site/Watershed Evaluation (Erosion-focused Rapid Assessment or EfRA)

The site/watershed evaluation will be developed in order to rapidly assess actual and potential sediment source areas and other areas of degradation as they relate to water quality. Description of the purpose and general explanation of the site/watershed evaluation can be found in Work Item 5, below.

4.2 Environmental/Permitting Documentation

Research and produce information to obtain grading and ground disturbance permits if required.

4.3 Treatment Sites Identification

Use evaluation process to develop a prioritized list of projects based on parameters developed by the SEP Advisory Group and as agreed to by TDLT and/or Truckee Tahoe Airport District Board representative. (Note: the Truckee Tahoe Airport District is scheduled to assume ownership of the Waddle Ranch in 2011-12. Therefore, involvement will be important to insure a smooth transition of this program.)

Identify potential projects to be completed over the lifetime of the SEP with estimated costs for each project.

Develop a working list of projects during fall and winter seasons for the following construction season. The last year of the project, a list of recommended future projects for ongoing work at Waddle Ranch will be produced (to be undertaken after this SEP is finalized).

4.4 Permitting Assistance

Work with and assist Land Owner (TDLT) to obtain permits (in 2010 reverts to TTAD).

4.5 Treatment Specifications

Develop treatment specifications for each restoration and treatment element of the SEP and include those specifications in the year end and final Project Reports.

4.6 Pre-Treatment Monitoring

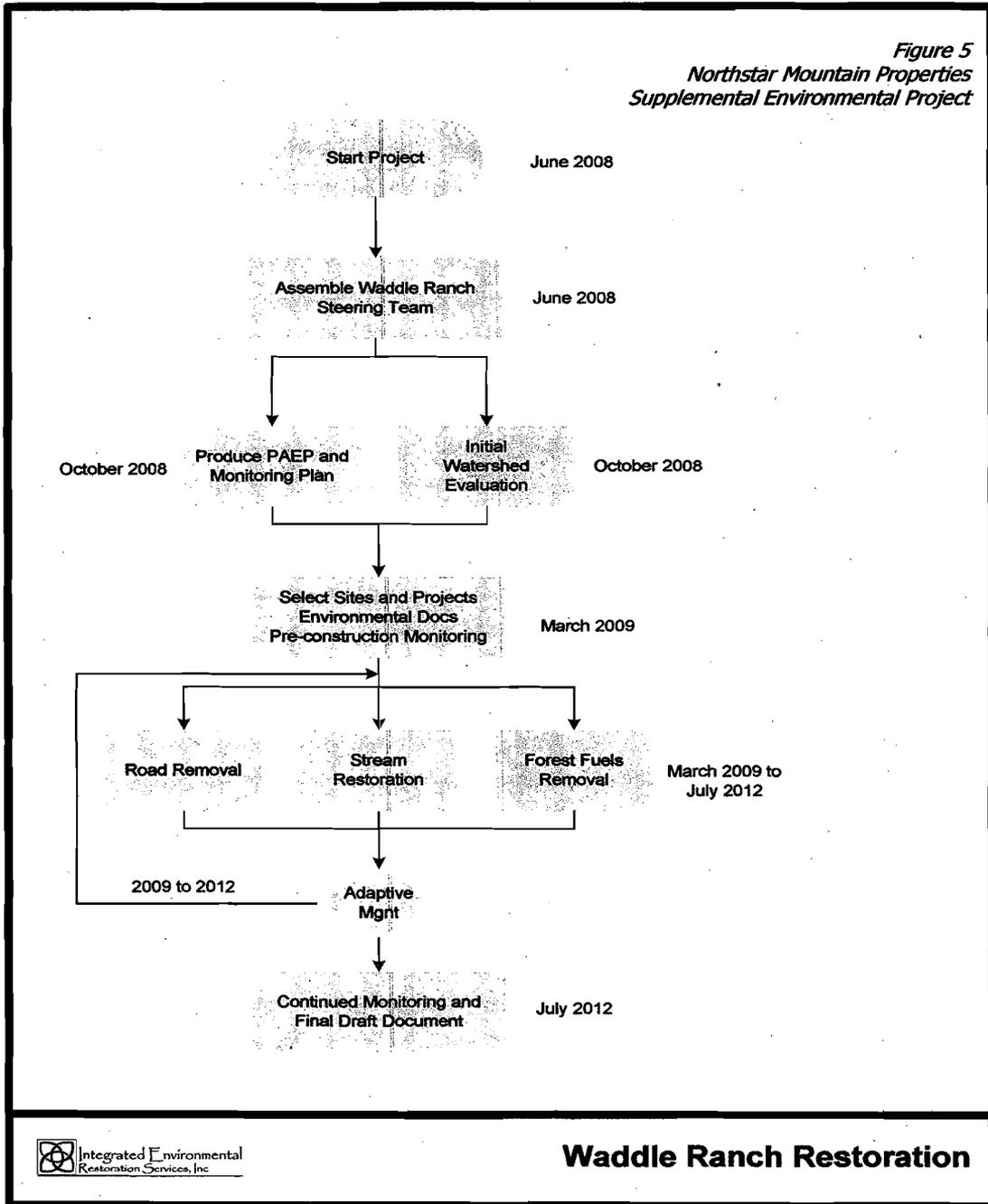
Conduct functional, soil-vegetation-based monitoring including simulated rainfall or runoff monitoring, soil nutrient evaluation, cover point monitoring and others as appropriate in order to assess the pre-treatment condition of treatment sites and to determine level of treatment required to achieve self-sustaining site conditions.

4.7 Water Quality Monitoring

Perform water quality monitoring at top and bottom of Waddle Ranch site or as otherwise needed, but in positions that will identify background conditions to the

greatest extent possible and then will assess post treatment effects (if possible) during the life of the project. Monitoring will include turbidity, EC and other parameters as needed to directly assess sediment load and concentration within East Martis Creek as it runs through the Waddle Ranch property. We do not intend to perform full parameter water quality sampling as described in the Basin Plan or other related documents. The focus of these efforts is on sediment load.

*Figure 5
Northstar Mountain Properties
Supplemental Environmental Project*



Waddle Ranch Restoration

Water quality/sediment monitoring will be used as a reference point for work performed at the Waddle Ranch. The main monitoring emphasis for this SEP will be placed on real-time, sediment source area monitoring.

Grab samples will be taken during runoff periods as needed to assess background and post-project sediment loads. These samples will be used to 1) ascertain whether restoration effects can be distinguished from sampling and if so 2) what effects are. Sampling will be done as described in the QAPP. Generally, sampling will be taken on appropriate limbs of the peak flow hydrograph in order to determine changes over a range of flow regimes.

4.8 Water Quality Monitoring Contingency

Specific water quality sites and the overall flow characteristics of the watershed will not be well understood until site evaluation begins. This contingency is included in order to reserve adequate funding to respond as needed and as ultimately outlined in the QAPP and monitoring plan. Any monitoring funding not used in the first two seasons will be carried over until at least the third season. Once flow characteristics and monitoring frequencies are adequately understood, budget adjustments will be made. As in other budget elements, any funding not used in this task will be applied to restoration efforts.

4.9 Road Removal

Remove and/or repair selected roads in the Waddle Ranch that have been identified as sediment source areas. Roads have been shown to be the primary source of sediment in most disturbed watersheds such as Waddle Ranch. IERS has performed extensive road removal throughout the Tahoe Truckee region and will base efforts on that work. Actual amount of square footage will be determined by the type of treatment, extent of removal required and difficulty of treatment sites. Product will be a slope or area re-contoured to original shape as much as possible or in the case of road repair, a road surface that has been designed per BMPs to result in minimum sediment production. Road removal work will be based upon other road restoration work designed and implemented by IERS, including the Ponderosa Ranch projects (2005-06), various USFS-funded projects (2002-2006) and Homewood Mountain Resort projects (ongoing).

4.10 Stream/Wetland Restoration

Restore stream and/or wetlands on Waddle Ranch property where needed and as identified in the watershed evaluation (EfRA). It is not possible to describe areas or acreage needing treatment at this point. However, discussion with the TDLT and Don Triplat, who produced the Forest Management Plan for TDLT, indicates that several candidate areas exist that are in need of restoration. Exact amount of area treated will depend on difficulty of site, site conditions, etc. Treatments will be based on riparian/stream restoration and wetland restoration designed and/or implemented by IERS, including projects in the Tahoe Basin and two projects in the Martis Valley watershed (West Martis Stream Restoration and Golf Course TH-2 Wetlands Restoration).

4.11 Forest Fuels Demonstration Treatments

Implement forest fuels reduction treatments using a range of treatment types per SEP Advisory Group direction. This SEP cannot treat the entire forest within the Waddle Ranch property. However, we will apply targeted treatments as models for more broad scale treatments and as a foundation for monitoring those treatments.

Monitoring will help identify potential water quality impacts of those treatments and will help determine mitigation measures when necessary. Note that TDLT has a small, ongoing budget to implement forest treatment and this portion of the SEP will help them identify the most cost- and environmentally-effective treatments available.

4.12 Post-Treatment Monitoring (per PAEP)

Conduct post-treatment effectiveness (performance) monitoring using some or all of the same monitoring methodologies used in pre-treatment monitoring in order to ascertain relative change in soil function (potential for erosion) and vegetation on those sites. This information and data will be used in PAEP documentation to determine success of treatments. Monitoring data will be compared to success criteria in order to provide a quantitative measure of success.

4.13 Site Tours

Provide technology transfer site tours to various areas of Waddle Ranch. Tours will focus on restoration processes, monitoring methodologies and results. Invitees to the site tours will be determined by the SEP Advisory Group and approved by the TDLT.

4.14 Public Outreach Program and Materials

Develop and produce outreach and technology transfer materials for site tours and other needs as identified by the SEP Advisory Group. Materials will include general information on Waddle Ranch and related site restoration activities.

Work Item 5: Watershed Evaluation, Treatment and Monitoring Handbook

Overview: Currently, a large number of watershed assessment documents exist, such as EPA's Handbook for Developing Watershed Plans to Restore and Protect Our Waters³ and The California Watershed Assessment Guide and Manual⁴. These guides are prepared for watershed groups and agencies and are extremely useful. However, for land managers that are tasked with implementing erosion reduction practices on the ground with limited resources, these assessments can be extremely cumbersome. The **Watershed Evaluation, Treatment and Monitoring Handbook** (Work Item 5), will provide a tactical, erosion-focused approach to watershed assessment and treatment. This assessment approach, referred to as 'Erosion-focused Rapid Assessment' or EfRA, is designed to provide watershed and land managers with a direct, accessible, user-friendly and cost-effective method to identify erosion source areas. That information will feed directly into plans and implementation of repair and restoration efforts.

