

Comments

Response

COUNTY OF EL DORADO

DEPARTMENT OF TRANSPORTATION



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September 15, 2011

Bob Larsen  
California Regional Water Control Board, Lahontan Region  
2501 Lake Tahoe Blvd.  
South Lake Tahoe, CA 96150

**Subject: County of El Dorado Comment Letter - 2011 Tentative Municipal NPDES Permit**

Dear Mr. Larsen:

The County of El Dorado (County) respectfully submits the following comments on the updated Tentative Municipal National Pollutant Discharge Elimination System (NPDES) Permit (Permit) for your consideration. We appreciate the opportunity to present these comments and are hopeful that the Regional Water Quality Control Board, Lahontan Region (Lahontan) will find them constructive and can act on them to better meet the needs of both of our agencies. These comments mirror and in some cases supplement comments that were delivered verbally to the Lahontan Board on the evening of September 14, 2011.

The County is, in general, supportive of the Permit as drafted and commends Lahontan on its efforts to date on the Total Maximum Daily Load (TMDL) Program and the Permit. As you know, the County has been thoroughly engaged in the process and the County will continue to help lead the effort toward restoring Lake Tahoe's clarity to the best of its abilities, both financially and from a staffing perspective. That being said, the Permit does raise the compliance bar considerably and the County does have concerns about meeting all of the requirements given the very difficult financial times and short staffing that the County is currently facing. It is difficult to forecast what level the County's financial and staffing resources will be at during the Permit term, however the County does currently believe that additional resources will be readily available in the near future, because grant funding programs have dried up and general fund dollars are not at the level that they have historically been at. The County, like Placer County, is also facing an incredibly more stringent Draft Phase 2 NPDES Permit on the West Slope of the County. This Phase 2 Permit will present numerous challenges and strains on the County's NPDES Program, and it is anticipated that some of those difficulties will carry over to our Lake Tahoe offices, which will continue to make meeting the requirements in the Permit burdensome. However, as stated the County will continue to do everything in its power to work with Lahontan and to meet its permit requirements to improve water quality.

The County submitted comments to Lahontan previously on the Administrative Draft Tentative Permit, which are attached for your reference. Many of those concerns have been addressed, however some have not. Since that time the County has reviewed the Draft Permit and has further comments and concerns which are outlined below.

**Baseline Pollutant Load Estimates**

In February 2011, Lahontan issued a 13267 Order to the California Jurisdictions which required them to calculate their respective baseline pollutant loading estimates for fine sediment, total nitrogen and total phosphorus. Since that time, the County has been diligently working on this exercise and is very close to presenting its baseline pollutant loads to Lahontan. As we have mentioned previously, the County does have concerns over inherent uncertainties that exist within

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<p>El Dorado County Comment Letter Page 2 of 3</p> <p>the Pollutant Load Reduction Model (PLRM), which is being used to calculate the baseline loads. In addition to the stated PLRM uncertainties, no known method exists to model catchment connectivity on an average annual basis and thus that factor, which is believed to be substantial, is not being included in the County's baseline pollutant load estimate. For these reasons, the County requests that Lahontan include clear language that provides the local jurisdictions the opportunity to easily re-open the Permit to adjust its baseline pollutant loading estimates once it gains a more accurate understanding of what those estimates are.</p> <p><b>Traditional NPDES Program Elements - Minimum Control Measures</b> The Federal Clean Water Act requires that NPDES Permits include six minimum control measures which are: Public Education and Outreach, Illicit Discharge Detection and Elimination, Public Involvement, Construction Site Controls, Post-Construction Controls and Municipal Operations Controls. These minimum control measures appear to be adequately represented in the Permit, as drafted and the County feels that the level of effort that will be required to meet those requirements will be difficult, but feasible. To that end, the County can accept the current compliance responsibility with regard to these items, however should additional items be added, or more detailed requirements for each of the control measures be added, the County feels it will be hard pressed to fully comply with those elements due to the increased level of effort that will be required to meet the TMDL programmatic elements. The County appreciates Lahontan's reasonableness with respect to these items in the current draft of the Permit and the County encourages Lahontan to maintain the elements as they are currently drafted so that the County can focus on the TMDL program elements in the Permit.</p> <p><b>Storm Water Management Plan Updates</b> The County is in agreement with the language as drafted in the Permit on this item. The County will revisit and revise its Storm Water Management Plan (SWMP) to better align it with the updated Permit requirements so that the SWMP remains a useful tool.</p> <p><b>Monitoring Requirements</b> As drafted, the County supports the monitoring requirements within the Permit and feels that those requirements will provide useful data that can be used to help validate TMDL Tools and adjust the direction of where resources are focused so that the County continues to focus on areas that pose the greatest threat to water quality. Should monitoring requirements become more stringent or onerous in the Permit, the County cannot guarantee that it can secure the resources necessary to carry out those requirements. Additional water quality monitoring should occur at Lake Tahoe; however the County feels that those additional requirements should not be included in this Permit and that that responsibility should not be unduly shouldered by the California Jurisdictions, but rather by the Regional Storm Water Monitoring Program.</p> <p><b>Participation in the Lake Clarity Crediting Program</b> Participating in the Lake Clarity Crediting Program (Program) will require a substantial ramp-up in administrative process and staff involvement. The Program is detailed, involves many new processes and requires significant amounts of paperwork and the County feels that merely participating in the Program and learning the new processes during the first Permit term will be time consuming. Because of this, the County sees that the bar has been substantially raised from the existing NPDES Permit and again requests that Lahontan keeps the minimum control measures and traditional NPDES program elements at the level they are currently drafted at so that the County can focus on the TMDL program elements in the Permit.</p>	<p><b>ELDOCO R1:</b> The draft permit has been revised to more clearly allow the Permittees to propose changes to the baseline pollutant load values should new information become available.</p> <p><b>ELDOCO R2:</b> The draft Permit has been revised to incorporate minimum control measures required by EPA. "New" requirements include commercial and industrial inspections and reporting and the requirement to develop and implement an Enforcement Response Plan. The Permit must include these minimum elements to meet federal regulations. These elements are not independent of TMDL implementation requirements and are intended to complement Permittees' overall pollutant load reduction efforts.</p> <p><b>ELDOCO R3:</b> The draft permit has been revised to more clearly state that Storm Water Management Plans must be updated to be consistent with revised requirements.</p> <p><b>ELDOCO R4:</b> The monitoring requirements in the draft permit have been edited to more clearly describe expectations regarding site selection sample collection methods. No additional requirements have been added.</p> <p><b>ELDOCO R5:</b> Traditional storm water program elements have been revised in the draft permit to provide Permittees the flexibility to focus resources on those actions directly related to Lake Tahoe TMDL implementation.</p>

