

Response to Comments – April 19, 2011

Lake Tahoe TMDL for Sediment and Nutrients

*(Comment deadline 12 noon March 18, 2011)*

## **5. California Department of Forestry and Fire Protection**

\*\*\*Note: These Responses commonly reference previous Response to Comments from the Lahontan Water Board, which can be found at [http://www.waterboards.ca.gov/lahontan/water\\_issues/programs/tmdl/lake\\_tahoe/response\\_comments091310.shtml](http://www.waterboards.ca.gov/lahontan/water_issues/programs/tmdl/lake_tahoe/response_comments091310.shtml)\*\*\*

(If printing Response to Comments, please print double-sided for best viewing)



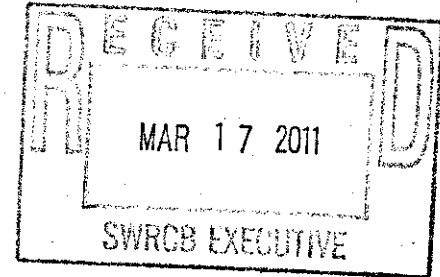
**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246  
SACRAMENTO, CA 94244-2460  
(916) 653-7772  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)



March 17, 2011

California State Water Resources Control Board  
Attn: Jeanie Townsend, Clerk to the Board  
P.O. Box 100  
Sacramento, California 95812-2000



RE: COMMENT LETTER - LAKE TAHOE TMDL

Dear Ms. Townsend:

Thank you for the opportunity to provide comments on the proposed Amendments to the Water Quality Control Plan (Plan Amendments) of the Lahontan Region: Lake Tahoe Total Maximum Daily Load (TMDL). We support updating the Plan with some minor changes addressed below.

The Plan Amendments (page 13) now cite "The Emergency California-Nevada Tahoe Basin Fire Commission Report (May 2008)" (and by extension its recommendations) in the Forest Uplands portion of the Lake Tahoe TMDL implementation plan. However the cited document is not yet included in the "References" cited section. Please add a citation of this document to the "References" section.

Page 13 also now states: "The California Department of Forestry and Fire Protection is responsible for regulating forest practices on private forest lands and works directly with Regional Board staff to minimize the water quality impacts associated with vegetation management." CAL FIRE appreciates this correction to the Plan Amendments.

That said, however, CAL FIRE remains concerned with the monitoring language in the last paragraph of the Forest Uplands portion of the Lake Tahoe TMDL implementation plan (page 13-14) which states:

"The forest upland load reductions are expected to be accomplished through continued implementation of existing watershed management programs described above. The Regional Board will require forest management agencies to track and report load increases and load reduction activities to assess whether required basin-wide forest load reductions are occurring. Some activities, including fuels reduction and associated administrative road construction, have the potential to increase pollutant loading at a project scale. Forest management agencies responsible for these actions must demonstrate that other project activities, including restoration efforts and temporary and/or

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## Comment

## Response

Public Comment  
Lake Tahoe TMDL  
Deadline: 3/18/11 by 12 noon

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY

Edmund G. Brown Jr., Governor

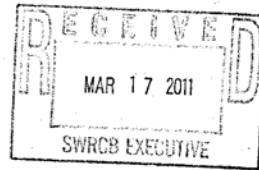


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**CalFire(StBd)-1:** This reference was not relied upon during TMDL development. The citation was added to the Basin Plan Amendment, though the reference was inadvertently left off the reference list. The reference has been included in the Administrative Record for the Lake Tahoe TMDL, however revising the reference list is not critical. A clarification to your comments that although the Basin Plan Amendment cites the fire commission report, this is not the same as "and by extension its recommendations", as this reference was not relied upon during TMDL implementation plan development.

*Comment addressed in Response CalFire(StBd)-2*

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permanent best management practices, will be implemented to compensate for any anticipated project-scale loading increase. These agencies must ensure that no increased loading occurs on a sub-watershed or catchment scale and that the basin-wide fine sediment particle, total nitrogen, and total phosphorus load from the forest uplands is reduced as required by Tables 5.18-2, 5.18-3, and 5.18-4.a".

CAL FIRE is concerned that this paragraph may be misconstrued and that extensive monitoring will be required. If taken literally, this requirement will likely require excessive monitoring along with the potential for costly offsetting mitigation that may be a disincentive to implementation of fuel treatment projects. The resulting misunderstanding and application of this standard may prolong the increased, excessive threats to life and property identified in the "The Emergency California-Nevada Tahoe Basin Fire Commission Report (May 2008)." While this level of monitoring may be appropriate for projects where the topography is altered and considerable bare soil is created, universal application of this level of monitoring is unnecessary and would be an unnecessary cost burden for fuel reduction projects. This is particularly true of fuel reduction treatments that retain residual live and dead groundcover, create no large patches of bare soil, and result in no changes in topography.

It is also noted that other Regional Water Quality Control Boards (RWQCBs) are now emphasizing less costly forms of monitoring for fuel reduction projects. These include visual inspections (particularly after storm events) and photo documentation. For example, the Central Coast RWQCB has a preference for photos taken repeatedly from the same photo points. Furthermore, Timber Harvest Plans and other projects within the Central Valley and North Coast RWQCB jurisdictions tend to be larger in area, and these Boards (particularly the Central Valley RWQCB) have focused on finding erosion and sediment delivery problems after storms and documenting them with photos and narrative descriptions. All three Water Boards have moved away from requiring in-stream monitoring of parameters such as water temperature, turbidity and sediment for most forest management related projects, and we encourage the Lahontan Board to do the same.