³ EPA 841-B-05-005, October 2005. United States Environmental Protection Agency, Office of Water, Nonpoint Source Control Branch, Washington, DC 20460

⁴ Shilling, Sommarstom, Kattleman, Wahsburn, Florshiem and Helny, 2005. California Resources Agency and the California Bay Delta Authority

The watershed evaluation itself starts with gathering applicable spatial data for Wattle Ranch and developing a GIS map of the watershed showing pertinent elements such as roads, water courses, soils, vegetation and disturbed areas. Spatial analysis in GIS is then used to identify potential erosion 'hot spots' such as road-stream crossings and areas devoid of vegetation. This map is then used as the basis for focused field investigations. During field verification of potential erosion issues, sediment sources are identified and mapped in greater detail. Site-specific plans for restoring each erosion source area are then developed within the context of that particular drainage. Projects are prioritized by severity and relationship to other sediment issues in their respective drainages. Actual field projects and priorities are then developed for the watershed as a whole.

The need for this type of rapid and directed watershed assessment has been identified over several seasons through working with land managers, agency personnel and other responsible parties. It has become clear that land managers often do not have a background in watershed, erosion or soil processes. That constraint often limits effective action. As TMDL programs are implemented, clear and cost-effective assessment, implementation and monitoring procedures will be critical to achieving the desired results of those programs. This **Watershed Evaluation, Treatment and Monitoring Handbook** is designed to fill the need for such a process and procedure.

TASKS

5.1 Watershed Technical Group Development and Meetings

A small, ad-hoc Watershed Technical Group will be developed to guide this portion of the project. Watershed Technical Group members will be chosen based on their involvement in watershed management issues and their understanding of the use and need for such as handbook. This group will be tasked with providing input and information and developing connections with watershed groups and other entities that need guidance in implementing and monitoring watershed improvement efforts.

5.1.1 Watershed Technical Group Review

Review and input of Watershed Evaluation, Treatment and Monitoring Handbook by the Watershed Technical Group during development of the document.

5.2 Literature Review and Report

Review related literature and prepare a report on relevant watershed assessment and evaluation documents with emphasis on the role that the Watershed Evaluation, Treatment and Monitoring Handbook fulfills within the range of watershed assessment approaches.

5.3 Document Outline

Prepare a complete outline for the Watershed Evaluation, Treatment and Monitoring Handbook that encompasses the elements put forth by the Watershed Technical Group.

5.4 Draft Document

Prepare and produce a draft document for review by the Watershed Technical Group and other technical reviewers as identified by the Watershed Technical Group.

5.5 Interim/Working Document

Prepare interim working document based on input from the Watershed Technical Group and other reviewers. This document will provide the basis of further work and will be used as a working field document for continued work at Waddle Ranch during the life of this SEP. It may also be made available to other interested parties upon review and agreement by the SEP Advisory Group.

5.6 Document Iteration

Iterate and update document periodically, based on input from users and Watershed Technical Group.

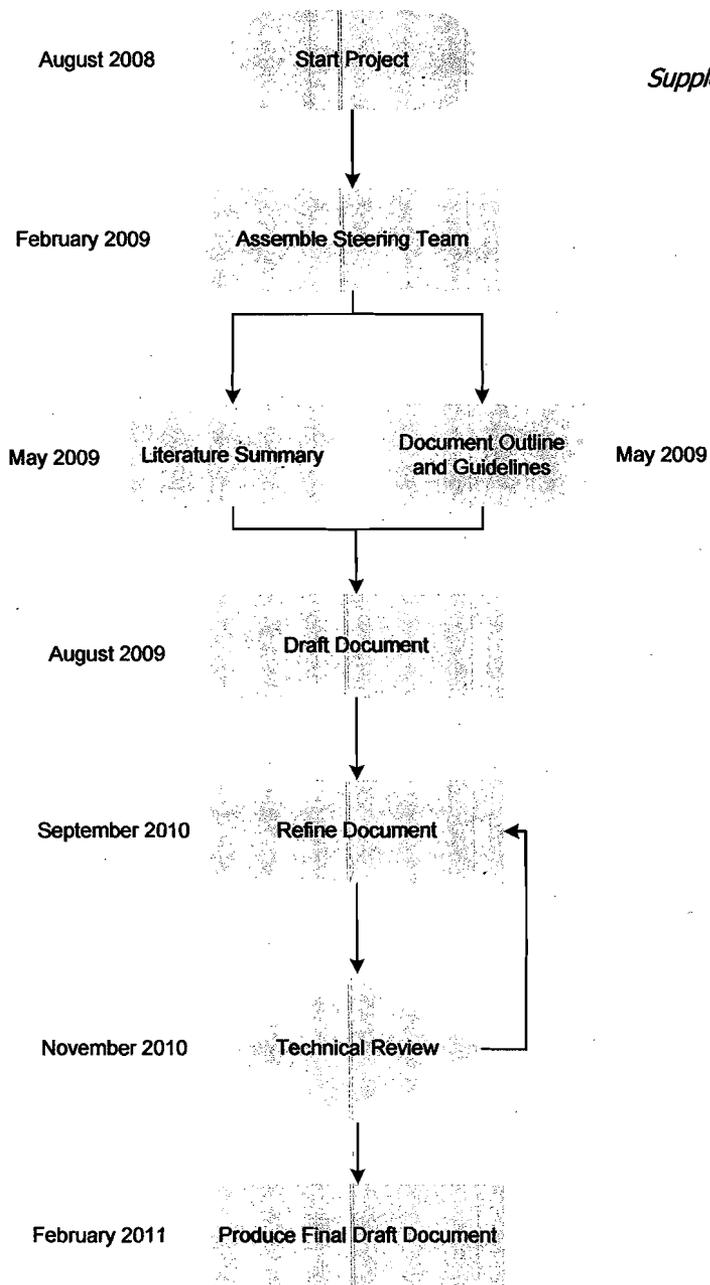
5.7 Final Draft Document

Produce final draft of document based on input from Watershed Technical Group and other users and technical input over the life of the document. Request for final input will be made to reviewers and users. Input will be incorporated when received within 30 days from time of request. Final draft will be produced within 60 days of receipt of input or no later than 90 days from request for input.

5.8 Document Layout and Printing

Professional layout of document and printing costs for 10 hard copies of the document. Other funding will be sought for additional printing as needed.

Figure 6
Northstar Mountain Properties
Supplemental Environmental Project



Work Item 6: Forest Fuels Treatment/Water Quality Protection Handbook

This portion of the SEP is designed to fill a critical gap in knowledge and process related to forest fuels treatment and water quality. This 'program' is designed to build a bridge between forest fuels treatment and the protection of water quality during and following those treatments. Water Board and fire agency staffs have been vocal supporters of developing such a program, based on the Sediment Source Control Handbook. The handbook produced for this work item will provide land managers/dischargers with much-needed guidance to help them plan, implement and monitor their fuels treatment projects. The overall program, which will eventually extend beyond the Waddle Ranch, is intended to produce a set of tools that land managers can use for fuels treatment that offers a quantifiable outcome and where needed, mitigation treatments that will minimize or eliminate impacts to water quality.

6.1 Forestry Technical Group Formation

Form a Forestry Technical Group made up of fire agency, Water Board, land management staff and other individuals. (Note: this group is separate from both the overall SEP Advisory Group and the Watershed Technical Group.) This group will be tasked with assuring that the project is focused on identified needs and that effective communication occurs with appropriate groups and individual stakeholders. Further, this group will work to make sure that this program is aligned with other existing forestry and fuels management programs and efforts in the region.

6.2 Forestry Technical Group Agreement, Goals, and Outcome

Develop agreement as to the goals and outcome of this effort (charter) through a facilitated process.

6.3 Forestry Technical Group Meetings

Convene Forestry Technical Group meetings twice per year through 2011.

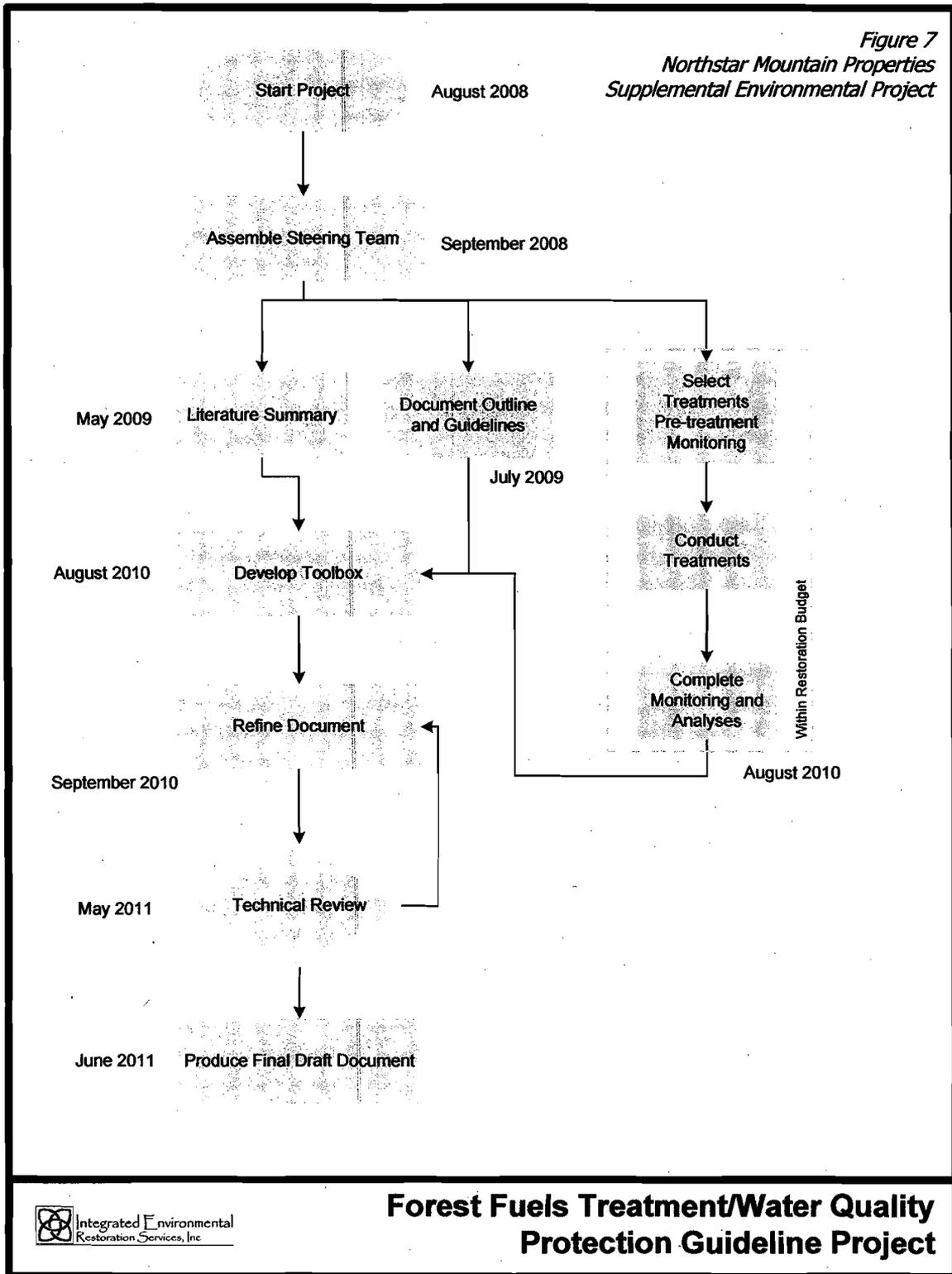
6.4 Literature Review and Report

Prepare a literature report based on review of literature relevant to this program. That report will be produced in hard copy and as a CD ROM. It will also be made available as a web posting either on the TRPA TIMMS site, the Lahontan RWQCB site and/or a number of other fire-related sites. This report will identify the state of knowledge relative to fuels reduction practices effects on water quality. Other literature review efforts currently underway will be incorporated or included wherever possible. IERS has been coordinating with the USFS Pacific Southwest Research Station, the UC Cooperative Extension and the Tahoe Science Consortium on several recent and current literature reviews.