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<p><b>BMP RAM and Road RAM Tool Requirements</b>  As you know, the County has concerns about the BMP and Road Rapid Assessment Methodology (RAM) tools that were developed for the TMDL. As such, the County will submit alternate methodologies which provide equivalent results to Lahontan for review and approval. The County has previously requested that the dates for submitting the alternate methodologies be pushed out to October 1, 2012 to provide adequate time to field test the methodologies next summer.</p>	<p><b>ELDOCO R6:</b> The permit, as drafted, acknowledges this and allows Permittees to use alternative methods. The draft permit has been revised to eliminate the deadline for proposing alternative condition assessment methods.</p>
<p><b>Submittal Date Modifications</b>  In previous comment letters and during a meeting at Lahontan on September 6, 2011, the County requested that several submittal dates that are outlined in the Permit be moved out to provide additional time to the co-permittees to produce well drafted and well thought out deliverables. The County is encouraged by the conversations to date, and is hopeful that Lahontan will remain receptive to the County's proposed date modifications.</p>	<p><b>ELDOCO R7:</b> The draft permit has been revised to accommodate Permittee requests regarding various submittal dates.</p>
<p><b>Other Lake Tahoe Basin Agencies and Jurisdictions</b>  As mentioned at the September 14, 2011 Lahontan Board meeting, the County has concerns about activities that are occurring in the non-urban areas of Lake Tahoe, which are not regulated under NPDES Permits. Many of these activities appear to be generating pollutant loading in sensitive areas which are not being accounted for by the TMDL modeling efforts and therefore it seems plausible that even if the local jurisdictions can meet their obligations for load reductions, that Lake Tahoe could continue to decline in clarity due to these other actions. The County is also concerned about the progress on the Nevada side of the Lake and feels that the California jurisdictions may be shouldering an unjust burden for improving Lake Tahoe's clarity. It is the hope of the County that Lahontan continues to work with our Nevada partners and other federal agencies which are performing work without proper controls to curb pollutant loading so that there is a fair stake in meeting the clarity challenge for all participants.</p>	<p><b>ELDOCO R8:</b> The U.S. EPA approved the Lake Tahoe TMDL for the states of California and Nevada on August 17, 2011. The TMDL equally requires all municipalities and road departments to reduce baseline fine sediment particle loading by 10% within the first five years of implementation. The Nevada Division of Environmental Protection has committed to implementing TMDL implementation and tracking requirements consistent with the draft permit.</p>
<p><b>Environmental Protection Agency Concerns</b>  At the September 14, 2011 Lahontan Board meeting, David Smith from the Environmental Protection Agency (EPA) provided comments to the Board that suggested that EPA was going to require Lahontan to add more requirements to the Permit along with specific language about deliverables, expectations and deadlines for the co-permittees to follow. Because we do not know the specifics about what EPA is requesting to be added, it is difficult to provide more detailed comments on this matter; however the County is concerned about EPA's direction to add more requirements to the traditional NPDES program elements and the TMDL program elements that are currently lined out in the Permit. The County looks forward to further dialogue on these developments and hopes that Lahontan can appease EPA's desires without adding more requirements to the Permit.</p> <p>The County appreciates the opportunity to submit these comments and looks forward to continuing to work with our partnering agencies in helping to protect Lake Tahoe. If you have any questions, or wish to discuss the items outlined in this letter further, please do not hesitate to contact me at (530) 573-7905.</p> <p>Sincerely,    Brendan Ferry  Senior Planner  Lake Tahoe Engineering Unit</p>	<p><b>ELDOCO R9:</b> Forest management partners will be required to report load reduction activities and are working to implement load estimation tools to quantify impacts on a project by project basis. The Water Board will continue to work with these agencies to ensure that expected load reduction activities continue and that appropriate management practices are implemented to prevent pollutant load increases.</p>