CAL FIRE believes that rigorous project-level Best Management Practice (BMP) monitoring, backed by adaptive management research on BMP effectiveness, has proven to be the most efficient and reliable approach to resource protection, including water quality protection. Risks associated with using this monitoring approach appear to be minimal given that extensive post-Angora Fire water quality monitoring findings did not reveal a significant water quality impact resulting from the relatively large Angora Fire. Therefore, it is not likely that low impact small fuels reduction projects will produce significant water quality impacts, either.

To avoid future misunderstanding, we request that a sentence be added to the last paragraph of the Forest Uplands portion of the Lake Tahoe TMDL implementation plan (page 13-14), as follows: "These agencies will ensure no increased loading of the TMDL target constituents primarily through rigorous planning; monitoring, inspection and enforcement of best management practices on individual projects."

## Comment

Ms. Townsend  
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## Response

**CalFire(StBd)-2:** A requirement of TMDLs is to have a monitoring plan and to track activities that lead to attainment of the load allocation. The Forest Upland Source Category has a load allocation for fine sediment, nitrogen, and phosphorus as described in the tables from the paragraph you are referring to above. Currently the details for the monitoring or how to track and report on load changes from forest activities have not been fully developed, however this will occur collaboratively with the Forest Upland Source Category agencies in the future. The Lahontan Water Board 2009 Vegetation Management Waiver of Waste Discharge requirements includes monitoring that has been shown to be both reasonable and effective. There is no reason to expect "excessive monitoring" or "costly offsetting mitigation" resulting in a "disincentive to implementation of fuel treatment projects" will occur. Further, any monitoring or mitigation requirement would be subject to petition if a discharger believed it to be "excessive".

**CalFire(StBd)-3:** In addition to CalFire(StBd)-2 above, monitoring requirements for projects can vary substantially and must be evaluated on a case by case basis. The monitoring requirements will be developed collaboratively with the Forest Upland Source Category Group agencies in the future. In some cases photo documentation and visual inspections may be all that is needed.

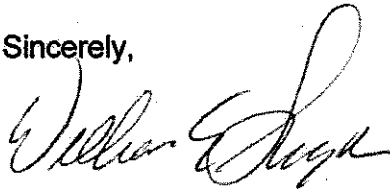
**CalFire(StBd)-4:** The language in the Basin Plan Amendment on pages 13 – 14 provides flexibility for various methods of monitoring for actions taken on forest lands to demonstrate that fuel reduction efforts do not cause load increases. Your suggested text cannot be added at this point because the State Board's options are to either approve the Basin Plan Amendment in its entirety or remand it back to the Regional Board for revisions.

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Finally, CAL FIRE urges the State Water Board to continue to have the Lahontan RWQCB implement the recommendations of the post-Angora Fire Emergency California-Nevada Tahoe Basin Fire Commission Report authorized by both state's Governors. Specifically, Recommendation 16 (Water Board/TRPA Policy Revision) on page 79 and Recommendation 17 (Simplifying Regulations) on page 80-82.

If you have questions, please contact Clay Brandow, CAL FIRE Hydrologist, at (916) 653-0719 or email [clay.brandow@fire.ca.gov](mailto:clay.brandow@fire.ca.gov).

Sincerely,



**WILLIAM E. SNYDER**  
Deputy Director  
Resource Management

cc: Crawford Tuttle  
Duane Shintaku  
Dennis Hall  
Bill Holmes  
Mary Huggins  
Clay Brandow  
Thomas Tinsley  
Jody Gossner  
Kelly Dreesman

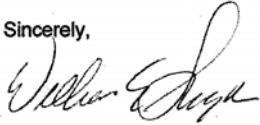
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## Response

**CalFire(StBd)-5:** Recommendation 16 is to update plans and policies to emphasize importance of fuel reduction activities in the Tahoe basin. Recommendation 17 is to simplify the existing regulations for permitting fuel reduction projects. Implementing Recommendations 16 and 17 of the Fire Commission Report is outside of the scope of the Lake Tahoe TMDL; however, the following are steps that the Lahontan Water Board has taken in implementing the recommendations:

In December 2008, the Lahontan Water Board approved a Memorandum of Understanding between the Lahontan Water Board and the Tahoe Regional Planning Agency (TRPA) that waived the need for vegetation management project proponents to get a permit from the Lahontan Water Board if their project was effectively regulated by the TRPA. Since that time the TRPA has been the agency that issues permits for vegetation management projects that mitigate project impacts to less than significant levels.

In May 2009, the Lahontan Water Board approved a new region wide Timber Harvest and Vegetation Management Waiver (2009 Timber Waiver) that can be used in the Tahoe Basin. The 2009 Timber Waiver has multiple categories. Projects that fit the conditions of Categories 1-3 (relatively benign impacts) do not require submittal of any paperwork or notification to the Lahontan Water Board. Categories 4-6 of the 2009 Timber Waiver were developed to allow for vegetation management treatments of varied intensity to fit into different categories. The application and monitoring forms were revamped to aid project proponents with waiver compliance. Projects enrolled under Categories 4 and 5 may proceed upon verification of submittal of a complete application packet to the Lahontan Water Board. Category 6 was developed for projects that propose treatments in areas that have the greatest potential for adverse water quality impacts and may commence thirty days following receipt of a complete application that mitigates project impacts to a less than significant level, or upon notice from the Lahontan Water Board that such an application has been determined to be complete, whichever is sooner. Attachment N to the 2009 Timber Waiver describes those activities that may proceed without the need for an exemption to the waste discharge prohibitions contained in the Water Quality Control Plan for the Lahontan Region (Basin Plan).

Although the Lahontan Water Board has not been regulating fuel reduction projects in the Tahoe Basin since December 2008, Lahontan Water Board staff has been an active participant in the Tahoe Forest Fuels Team and coordinates with the Tahoe Basin Fire Districts and Departments to help facilitate the implementation of fuel reduction projects within the Tahoe Basin.