6.5 Develop Draft Document Outline and Guiding Principles

Develop a draft document outline and guiding principles for the final document.

*Figure 7
Northstar Mountain Properties
Supplemental Environmental Project*



**Forest Fuels Treatment/Water Quality
Protection Guideline Project**

6.6 Identify Treatment Options

Based on literature review and coordination with management agencies, develop a list of all potential treatment options that may be used on Waddle Ranch. Create a priority treatment list in conjunction with the Forestry Technical Group. The types of treatments chosen will be based on those treatments that represent the most promise from a cost-effectiveness standpoint and the largest knowledge gap relative to impacts on water-quality/sediment production.

6.7 Forest Fuels Reduction Treatment Implementation (research plots)

As identified in 6.6, above, select four treatments and apply those treatments to small (<1/2 acre) areas of Waddle Ranch.

6.8 Develop Draft Forest Fuels Treatment/Water Quality Protection Handbook

Develop draft toolkit for forest fuels treatments. This work item will produce a format for toolkit elements and will include at least four specific 'tools' with related water quality impacts. Tools may consist of such practices as pile burning, broadcast burning, mastication, forwarding, etc. Actual tools will depend on budget and management constraints at Waddle Ranch. Related water quality impacts may include such elements as soil compaction, changed in infiltration rate, runoff volume changes, runoff constituents, effects on vegetation, effects on soil nutrients, etc.

6.9 Monitor Treatments

Treatments shall be monitored both pre and post treatment using similar methodologies to the overall Waddle Ranch monitoring plan. Specific monitoring elements will be adapted to specific treatments and shall be based on monitoring methodologies used for the Lake Tahoe Basin TMDL Forest Uplands Sediment Reduction Strategy study.

6.10 Review Copy - Forest Fuels Treatment/Water Quality Protection Handbook

Produce a draft copy of the Forest Fuels Treatment/Water Quality Protection Handbook and distribute to the Forestry Technical Group for review. Also provide for other technical review as suggested by the Forestry Technical Group.

6.11 Draft Forest Fuels Treatment/Water Quality Protection Handbook

Incorporate review comments and produce a draft version of the Forest Fuels Treatment/Water Quality Protection Handbook. This document will not be finalized under this funding but is intended to tier off of our efforts here and continue under other funding.

6.12 Printing and Distribution of Draft Forest Fuels Treatment/Water Quality Protection Handbook

Funding for the layout and printing of this document is not covered under this SEP agreement. Other entities in the Truckee-Tahoe region have expressed commitment to this program. Some of these other entities will request funding for final layout and

printing of this document. The draft version of the document will be provided on CD ROM to interested parties as suggested by the Forestry Technical Group.

Work Item 7: Project Implementation and Monitoring Contingency

Approximately \$70,000 has been set aside as a contingency over the 5-year life cycle of this SEP. Given the long life cycle of this project and the many variables, both known and unknown, we believe this contingency will be adequate to provide for unknown issues that may arise. Contingency will only be allocated as requested by IERS on behalf of NMP and as submitted to the 3rd party oversight entity and then agreed to by Lahontan staff or as otherwise arranged by and agreed to by Lahontan staff. Any contingency not reallocated by request will be shifted to field implementation of restoration on the Waddle Ranch property. If inadequate opportunity for restoration exists on Waddle Ranch property, funds may be reallocated to other Martis Valley or Middle Truckee River watershed efforts in order to retain the nexus between funds and violations in the same watershed.

General

Transfer of funds between and among work items

Given the nature of this project and the uncertainty at this point regarding exactly where and how much restoration work will be done (the Waddle Ranch site is under snow as this document is being prepared), and in an attempt to most accurately and reasonably target costs, we will adhere to the following guidelines for funding allocation:

-Wherever specific work items do not use all funds allocated to that work item, those funds will be 1) reallocated within the overall work item or 2) reallocated to field implementation wherever possible. If a particular work item is underfunded, reallocation may occur IF approved by the SEP Advisory Group, the 3rd party oversight entity and the Lahontan staff member assigned to oversee this SEP. In any event, the cost of the work items and work in total will not exceed the total budget of this SEP.

Finalization of task and work items

This project is being planned during the winter season of 2007-2008. Specific elements of work items will be finalized by field assessment and site visits. The plan thus far developed has been done so in cooperation with individuals who are familiar with Waddle Ranch and thus these plans can be considered as accurate as possible.

Part 4: Project Team and Administration

The project team is well balanced in background and capabilities. Given the nature of Waddle Ranch ownership, as well as the nature of water quality monitoring in the Martis Valley, the project team includes members that can guide implementation of the elements of the proposed SEP.

- Lisa Wallace: The Truckee River Watershed Council is the main watershed coordination group in the Truckee region and is involved in many of the watershed efforts that are underway.
- Sarah Taddo, Perry Norris: The Truckee Donner Land Trust is the property owner/manager and is also involved in many of the watershed efforts occurring in the Truckee region.
- Integrated Environmental Restoration Services has a track record of successful planning, implementation and monitoring of environmental restoration and improvement projects throughout the Tahoe Truckee region and has a solid history of cooperative work with the Lahontan Regional Water Quality Control Board, the Truckee River Watershed Council, Placer County and the Truckee Donner Land Trust. IERS team members include:
 - Michael Hogan, MS, Soil Scientist, Restoration Specialist, Principal
 - Jerry Dion, MS, Ecologist, GIS Specialist, Principal
 - Kevin Drake MS, Planner, Associate Project Coordinator
 - Don Triplett, BS, Restoration Coordinator, Forestry
 - Rachel Arst, MS, Environmental Engineer, Monitoring Coordinator
 - Gerald Rockwell (USGS, Ret.) Water quality monitoring, associate

The IERS team will be supplemented as needed. IERS consists of over 25 individuals and four workgroups (Planning, Implementation, Monitoring/Research and general Consulting) which provide adequate resources to complete most of the tasks involved in this SEP.

- Dr. Mark Grismer, Ph.D, UC Davis, Consulting Research Associate, Hydrology and Environmental Engineering. Dr. Grismer has teamed with IERS on a number projects including the Tahoe TMDL Source Reduction work. He will help develop monitoring plans.
- Dr. Susan Clark, Ph.D, Dynamic Competence. Dr Clark will serve as a process facilitator to assure adequate, high level communication and coordination occurs between the project partners and outside stakeholders.

Third Party Oversight

Third Party Oversight will be provided by Sierra Business Council (SBC). Specific arrangements will be made during or immediately following the finalization of this agreement. Steve Frisch (530.582.4800) has been contacted and has agreed to provide this oversight. SBC is suited to provide these services since it is already providing

similar services for a SEP in the Victorville area and has been working as liaison and contact administrator for the 319 Grant-funded Ski Area Erosion Control Guidelines project with IERS and the Lahontan Regional Water Quality Control Board.

The following is a list of additional proposed 'adjunct' project members. Specific individuals may serve as advisory, technical or implementation team members. Specific team organization will take place upon implementation of the SEP project.

- Richard Anderson-Town of Truckee, California Fly Fisher Magazine
- Hayes Parzybok-Northstar Mountain Properties liaison
- Alan Heyvaert-Desert Research Institute
- Kathleen Eagan-Truckee Airport Board
- Jim Porter-Attorney and former Board member of Truckee Tahoe Community Foundation

Part 5: Deliverables Table

The deliverable dates are based on a June 1, 2008 project start date. That assumption is based on the possibility that this SEP will be approved at the May Lahontan Board meeting and that contracting and finalization of the project agreements will take an additional two months. If another start date is implemented, due dates will adjust accordingly. This table can be adjusted and revised accordingly.

Deliverable	Work Item	Due
Meeting agendas, Notes, Minutes of advisory group, Membership list, etc.	1.1-1.4	30 days following end of each quarter, through project life
Quarterly reports, Draft and final report.	2.1-2.3	30 days following end of each quarter, through project life Draft format and outline, Feb 2012 Final, Feb, 2013
PAEP table, supporting PAEP document, monitoring plan and QAPP documentation.	3.1,2,5,6	October 15 th , 2008
Ongoing: yearly PAEP implementation report	3.4	January 30 th , each year.
Watershed Evaluation summary document	4.1	Sequential, Each season by July 30 th . See budget. Bulk of effort in yr 1, 2.
Project Designs and environmental documentation	4.2-4.4	Design: February prior to construction season, Environmental Doc: Each year, by 60 days prior

Northstar Mountain Properties Supplemental Environmental Project (Scope, Budget, and Schedule)

(See adjoining budget spreadsheet and Gantt chart, below)

ID	WBS	Task Name	Proposed Cost	Duration	Start	Finish	2008				2009				2010				2011				2012				2013							
							Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4							
1	0	Northstar Mountain Properties Supplemental Env		1298 days?	Mon 5/14/08	Mon 12/31/12	[Summary bar]																											
2	1.0	Work Item 1: Project Development and coordination	\$87,600.00	1163 days?	Thu 8/1/08	Mon 10/1/12	[Summary bar]																											
3	1.1	Advisory group development and facilitation		40 days	Thu 5/1/08	Wed 8/25/08	[Task bar]																											
4	1.2	Annual group meetings		1163 days?	Thu 5/1/08	Mon 10/1/12	[Task bar]																											
5	1.3	Group coordination		1163 days?	Thu 5/1/08	Mon 10/1/12	[Task bar]																											
6	1.4	Review of pertinent projects		60 days	Mon 11/3/08	Fri 1/23/09	[Task bar]																											
7	2.0	Work Item 2: Project administration (5 years)	\$110,600.00	1218 days?	Thu 8/1/08	Mon 12/31/12	[Summary bar]																											
8	2.1	Quarterly progress reports		1163 days?	Thu 5/1/08	Mon 10/1/12	[Task bar]																											
9	2.2	Draft project report		30 days	Tue 10/2/12	Mon 11/12/12	[Task bar]																											
10	2.3	Final project report		20 days	Tue 11/13/12	Mon 12/10/12	[Task bar]																											
11	2.4	Project oversight and coordination		1218 days?	Thu 5/1/08	Mon 12/31/12	[Task bar]																											
12	3.0	Work Item 3: PAEP	\$21,300.00	80 days	Mon 8/2/08	Fri 10/3/08	[Summary bar]																											
13	3.1	PAEP table preparation		30 days	Mon 8/2/08	Fri 7/11/08	[Task bar]																											
14	3.1.1	QA/QC Preparation		30 days	Mon 7/14/08	Fri 8/22/08	[Task bar]																											
15	3.2	PAEP Document		30 days	Mon 8/25/08	Fri 10/3/08	[Task bar]																											
16	3.5	Monitoring Plan		30 days	Mon 7/14/08	Fri 8/22/08	[Task bar]																											
17	4.0	Work Item 4: Wetlands Restoration	\$1,697,000.00	1276 days	Mon 1/14/08	Mon 12/31/12	[Summary bar]																											
18	4.1	Site/watershed evaluations		362 days	Thu 5/1/08	Tue 5/3/11	[Task bar]																											
19	4.2	Environmental documentation		40 days	Thu 10/16/08	Wed 12/10/08	[Task bar]																											
20	4.3	Treatment sites identification		30 days	Thu 9/4/08	Wed 10/15/08	[Task bar]																											
21	4.4	Permitting		60 days	Thu 12/11/08	Wed 3/4/09	[Task bar]																											
22	4.4	Treatment specifications		30 days	Thu 10/16/08	Wed 11/26/08	[Task bar]																											
23	4.5	Pre-treatment sites monitoring		200 days	Thu 10/16/08	Wed 7/22/09	[Task bar]																											
24	0	Treatments	1187.01 days	Mon 1/14/08	Wed 8/1/12	[Summary bar]																												
25	4.8	Road removal		471.38 days	Wed 4/1/09	Wed 8/1/12	[Task bar]																											
26	4.8	Stream/wetland restoration		471.38 days	Wed 4/1/09	Wed 8/1/12	[Task bar]																											
27	4.8	Forest fuels demonstration treatment		471.38 days	Wed 4/1/09	Wed 8/1/12	[Task bar]																											
28	4.9	Post treatment monitoring (per PAEP)		780 days	Mon 11/14/08	Fri 1/7/11	[Task bar]																											
29	4.10	Site tours		200 days	Tue 2/26/12	Mon 12/3/12	[Task bar]																											
30	4.11	Public outreach program and materials		60 days	Mon 3/2/09	Fri 5/22/09	[Task bar]																											
31	6.0	Work Item 5: Watershed Evaluation, Treatment and Mon	\$87,000.00	233 days	Wed 2/1/12	Fri 12/21/12	[Summary bar]																											
32	5.1	Technical group development, meetings		30 days	Wed 2/1/12	Tue 3/13/12	[Task bar]																											
33	5.1.1	Technical group review		30 days	Wed 3/14/12	Tue 4/24/12	[Task bar]																											
34	5.2	Literature review and report		40 days	Wed 3/14/12	Tue 5/8/12	[Task bar]																											
35	5.3	Document outline		10 days	Wed 4/25/12	Tue 5/8/12	[Task bar]																											
36	5.4	Draft document		68 days	Wed 5/8/12	Fri 8/10/12	[Task bar]																											
37	5.5	Interim/working document		30 days	Mon 8/13/12	Fri 9/2/12	[Task bar]																											
38	5.6	Document iteration		30 days	Mon 9/24/12	Fri 11/2/12	[Task bar]																											
39	5.7	Final draft document		20 days	Mon 11/5/12	Fri 11/30/12	[Task bar]																											
40	5.8	Document layout and printing		15 days	Mon 12/5/12	Fri 12/7/12	[Task bar]																											
41	6.0	Work Item 6: Forest Treatment and Forest Practices Wel	\$127,000.00	1001 days	Fri 8/1/08	Fri 8/1/12	[Summary bar]																											
42	6.1	Working advisory group formation		80 days	Fri 8/1/08	Thu 10/23/08	[Task bar]																											
43	6.2	Group agreement, goals, outcome		80 days	Fri 10/24/08	Thu 1/15/09	[Task bar]																											
44	6.3	Advisory group meetings		100 days	Fri 1/16/09	Thu 6/4/09	[Task bar]																											
45	6.4	Literature review and report		80 days	Fri 8/5/09	Thu 8/27/09	[Task bar]																											
46	6.5	Develop draft Guidelines/Guiding Principles		80 days	Fri 8/28/09	Thu 1/14/10	[Task bar]																											
47	6.6	Identify treatments options		80 days	Fri 11/20/09	Thu 3/11/10	[Task bar]																											
48	6.7	Apply 4 treatments		80 days	Mon 5/10/10	Fri 8/27/10	[Task bar]																											
49	6.8	Develop draft Toolkit		20 days	Mon 8/30/10	Fri 9/24/10	[Task bar]																											
50	6.9	Monitor treatments		300 days	Mon 9/27/10	Fri 1/18/11	[Task bar]																											
51	6.10	Review Copy-Forest Fuels Water Quality Guiding Prin		40 days	Mon 1/21/11	Fri 1/13/12	[Task bar]																											
52	6.11	Draft Forest Water Quality Guiding Principles		40 days	Mon 1/18/12	Fri 3/9/12	[Task bar]																											
53	6.12	Printing-distribution of Forest Water Quality Guiding		60 days	Mon 3/12/12	Fri 6/1/12	[Task bar]																											
54	7	Work Item 7: Project Implementation and Monitoring Co	\$88,700.00	1 day?	Mon 1/14/08	Mon 1/14/08	[Summary bar]																											

Project: SEP, Project plan Date: Fri 2/6/08

Task: [Pattern] Progress [Pattern] Milestone [Pattern] Summary [Pattern] External Tasks [Pattern] Deadline [Pattern]

Split: [Pattern] Milestone [Pattern] Project Summary [Pattern] External Milestone [Pattern]

NMAP SEP

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5/14/2008

10-0100

**Northstar Mountain Properties
Waddle Ranch Watershed Improvement Project**

Work Item #	Description		Total	2008	2009	2010	2011	2012	Total check	
Work Item 1: Project Initiation and Coordination		% of total	2.7	\$57,500.00	\$21,000.00	\$10,500.00	\$9,000.00	\$9,000.00	\$8,000.00	\$57,500.00
1.1	Advisory group development and facilitation		\$9,000.00	\$9,000.00	\$0.00	\$0.00	\$0.00	\$0.00		
1.2	Annual group meetings (3)		\$29,500.00	\$6,000.00	\$7,000.00	\$5,500.00	\$5,500.00	\$5,500.00		
1.3	Group coordination		\$12,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00		
1.4	Review and itegration of pertinent Martis Valley projects		\$6,500.00	\$3,500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$0.00		
Work Item 2: Project administration (5 years)		% of total	5.1	\$110,500.00	\$14,500.00	\$14,000.00	\$24,000.00	\$27,000.00	\$31,000.00	\$110,500.00
2.1	Quarterly progress reports		\$30,500.00	\$6,000.00	\$5,000.00	\$6,500.00	\$6,500.00	\$6,500.00		
2.2	Draft project report		\$3,000.00			\$1,000.00	\$2,000.00	\$0.00		
2.3	Final project report		\$9,000.00					\$9,000.00		
2.4	Project coordination		\$46,000.00	\$5,000.00	\$5,000.00	\$12,000.00	\$14,000.00	\$10,000.00		
2.5	Direct overhead		\$22,000.00	\$3,500.00	\$4,000.00	\$4,500.00	\$4,500.00	\$5,500.00		
2.5.1	Office supplies		\$0.00							
2.5.2	Copies		\$5,200.00	\$500.00	\$1,000.00	\$700.00	\$1,000.00	\$2,000.00		
2.5.3	travel		\$6,100.00	\$1,200.00	\$1,000.00	\$1,400.00	\$1,500.00	\$1,000.00		
2.5.4	accounting-project tracking		\$10,300.00	\$1,800.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,500.00		
Work Item 3: PAEP and QAPP		% of total	1.1	\$23,300.00	\$17,300.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$23,300.00
3.1	PAEP table preparation		\$1,200.00	\$1,200.00						
3.2	PAEP Document		\$2,600.00	\$2,600.00						
3.4	PAEP Oversight and Documentation		\$8,000.00	\$2,000.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00		
3.5	Monitoring Plan		\$4,000.00	\$4,000.00						
3.6	QAPP Preparation		\$7,500.00	\$7,500.00						
Work Item 4: Waddle Ranch Restoration		% of total	78.8	\$1,695,000.00	\$90,000.00	\$103,500.00	\$406,500.00	\$515,500.00	\$579,500.00	\$1,695,000.00
4.1	Site/watershed evaluation (EFRA)		\$61,000.00	\$18,000.00	\$20,000.00	\$15,000.00	\$6,000.00	\$2,000.00		
4.2	Environmental/permitting documentation		\$21,000.00		\$10,000.00		\$5,000.00	\$6,000.00		
4.3	Treatment sites identification		\$30,000.00	\$8,000.00	\$8,000.00	\$4,000.00	\$5,000.00	\$5,000.00		
4.4	Permitting assistance		\$33,000.00	\$4,000.00	\$8,000.00	\$8,000.00	\$8,000.00	\$5,000.00		
4.5	Treatment specifications		\$20,500.00	\$2,000.00	\$3,500.00	\$5,000.00	\$5,000.00	\$5,000.00		
4.6	Pre-treatment sites monitoring		\$120,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$25,000.00	\$35,000.00		
4.7	Water Quality Monitoring		\$49,000.00	\$15,000.00	\$15,000.00	\$4,000.00	\$5,000.00	\$10,000.00		
4.8	Water Quality Monitoring Contingency		\$42,000.00	\$23,000.00	\$19,000.00					
4.9	Road removal		\$465,000.00			\$100,000.00	\$175,000.00	\$190,000.00		
4.10	Stream/wetland restoration		\$540,000.00			\$175,000.00	\$175,000.00	\$190,000.00		
4.11	Forest fuels demonstration treatments		\$140,000.00			\$40,000.00	\$50,000.00	\$50,000.00		
4.12	Post treatment monitoring (per PAEP)		\$125,000.00				\$50,000.00	\$75,000.00		
4.13	Site tours		\$38,000.00			\$30,000.00	\$4,000.00	\$4,000.00		
4.11	Public outreach program and materials		\$10,500.00			\$5,500.00	\$2,500.00	\$2,500.00		

10-0101

**Northstar Mountain Properties
Waddle Ranch Watershed Improvement Project**

Work Item #	Description		Total	2008	2009	2010	2011	2012	Total check	
Work Item 5: Watershed Evaluation, Treatment and Monitoring Handbook		% of total	3.1	\$67,000.00	\$23,500.00	\$21,500.00	\$8,000.00	\$4,000.00	\$10,000.00	\$67,000.00
5.1	Technical group development, meetings		\$10,000.00	\$5,000.00	\$5,000.00					
5.1.1	Technical group review		\$7,000.00	\$3,000.00	\$4,000.00					
5.2	Literature review and report		\$9,000.00	\$5,500.00	\$3,500.00					
5.3	Document outline		\$7,000.00	\$6,000.00	\$1,000.00					
5.4	Draft document		\$12,000.00	\$4,000.00	\$8,000.00					
5.5	Interim/working document		\$8,000.00			\$6,000.00	\$2,000.00			
5.6	Document iteration		\$4,000.00			\$2,000.00	\$2,000.00			
5.7	Final draft document		\$6,000.00					\$6,000.00		
5.8	Document layout and printing		\$4,000.00					\$4,000.00		
Work Item 6: Forest Fuels Treatment/Water Quality Protection Guideline Project		% of total	5.9	\$127,000.00	\$27,000.00	\$41,000.00	\$34,000.00	\$25,000.00	\$0.00	\$127,000.00
6.1	Working advisory group formation		\$4,000.00	\$4,000.00						
6.2	Group agreement, goals, outcome		\$2,500.00	\$2,500.00						
6.3	Advisory group meetings		\$20,500.00	\$5,500.00	\$5,000.00	\$5,000.00	\$5,000.00			
6.4	Literature review and report		\$10,000.00	\$5,000.00	\$3,000.00	\$2,000.00				
6.5	Develop draft Guidelines/Guiding Principles		\$12,000.00	\$8,000.00	\$4,000.00					
6.6	Identify treatments options		\$7,000.00	\$2,000.00	\$5,000.00					
6.7	Apply 4 treatments (research plots;)		\$13,000.00		\$8,000.00	\$5,000.00				
6.8	Develop draft Toolkit		\$14,000.00		\$8,000.00	\$6,000.00				
6.9	Monitor treatments		\$24,000.00		\$8,000.00	\$8,000.00	\$8,000.00			
6.10	Review Copy-Forest Fuels Water Quality Guiding Principles		\$8,000.00			\$8,000.00				
6.11	Draft Forest Fuels Water Quality Guiding Principles Document		\$12,000.00				\$12,000.00			
6.12	Printing-distribution of Forest Fuels Water Quality Guiding Principles Document									
Work Item 7: Project Implementation and Monitoring Contingency		% of total	3.2	\$69,700.00	\$6,700.00	\$8,000.00	\$17,000.00	\$18,000.00	\$20,000.00	\$69,700.00
Project Total		% total (check)	100	\$2,150,000.00	\$200,000.00	\$200,000.00	\$500,000.00	\$600,000.00	\$650,000.00	\$2,150,000.00
			sum check	\$2,150,000.00						

10-0102

ATTACHMENT D
Settlement Agreement

10-0103

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (this "Agreement") is made and entered into by Northstar Mountain Properties, LLC ("NMP") and the Prosecution Team of the California Regional Water Quality Control Board, Lahontan Region ("Prosecution Team") (collectively, the "Parties") with reference to the following facts:

RECITALS

A. On or about October 5, 2007, the Prosecution Team contacted representatives of NMP to inform them that the Prosecution Team's Administrative Civil Liability investigation determined that NMP allegedly violated (1) waste discharge requirements prescribed by the statewide general permit for storm water discharges associated with construction activity (State Water Resources Control Board Order No. 99-08-DWQ), (2) waste discharge prohibitions specified by the *Water Quality Control Plan for the Lahontan Region*, (3) terms and conditions of a Clean Water Act section 401 Water Quality Certification, and (4) Cleanup and Abatement Order No. R6T-2006-0049. The Prosecution Team alleges that the above-referenced permit, regulations, certification, and order were violated as a result of construction activities conducted on the following project areas:

1. Northstar Village, WDID No. 6A31C325917;
2. Northstar Intercept Lots, Phase I, WDID No. 6A31C335494;
3. Northstar Employee Housing / Sawmill Heights, WDID No. 6A31C335581;
4. Northstar Highlands View Drive / Highway 267 Interchange - WDID No. 6A31C333755;
5. Northstar Drive Roundabout - WDID No. 6A31C333754;
6. Northstar Trailside Townhomes - WDID No. 6A31C339949;
7. Northstar Highlands - Village Run Fill Site - WDID No. 6A31C342716;
8. Northstar Drive/Basque Road Improvements - WDID No. 6A31C329713;
9. Northstar Schaffer's Camp Restaurant - WDID No. 6A31C324687;
10. Northstar Highlands Drive - WDID No. 6A31C333756; and
11. Northstar Highlands Resort Hotel - WDID No. 6A31C339910.

A violation summary table (the "Violation Summary") detailing the alleged violations at each of the above project areas is provided as Attachment 1 to the Administrative Civil Liability Order No. R6T-2008-(PROPOSED) (the "ACL Order"), which is attached hereto as Exhibit "A" and is incorporated herein by reference.

B. Since October 2007, the Parties have conferred for the purpose of settling the matter and the allegations described herein without issuing an Administrative Civil Liability Complaint and conducting a formal hearing. NMP, therefore, enters into this Agreement and the ACL Order without the admission of any fact or the adjudication of any issue in this matter.

C. The Parties, through their respective representatives, have reached a settlement agreement for the alleged violations detailed in the Violation Summary and Recital A above. The Prosecution Team has agreed to propose the ACL Order for adoption at

the California Regional Water Quality Control Board, Lahontan Region's ("Lahontan Water Board") **July 23-24, 2008**, meeting, or the next available regular or special meeting in or near South Lake Tahoe. This ACL Order and settlement is subject to approval by the Lahontan Water Board after the public is provided with notice and an opportunity to comment on the proposed settlement as provided below.

D. The general terms of the settlement are that NMP will, in exchange for a full and final release of all claims arising out of all known and unknown storm water program violations for the project areas listed in Recital A, above, prior to December 31, 2007, including those detailed in the Violation Summary in Attachment 1, this Settlement and the ACL Order, (1) pay an administrative civil liability of \$600,000 to be distributed between the State Water Resources Control Board's (State Water Board) Cleanup and Abatement Account (\$480,000) and the Waste Discharge Permit Fund (\$120,000), and (2) undertake the *Northstar Mountain Properties Supplemental Environmental Project, Waddle Ranch Watershed Improvement Program* (SEP) at a cost of \$2,150,000, in accordance with the specific terms and conditions of the SEP detailed in the ACL Order.

E. As a material condition of this Agreement, NMP represents and warrants that the SEP is not and was not previously contemplated, in whole or in part, by NMP or any related entity for any other purpose, except to partially satisfy NMP's obligations as may be ordered in response to the alleged violations detailed in the Violation Summary attached to the ACL Order, and that the SEP would not be undertaken by NMP or any related entity in the absence of this enforcement action. NMP also affirms that, to the best of its knowledge, NMP, its officers, directors, shareholders, and their family members, will not receive any direct or indirect financial benefit from the SEP and will not use the SEP to satisfy any legal obligation other than that in this Agreement.

F. In order to facilitate the approval of the proposed settlement, and to carry out its terms, the Parties desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, in exchange for their mutual promises and for other good and valuable consideration specified herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Parties agree to support, advocate for, and promote the adoption of the ACL Order at the Lahontan Water Board's **July 23-24, 2008** meeting, or the next available regular or special meeting in or near South Lake Tahoe, following public notice and comment subject to NMP's option in Section 10 below. The ACL Order is an indivisible component of this Agreement and the Parties' settlement. For this reason, if the Lahontan Water Board fails to adopt the ACL Order without modification (unless the modifications are for minor changes agreed to by NMP or are specifically agreed upon by both Parties) or the ACL Order is challenged by a third party and is overturned, this Agreement is void.

2. NMP covenants and agrees that it will not contest or otherwise challenge this Agreement, which incorporates the ACL Order, before the Lahontan Water Board, the State Water Board, or any court. The Assistant Executive Officer likewise covenants

and agrees that the Prosecution Team will not contest or otherwise challenge this Agreement before the Lahontan Water Board, the State Water Board, or any court.

3. NMP agrees to provide payment in cash in the amount of \$600,000 to be distributed between the State Water Board's Cleanup and Abatement Account (\$480,000) and the Waste Discharge Permit Fund (\$120,000). A total of \$300,000 of this payment must be made **within 10 days** of receiving written notice from the Lahontan Water Board that the State Water Board has not received any petitions for the ACL Order within the time provided in Water Code section 13320 and that no judicial challenge has been made within the time provided in Water Code section 13330, or that such challenges were received, but all claims contained therein have been resolved in favor of the Lahontan Water Board such that the ACL Order remains unchanged and effective. Provided the conditions for the first \$300,000 payment are met, NMP must make an additional payment of \$300,000 to be distributed between the State Water Board's Cleanup and Abatement Account (\$240,000) and the Waste Discharge Permit Fund (\$60,000). This second payment is due to the Lahontan Water Board by close of business (5:00 p.m.) **one year from the date** payment is required for the first payment set forth above. If the conditions for the first \$300,000 payment are met, NMP also agrees to make quarterly payments over a five year period into a trust account or other impoundment account (SEP Fund) established as required by Finding No. 7 of the ACL Order. The payments must meet or exceed the amounts specified in the ACL Order and the payments must be submitted in accordance with or prior to the payment schedule provided therein. In NMP's sole discretion, it may pre-pay into the SEP Fund, provided, however, that in no instance shall NMP's total payments to the SEP Fund exceed \$2,150,000. Upon full payment of the \$2,150,000 to the SEP Fund as described in this Agreement and the ACL Order, NMP shall have no further responsibility to contribute any monies to the SEP Fund, the Cleanup and Abatement Account, or the Waste Discharge Permit Fund.

NMP shall provide the Prosecution Team with assurance that it will meet its financial responsibility for paying the liability proposed herein by providing a suitable assurance instrument satisfactory to the Assistant Executive Officer within **10 days** of receiving written notice from the Lahontan Water Board that the State Water Board has not received any petitions for the ACL Order within the time provided in Water Code section 13320 and that no judicial challenge has been made within the time provided in Water Code section 13330, or that such challenges were received, but all claims contained therein have been resolved in favor of the Lahontan Water Board such that the ACL Order remains unchanged and effective. The assurance instrument may be in the form of a bond, guarantee, assignment of funds, or similar assurance instrument that is acceptable to the Assistant Executive Officer, which acceptance shall not be unreasonably or untimely withheld. The assurance instrument (i) shall be reduced on an annual basis to cover only the outstanding amount that NMP owes towards the SEP Fund for the remaining term of the SEP as of September 1 of that year; (ii) shall be in effect from September 1 of one year to August 30 of the following year; (iii) shall not expire until the following year's assurance instrument is established, fully paid, and active; and (iv) shall be reduced each year as NMP makes its payments to the SEP Fund under ACL Order No. 3a according to the following schedule:

2008-2009: Assurance of \$2,050,000 (initial \$100,000 will have already been paid in accordance with Order No. 3 of the ACL Order).

2009-2010: Assurance of \$1,800,000.
2010-2011: Assurance of \$1,375,000.
2011-2012: Assurance of \$800,000.

There shall be no assurance required for the final December 31, 2012, payment in the amount of \$162,500 after the 2011-2012 assurance expires in August 2012.

The parties agree that any permit fees and costs borne by NMP related to the implementation of the SEP, including, but not limited to, 401 Water Quality Certification, county application processing fees, CEQA compliance costs (including costs associated with the preparation of CEQA documents and studies), and the like, shall be paid by NMP from funds designated for use in implementation of the SEP. NMP and the Lahontan Water Board agree to use best efforts to coordinate with other entities affected by the SEP (e.g., the Truckee Donner Land Trust for its Waddle Ranch land) to minimize permit fees and to share SEP implementation fees to the extent practicable.

4. In the event that the Lahontan Water Board's Executive Officer or his delegee and NMP agree (i) that the SEP will not proceed for reasons beyond NMP's control, or (ii) that the SEP requires an amendment to better achieve its intended purposes, the parties shall meet and confer to discuss resolution. If the SEP will not proceed for reasons beyond NMP's control or requires minor amendments, the Parties may agree upon an alternative supplemental environmental project(s) (Alternative SEP) to be approved by the Executive Officer or his delegee, but shall require the approval of the Lahontan Water Board for substantial or significant changes to the original SEP. Funds deposited into the SEP Fund per the ACL Order will be devoted to the Alternative SEP. In the event that no Alternative SEP is agreed upon by the Parties and/or approved by the Lahontan Water Board within one year of the parties agreeing that the SEP is not viable, then funds already in the SEP Fund and funds required to be paid to the SEP Fund in the future will be deposited into the State Water Board's Cleanup and Abatement Account (80%) and the State Water Board's Waste Discharge Permit Fund (20%).

5. All SEP Fund monies shall be distributed before January 31, 2013, unless the schedule for the SEP is extended as provided below. Any funds remaining in the SEP Fund as of January 31, 2013, or the time for completion of the SEP as extended below, will be paid to the State Water Board's Cleanup and Abatement Account (80%) and the State Water Board's Waste Discharge Permit Fund (20%) (or other fund(s) that the applicable California Water Codes directs payment to at the time). NMP may make a written request to the Executive Officer to extend any SEP deadline by up to one year for good cause. The Executive Officer may approve extensions of the SEP of up to one year, which approval shall not be unreasonably withheld. The Lahontan Water Board may in its discretion approve an extension of more than one year for implementation of the SEP, if requested in writing by NMP.

6. Any interest paid into the SEP Fund will be applied towards NMP's obligations for future SEP payments.

7. NMP and its respective successors and assigns, employees, officers, shareholders, agents, attorneys, members, managers, affiliate entities, and representatives hereby

release and discharge the Lahontan Water Board, including its agents, attorneys, employees, officers, board members and representatives, from any and all claims, demands, actions, causes of action, obligations, damages, penalties, liabilities, debts, losses, interest, costs, or expenses of whatever nature, character, or description, that they may have or claim to have against one another by reason of any matter or omission arising from any cause whatsoever relating to the ACL Order and this Agreement.

8. Upon NMP's performance of its obligations under this Agreement, the Lahontan Water Board, including its agents, attorneys, employees, officers, board members and representatives, shall release and discharge NMP and its respective successors and assigns, employees, officers, shareholders, agents, attorneys, members, managers, affiliate entities, and representatives from any and all claims, demands, actions, causes of action, obligations, damages, penalties, liabilities, debts, losses, interest, costs, or expenses of whatever nature, character, or description, that it may have or claim to have against NMP by reason of any matter or omission arising from any cause whatsoever relating to the ACL Order and this Agreement. The Parties understand that this release and discharge shall apply to all storm water claims and violations, including unknown or unsuspected claims or violations, regarding the Violation Summary or storm-water related violations existing up to and including December 31, 2007. Notwithstanding this section, however, the Lahontan Water Board expressly retains authority to enforce any and all prospective violations and reserves its rights regarding non-storm water related violations occurring prior to December 31, 2007.

9. NMP agrees that, if NMP, or any related entity, publicizes the SEP or the results of the SEP, it will state in a prominent manner that the SEP is being undertaken as part of the settlement of this enforcement action by the Lahontan Water Board. NMP and the Prosecution Team agree to work in good faith and use best efforts to collaborate on a joint press release publicizing the ACL Order, the Agreement and the SEP, which shall be published immediately upon the approval by the Lahontan Water Board of the Agreement, the ACL Order and the SEP.

10. Upon execution of this Agreement by NMP and the Prosecution Team, the Prosecution Team shall promptly publish in the *Reno Gazette-Journal* and/or the *Sierra Sun*, newspapers of general circulation in the Truckee, Tahoe and Reno areas, the availability of the Agreement for the purpose of accepting public comments on the Agreement for a period of 30 days. The Lahontan Water Board will consider public comments received prior to adopting the ACL Order and retains discretion to approve or reject the settlement. NMP shall have the opportunity to review and comment to the Prosecution Team on the public's comments to the ACL Order, the Agreement or the SEP, which NMP responsive comments shall be included wholesale in the Lahontan Water Board agenda packet or incorporated into the Lahontan Water Board staff's comments in the agenda packet or presented at the Water Board meeting to the extent reasonable and practicable. However, within five (5) days of the close of public comments, NMP reserves the right to terminate this Agreement by written notice to the Prosecution Team subject to the approval of the Assistant Executive Officer, which approval shall not be unreasonably withheld. In the event NMP exercises this right, the Agreement shall be of no further force or effect and this matter shall proceed as set forth in Section 11 below.

11. In the event that this Agreement does not take effect, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing for the Lahontan Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions, including this Agreement, the ACL and the SEP, will not be admissible as evidence in the hearing. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to, objections related to prejudice or bias of any of the Lahontan Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions, and therefore may have formed impressions or conclusions, prior to conducting the contested evidentiary hearing. NMP enters into this Agreement and ACL Order without the admission or denial of any fact or the adjudication of any issue set forth therein.

12. This is an integrated Agreement. This Agreement is intended to be a full and complete statement of the terms of this Agreement between the Parties, and expressly supersedes any and all prior oral or written agreements, covenants, representations, and warranties (express or implied) concerning the subject matter of this Agreement.

13. Each person executing this Agreement in a representative capacity represents and warrants that he or she is authorized to execute this Agreement on behalf of and to bind the entity on whose behalf he or she executes the Agreement.

14. This Agreement shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

15. If any portion of this Agreement is ultimately determined not to be enforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

16. This Agreement shall not be modified by any of the Parties by oral representation made before or after the execution of this Agreement. All modifications must be in writing and signed by the Parties.

17. Each party to this Agreement shall bear all attorneys' fees and costs arising from that party's own counsel in connection with the matters referred to herein.

18. The Parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

19. This Agreement may be executed as duplicate originals, each of which shall be deemed an original Agreement, and all of which shall constitute one agreement.

20. This Agreement is made and entered into for the sole benefit and protection of the Parties hereto and their respective successors and assigns. No person or entity other than

the Parties hereto and their respective successors and assigns shall have any right of action under this Agreement or any right to enforce the terms and provisions hereof.

21. All Recitals set forth above, the ACL Order, and all attachments thereto are incorporated into this Agreement by reference as if fully set forth herein.

22. Any notice required under this Agreement shall be made by both certified first class United States mail and electronic mail to all the following parties:

NMP: Northstar Mountain Properties, LLC
Attn: Blake Riva
P.O. Box 2537
Truckee, CA 96160
email: briva@ewptahoe.com

With a copy to: Porter Simon
Attn: James L. Porter, Jr.
40200 Truckee Airport Road
Truckee, CA 96161
email: porter@portersimon.com

Prosecution Team: Lahontan Regional Water Quality Control Board
Attn: Robert Dodds
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150
email: rdodds@waterboards.ca.gov

With a copy to: Office of Enforcement
State Water Resources Control Board
Attn: Jorge Leon, Senior Staff Counsel
1001 I. Street
Sacramento, CA 95814
email: jleon@waterboards.ca.gov

All notices required under this Agreement shall be in writing and shall be deemed given when deposited in the mail, certified, and postage prepaid and when given by electronic mail. Any party hereto may designate a different address or electronic mail address by following the procedures for notice set forth in this Section 22.

This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

For the Lahontan Water Board's Prosecution Team:

Date: May 21, 2008

By: _____
Robert Dodds
Assistant Executive Officer

Approved as to Form:

Jorge A. Leon
Jorge Leon
Counsel to Prosecution Team

**For the NORTHSTAR MOUNTAIN PROPERTIES, LLC,
a Delaware limited liability company**

By: **NMP HOLDINGS, LLC,
a Delaware limited liability company, its Manager**

By: **EAST WEST RESORT DEVELOPMENT V, L.P., L.L.L.P.,
a Delaware limited partnership registered as a limited liability
limited partnership, its member and Manager**

By: **HF HOLDING CORP.,
a Colorado corporation, its sole General Partner**

Date: _____

By: _____
Blake L. Riva
Vice President

Approved as to Form:

James L. Porter, Jr.
Counsel to Northstar Mountain
Properties, LLC

This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

For the Lahontan Water Board's Prosecution Team:

Date: _____

By: _____

Robert Dodds
Assistant Executive Officer

Approved as to Form: _____

Jorge Leon
Counsel to Prosecution Team

**For the NORTHSTAR MOUNTAIN PROPERTIES, LLC,
a Delaware limited liability company**

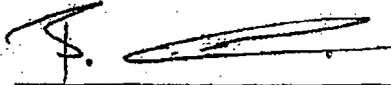
**By: NMP HOLDINGS, LLC,
a Delaware limited liability company, its Manager**

**By: EAST WEST RESORT DEVELOPMENT V, L.P., L.L.L.P.,
a Delaware limited partnership registered as a limited liability
limited partnership, its member and Manager**

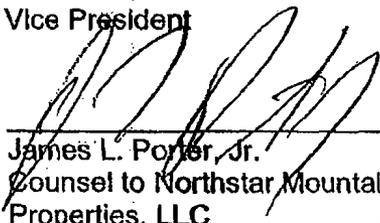
**By: HF HOLDING CORP.,
a Colorado corporation, its sole General Partner**

Date: May 21, 2018

By: _____


Blake L. Riva
Vice President

Approved as to Form: _____


James L. Porter, Jr.
Counsel to Northstar Mountain
Properties, LLC

ENCLOSURE 3



N·C·S·D

Northstar Community Services District
908 Northstar Drive, Northstar, CA 96161
P: 530.562.0747 • F: 530-562.1505 • www.northstarcsd.com

JUN 11 2008

HJS

Board of Directors

DUANE EVANS
JEANN GREEN
NANCY IVES
MIKE MOLL
FRANK SEELIG

General Manager

MICHAEL STAUDENMAYER

June 6, 2008

Mr. Harold Singer
Executive Officer
California Regional Water Quality Control Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Dear Mr. Singer,

I am writing in response to the Lahontan Regional Water Quality Control Board request for public comment on the proposed settlement of claims and alleged violations associated with Northstar Mountain Properties, LLC (NMP) development projects at Northstar.

I am supportive of the staff's recommendation to use a Supplemental Environmental Project (SEP) as a vehicle to convert violation revenue into something positive for the environment. However, I do have to question the methodology used to determine the physical location of the beneficiary projects.

First, it would seem to me that the nexus between the violation activity and the location of the proposed SEP would be critical to carrying out the ultimate objective of protecting water quality within a particular watershed. Obviously, the activity that caused the violations to occur is related to an extraordinary development project which in turn directly and indirectly raises the risk factors to water quality. Although the direct impacts have been mitigated via the permitting process, many indirect risk factors remain primarily as a result of having more human activity in the area.

As the SEP is intended to serve as a model of various environmental treatments to enhance a watershed it would seem to be more beneficial to conduct such projects in a more urban watershed where the results can be more directly applied to mitigate future project impacts and restore past development practice conditions. Given the history and the current land development plan, the Northstar area is perfectly suited to accomplish this goal. Waddle ranch has not seen nor will it ever see this type of development activity.

Finally, the threat of catastrophic wild fire is at the forefront of the risk factors to water quality that is inherently increased with the population growth in this type of setting. Over the years the District and others within the community have completed numerous fuel reduction projects to help mitigate the risk. Even still, much more work needs to be done to really make a difference.

Recently, the District enhanced its Fuels Management Program with the hire of a District Forester who will plan, coordinate and manage fuel reduction and forest health projects within our community. We are aggressively chasing funding to leverage this program infrastructure with the objective of making every dollar received go towards actual on-the-ground work.

It is in this regard that I urge you and your board to consider redirecting a substantial portion of the SEP funds to projects at Northstar. With the District's existing Fuels Management Program and in-house Forester the SEP funds would be optimized to ensure that every dollar be utilized entirely for real on-the-ground project work in an area whose growing risk of wild fire is threatening the Martis Creek watershed.

Sincerely,

Mike Staudenmayer
General Manager, Northstar Community Services District

10-0115



California Regional Water Quality Control Board

Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

July 3, 2008

Mike Staudenmayer, General Manager
Northstar Community Services District
908 Northstar Drive
Northstar, CA 96161

RESPONSE TO COMMENT ON PROPOSED SETTLEMENT OF ADMINISTRATIVE CIVIL LIABILITY, NORTHSTAR MOUNTAIN PROPERTIES, LLC

Thank you for your June 6, 2008, comment letter on the proposed settlement of administrative civil liability with Northstar Mountain Properties, LLC. The proposed settlement includes funding of a Supplemental Environmental Project (SEP) in the amount of \$2.15 million. The SEP consists of implementing restoration efforts and watershed improvements on the Waddle Ranch property. The SEP also includes developing two products that will address specific gaps in watershed and forestry management: (1) the "Watershed Evaluation, Treatment and Monitoring Handbook," and (2) the "Fuels Treatment/Water Quality Protection Handbook."

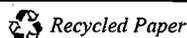
It is our understanding you disagree with the proposed SEP because it is not located with an urbanized portion of a watershed, commensurate with the level of urbanization in the area where the alleged violations occurred. Alternatively, we understand that you prefer watershed restoration projects to occur within the urbanized portions of the Northstar area where the results can be more directly applied to mitigate impacts associated with future projects and past development practices. We also understand that you are requesting SEP funds to be re-directed toward fuels reduction and forest health projects within the Northstar community.

Please be advised that SEPs must be proposed by the discharger subject to administrative civil liability, and that SEP proposals must meet the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002 (Enforcement Policy). Currently, your alternative proposal is not part of the SEP proposed by Northstar Mountain Properties. Additionally, your alternative proposal has not been vetted with respect to cost, area boundaries, time frames, deliverables, community support, and other information needed to evaluate it with respect to the Enforcement Policy's SEP criteria.

Response to Relocating Restoration Projects to Urbanized Areas of the Northstar Community

There is the likelihood that directing SEP funds to projects in the Northstar community could directly or indirectly benefit Northstar Mountain Properties. It is the Water Board staff's position regarding SEPs that it is inappropriate for SEPs to benefit the discharger (in this case, Northstar Mountain Properties). Directing the SEP funds to projects in the Northstar community could address restoration or fire reduction efforts that may be already required of Northstar Mountain

California Environmental Protection Agency



10-0117

Properties. The State Water Board's Enforcement Policy indicates that SEPs shall only consist of measures that go above and beyond the obligation of the discharger. Therefore, such a SEP project would be inconsistent with the Policy.

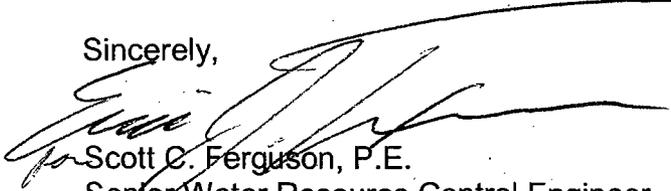
Northstar Mountain Properties, LLC's Proposed SEP

The proposed SEP incorporates forest fuels reduction and watershed restoration activities on a non-urbanized property that is not subject to the Placer County storm water regulatory program in its current state. Additionally, the proposed SEP incorporates a rigorous monitoring program that will allow multiple stakeholders to determine the direct impact to water quality from fuels treatment so that, in the future, they will be able to place a water quality price on fuels reduction work when developing such projects. Furthermore, the proposed SEP will result in a "Fuels Treatment/Water Quality Protection Handbook" as one of its deliverables. This manual will be directly beneficial to land managers, such as yourself, to effectively conduct forest fuels reduction efforts in a manner that is more protective of water quality.

The proposed SEP meets the criteria established by the enforcement policy in that it (1) consists of measures that go above and beyond the current and future obligation of Northstar Mountain Properties; (2) will directly benefit surface water quality and associated beneficial uses by identifying pollutant sources through a watershed assessment for impacts associated with past development practices, and implementing corresponding public awareness projects and corresponding watershed restoration projects addressing the identified pollutant sources; (3) will not directly benefit the Water Board functions or staff; and (4) is not otherwise required of Northstar Mountain Properties. The proposed SEP also satisfies several additional SEP qualification criteria identified in the Enforcement Policy.

Your comment letter and staff's response letter will be provided to the Lahontan Water Board as part of its agenda package for its July 23-24, 2008 Board meeting. Please contact Eric Taxer at (530) 542-5434 or me at (530) 542-5432 if you have any questions regarding staff's response.

Sincerely,



for Scott C. Ferguson, P.E.
Senior Water Resource Control Engineer
Enforcement Unit

cc: Northstar Mailing List

EJT/clhT: Northstar Mountain Properties/Northstar Mountain Properties, Response to NCSD, 2008-07-01 #2 EJT
File Under: NPDES Storm Water Construction/Placer County/Northstar

1. Northstar Village, WDID No. 6A31C325917
2. Northstar Intercept Lots, WDID No. 6A31C335494
3. Northstar Employee Housing, WDID No. 6A31C335581
4. Northstar Drive & Basque Road Intersection, WDID No. 6A31C329713
5. Northstar Highlands Drive and Hwy 267 Interchange, WDID No. 6A31C333755
6. Northstar Highlands Drive, WDID No. 6A31C333756
7. Northstar Drive Roundabout, WDID No. 6A31C333754
8. Northstar Highlands Resort Hotel, WDID No. 6A29C333910
9. Northstar Trailside Townhomes, WDID No. 6A29C333949
10. Northstar Schaffer's Camp Restaurant, WDID No. 6A31C324687
11. Northstar Village Run Fill Site, WDID No. 6A29C342716

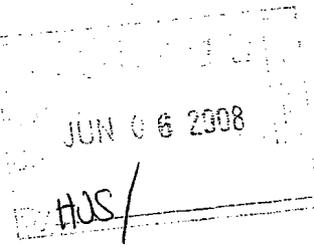
ENCLOSURE 4



N.C.S.D

Northstar Fire Department

Northstar Community Services District
910 Northstar Drive, Northstar, CA 96161
P: 530.562.1212 • F: 530-562.0702 • www.northstarscd.com



Board of Directors

DUANE EVANS
JEANN GREEN
NANCY IVES
MIKE MOLL
FRANK SEELIG

Fire Chief

MARK SHADOWENS

June 4, 2008

Mr. Harold Singer
Executive Officer
California Regional Water Quality Control Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Dear Mr. Singer,

I am writing in response to the Lahontan Regional Water Quality Control Board request for public comment on the proposed settlement of claims and alleged violations associated with Northstar Mountain Properties, LLC (NMP) development projects at Northstar.

I support the staff's position in utilizing a Supplemental Environmental Project (SEP) as a method of implementing watershed restoration efforts. However I strongly disagree with the decision to utilize all SEP funds outside of the Northstar community.

It is my feeling as the Fire Chief responsible for fire protection of the Northstar community that a substantial portion of the SEP funds should be spent wholly within the community and watershed in which the violations occurred. From a fire perspective, riparian areas have become corridors for fire movement as seen in the recent Angora Fire. Exclusion of forest/riparian management and fuels treatment in these areas has developed some of the heaviest concentrations of ladder and surface fuels seen anywhere in our forests. If a catastrophic wildfire occurred within the community of Northstar, it would have detrimental effects to the watershed which would result in the following:

- Excessive amounts of nutrients and sediment would be deposited into Upper and West Martis Creek, which in turn would impact Martis Creek Lake National Recreation Area.
- Degraded water quality, altering nutrient fluxes and cycling.
- Loss of wildlife (terrestrial and aquatic habitat)

The majority of riparian habitat within the Northstar Community has heavy concentrations of fuels due to conifer encroachment. Conifer encroachment within these areas has "choked" out native species such as Quaking Aspen (*Populus tremuloides*), Mountain Alder (*Alnus tenuifolia*) and various Willow species (*Salix Sp.*). The result is a subsequent build up of dead wood and establishment of fire adapted species. By allowing a portion of SEP funds to be spent within the community of Northstar there is an opportunity to combine the efforts of forest fuels reduction in conjunction with watershed improvements in riparian areas to enhance the following: erosion and sediment control, restoration of native riparian species, wildlife habitat improvement, floodwater retention, groundwater recharge, overall water quality improvement, and protection of a community.

10-0120

I would like to thank you for the opportunity to provide comments regarding the proposed settlement. I would be happy to coordinate a meeting so that we can directly discuss the benefits of spending SEP funds within the community of Northstar in more detail.

Sincerely,

A handwritten signature in black ink, appearing to read 'msh', followed by a horizontal line extending to the right.

Mark Shadowens
Fire Chief
Northstar

10-0121

ENCLOSURE 5



California Regional Water Quality Control Board

Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

July 1, 2008

Mark Shadowens, Fire Chief
Northstar Community Services District,
Northstar Fire Department
910 Northstar Drive
Northstar, CA 96161

RESPONSE TO COMMENTS ON PROPOSED SETTLEMENT OF ADMINISTRATIVE CIVIL LIABILITY, NORTHSTAR MOUNTAIN PROPERTIES, LLC

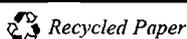
Thank you for your June 4, 2008, comment letter on the proposed settlement of administrative civil liability with Northstar Mountain Properties, LLC. The proposed settlement includes funding of a Supplemental Environmental Project (SEP) in the amount of \$2.15 million. The SEP consists of implementing restoration efforts and watershed improvements on the Waddle Ranch property. The SEP also includes developing two products that will address specific gaps in watershed and forestry management: (1) the "Watershed Evaluation, Treatment and Monitoring Handbook," and (2) the "Fuels Treatment/Water Quality Protection Handbook."

It is our understanding you support a SEP that implements watershed restoration efforts. It is our further understanding you disagree with the proposed SEP because it consists of projects located entirely outside of the Northstar community. As an alternative, you propose allocating an unspecified portion of the \$2.15 million in SEP funding to be spent within the Northstar community to implement forest fuels reduction efforts in conjunction with watershed improvements in riparian areas.

Your alternative suggestion for fuels reduction and watershed improvement projects within the Northstar community is not without merit. However, SEPs must be proposed by the discharger subject to administrative civil liability, and must meet the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002 (Enforcement Policy). Currently, your alternative proposal is not part of the SEP proposed by Northstar Mountain Properties, LLC. Additionally, your alternative proposal has not been vetted with respect to cost, area boundaries, time frames, deliverables, community support, and other information needed to evaluate it with respect to the Enforcement Policy's SEP criteria.

In addition, there is the likelihood that directing these SEP funds to projects in the Northstar community could directly or indirectly benefit Northstar Mountain Properties. It is the Water Board staff's position regarding SEPs that it is inappropriate for SEPs to benefit the discharger (in this case, Northstar Mountain Properties). Directing the SEP funds to projects in the

California Environmental Protection Agency



10-0123

ENCLOSURE 6

TRUCKEE RIVER WATERSHED COUNCIL

PO Box 8568
Truckee, CA 96162
Ph: 530-550-8760
Fax: 530-550-8761
www.truckeeriverwc.org

April 11, 2008

Bob Dodds
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd
S. Lake Tahoe, CA 96150

Dear Bob,

The Truckee River Watershed Council (TRWC) would like to offer our support of the DRAFT Northstar Mountain Properties Supplement Environmental Project (SEP) titled "Waddle Ranch Watershed Improvement Program."

TRWC is generally in favor of fines for water quality violations being settled via SEPs and having been briefed on this specific SEP by Michael Hogan we support its approval by the Lahontan Regional Water Quality Control Board. Our support is based on the March 10, 2008 draft of the SEP proposal.

We support the proposed SEP because it is consistent with TRWC's mission and approach to restoration projects: it includes the evaluation of Waddle Ranch for stream restoration and fire and fuel treatment requirements. The evaluation will yield a suite of specific projects for restoration and fuel management. Road removal and trail construction improvements are likely to be included in the mix of projects. The restoration, road and trails, and fuel management projects will be monitored for their impact on water quality and riparian (and where applicable wetland and meadow) habitat. The results of the projects will be available to the public and community participation will be encouraged wherever feasible.

Additionally, this program can take advantage of the protocols and methods of the California Watershed Assessment Manual (www.cwam.ucdavis.edu) and can be coordinated with several other monitoring and restoration efforts underway in Martis Valley -- further leveraging the benefits to throughout the region.

We hope that all parties remain committed to the quality and integrity of the proposed SEP and that it can be approved in the near term.

Sincerely,



Lisa Wallace
Executive Director

CC:
Michael Hogan, IERS, Inc.
Blake Riva, Northstar Mountain Properties

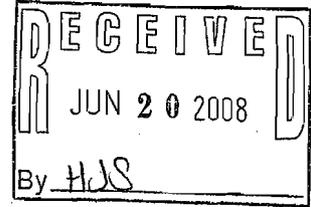
10-0126

ENCLOSURE 7

10-0127

northstar property owners association

June 16, 2008



Mr. Harold Singer, Executive Officer
California Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Dear Mr. Singer,

On behalf of our 1,480 property owners, the Northstar Property Owners Association (NPOA) Board of Directors would like to submit the following comments and suggestions regarding the proposed settlement and allocation of fines resulting from the Northstar Mountain Properties, LLC (NMP) development projects at Northstar.

We are supportive and salute staff's recommendation to use a Supplemental Environmental Project (SEP) to promote the use of violations funds for projects in the community. We understand from news reports that approximately, \$2.1 million from the fines levied on NMP are proposed to be used for restoration of wetlands, wildlife habitat, and improved forest health at the Waddle Ranch property. While we support some expenditure funds for the environmental projects at this important site, we also strongly recommend the use of a significant portion of the funds received from the settlement for forest and stream projects within the Northstar community, where the violations actually took place.

NCSD and NPOA have been active in projects of this kind for many years, but significant work still needs to be done within Northstar to prevent potential wildfires from becoming an environmental catastrophe and funds for doing this are in short supply. Fuel abatement and stream enhancement within the Northstar community are ideal candidates for some significant part of the NMP fines. The need to address the reduction of fuel is paramount and a regional concern. These projects would be perfect and supported by our community. The fines should not be utilized to correct problems caused by the resort owners or NMP in their developments, but they certainly could be used to assist the community in making Northstar fire safe and improving stream water quality.

We have a great opportunity to implement a positive course of action that will benefit both the environment and the community.

On behalf the of Board of Directors and membership,

A handwritten signature in black ink that reads "Geoff".

Geoff Sullivan Stephens
General Manager

ENCLOSURE 8



California Regional Water Quality Control Board

Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

July 3, 2008

Geoff Sullivan Stephens, General Manager
Northstar Property Owners Association
2200 North Village Lane
Truckee, California 96161

RESPONSE TO COMMENT ON PROPOSED SETTLEMENT OF ADMINISTRATIVE CIVIL LIABILITY, NORTHSTAR MOUNTAIN PROPERTIES, LLC

Thank you for your June 16, 2008, comment letter on the proposed settlement of administrative civil liability with Northstar Mountain Properties, LLC. The proposed settlement includes funding of a Supplemental Environmental Project (SEP) in the amount of \$2.15 million. The SEP consists of implementing restoration efforts and watershed improvements on the Waddle Ranch property. The SEP also includes developing two products that will address specific gaps in watershed and forestry management: (1) the "Watershed Evaluation, Treatment and Monitoring Handbook," and (2) the "Fuels Treatment/Water Quality Protection Handbook."

It is our understanding that while you agree, in concept, with the proposed SEP, you disagree with expending a significant portion of the SEP funds on a project located outside of the Northstar community. It is our further understanding that you prefer a significant portion of the SEP funds be re-directed toward forest fuel abatement and stream enhancement projects within the Northstar community. While not detailed, we assume that these projects are needed due to urbanization and resulting hydromodification impacts within the Northstar community.

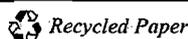
Please be advised that SEPs must be proposed by the discharger subject to administrative civil liability, and that SEP proposals must meet the criteria established by the State Water Board in its *Water Quality Enforcement Policy*, dated February 19, 2002 (Enforcement Policy). Currently, your alternative proposal is not part of the SEP proposed by Northstar Mountain Properties. Additionally, your alternative proposal has not been vetted with respect to cost, area boundaries, time frames, deliverables, community support, and other information needed to evaluate it with respect to the Enforcement Policy's SEP criteria.

Response to Relocating Projects to the Northstar Community

There is the likelihood that directing SEP funds to projects in the Northstar community could directly or indirectly benefit Northstar Mountain Properties. It is the Water Board staff's position regarding SEPs that it is inappropriate for SEPs to benefit the discharger (in this case, Northstar Mountain Properties).

Directing the SEP funds to projects in the Northstar community could address restoration or fire reduction efforts that may be already required of Northstar Mountain Properties. The State Water Board's Enforcement Policy indicates that SEPs shall only consist of measures that go above and beyond the obligation of the discharger. Therefore, such a SEP project would be inconsistent with the Policy.

California Environmental Protection Agency



10-0130

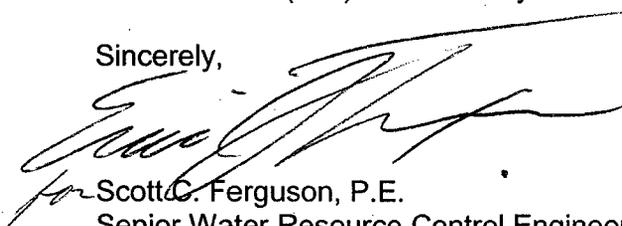
Northstar Mountain Properties, LLC's Proposed SEP

The proposed SEP incorporates forest fuels reduction and watershed restoration activities on a non-urbanized property that is not subject to the Placer County storm water regulatory program in its current state. Additionally, the proposed SEP incorporates a rigorous monitoring program that will allow multiple stakeholders to determine the direct impact to water quality from fuels treatment so that, in the future, they will be able to place a water quality price on fuels reduction work when developing such projects. Furthermore, the proposed SEP will result in a "Fuels Treatment/Water Quality Protection Handbook" as one of its deliverables. This manual will be directly beneficial to land managers, such as yourself, to effectively conduct forest fuels reduction efforts in a manner that is more protective of water quality.

The proposed SEP meets the criteria established by the enforcement policy in that it (1) consists of measures that go above and beyond the current and future obligation of Northstar Mountain Properties; (2) will directly benefit surface water quality and associated beneficial uses by identifying pollutant sources through a watershed assessment for impacts associated with past development practices, and implementing corresponding public awareness projects and corresponding watershed restoration projects addressing the identified pollutant sources; (3) will not directly benefit the Water Board functions or staff; and (4) is not otherwise required of Northstar Mountain Properties. The proposed SEP also satisfies several additional SEP qualification criteria identified in the Enforcement Policy.

Your comment letter and staff's response letter will be provided to the Lahontan Water Board as part of its agenda package for its July 23-24, 2008 Board meeting. Please contact Eric Taxer at (530) 542-5434 or me at (530) 542-5432 if you have any questions regarding staff's response.

Sincerely,



for Scott C. Ferguson, P.E.
Senior Water Resource Control Engineer
Enforcement Unit

cc: Northstar Mailing List

EJT/clhT: Northstar Mountain Properties/Northstar Mountain Properties, Response to NPOA, 2008-07-01 #2 EJT
File Under: NPDES Storm Water Construction/Placer County/Northstar

1. Northstar Village, WDID No. 6A31C325917
2. Northstar Intercept Lots, WDID No. 6A31C335494
3. Northstar Employee Housing, WDID No. 6A31C335581
4. Northstar Drive & Basque Road Intersection, WDID No. 6A31C329713
5. Northstar Highlands Drive and Hwy 267 Interchange, WDID No. 6A31C333755
6. Northstar Highlands Drive, WDID No. 6A31C333756
7. Northstar Drive Roundabout, WDID No. 6A31C333754
8. Northstar Highlands Resort Hotel, WDID No. 6A29C333910
9. Northstar Trailside Townhomes, WDID No. 6A29C333949
10. Northstar Schaffer's Camp Restaurant, WDID No. 6A31C324687
11. Northstar Village Run Fill Site, WDID No. 6A29C342716

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