

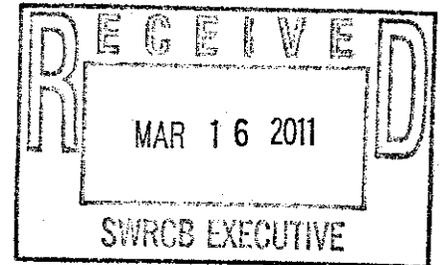
DEPARTMENT OF TRANSPORTATION
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March 18, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000
1001 I Street, 24th Floor, Sacramento, CA 95812-2000
commentletters@waterboards.ca.gov



Re: Comment Letter- Lake Tahoe TMDL

Dear Ms. Townsend:

The California Department of Transportation (Caltrans) appreciates the opportunity to provide comments on the proposed approval of Lahontan Regional Water Quality Control Board (LHRWQCB) Basin Plan Amendment (BPA) that would establish: (1) An Action Plan for the Lake Tahoe Total Maximum Daily Load (TMDL) addressing Phosphorus, Nitrogen, and fine sediment particle impairments in Lake Tahoe; and (2) An Implementation Plan for the Lake Tahoe Basin and related changes to the Basin Plan. Caltrans supports the State Water Resources Control Board's (State Board's) and LHRWQCB efforts to improve water quality in Tahoe Region; however, Caltrans has major concerns with the TMDL Implementation Plan regarding deadlines for implementation.

TMDL Deadlines

Table 5-18.8 of the BPA establishes the Urban Upland Implementation/Reporting Schedule for stakeholders. The table lays out the requirement for establishment of a baseline load for the stakeholders and provides that the stakeholders including Caltrans must submit these "no later than two years after TMDL approval". As a foot note, full adoption is defined as the date of the approval of the United States Environmental Protection Agency (EPA).

After the LHRWQCB adopted the BPA that included these deadlines, the Regional Board issued a 13267 order (dated February 9, 2011) to the stakeholders including Caltrans, directing each jurisdiction to (1) submit a workplan for the baseline pollutant load estimates no later than April 01, 2011 and, (2) must complete and submit the average annual fine sediment particle, total nitrogen and total phosphorus baseline load estimate no later than September 01, 2011. This is far in advance of the deadline set by the TMDL. By issuing the 13267 letter, the LHRWQCB has aggressively pushed the deadlines forward and made compliance significantly difficult. We request that language be modified in the BPA to clearly allow a 2 year window to the stakeholders to develop, complete and submit the baseload estimates within their jurisdictions.

Ms. Jeanine Townsend
March 18, 2011
Page 2

Funding:

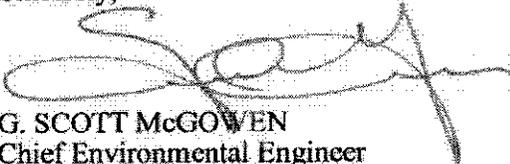
It is certain that significant additional resources will be needed to implement the provisions of this TMDL. Caltrans cannot unilaterally impose user or utility "fees" to pay for the TMDL implementation. In response to our earlier comments to the LHRWQCB, the water board states that, "if pollutant load reductions are not achieved due to lack of funding, the water board has discretion to amend the implementation schedule."

Caltrans requests to amend the implementation schedule to provide more flexibility in light of today's fiscal environment and the budget crisis for the state as well as for Caltrans.

We request that the State Water Board resolve our concerns prior to adoption of this BPA.

Again, thank you for the opportunity to comment. If you have any questions, please call Joyce Brenner of my staff at (916)-653-2512.

Sincerely,



G. SCOTT MCGOWEN
Chief Environmental Engineer

c: Joyce Brenner, Office Chief, Program Implementation
Bruce Fujimoto, SWRCB, bfujimoto@waterboards.ca.gov
Doug Coleman, Branch Chief, North Region Office of Environmental Engineering, South

Attachment:

1. Lahontan Water Board November 02, 2010, Responses to Caltrans Comments Dated September 10, 2010
2. LHRWQCB February 09, 2011 13267 Order to Caltrans District 3 Director

ATTACHMENT: 1

**Lahontan Regional Water Quality Control Board November 02, 2010,
Responses to Caltrans Comments Dated September 10, 2010**

Water Board Responses to California Public Comments

November 2, 2010

2. California Department of Transportation

DEPARTMENT OF TRANSPORTATION**DISTRICT 3**

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September 10, 2010

Mr. Douglas F. Smith
California Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Dear Mr. Smith:

Re: Comments on the Lake Tahoe Watershed Sediment and Nutrient TMDL and Basin Plan Amendment

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the Proposed Amendments to the Water Quality Control Plan for the Lahontan Region, including the draft Lake Tahoe Lake Clarity Total Maximum Daily Load (TMDL) for Sediment and Nutrients. Caltrans supports the Lahontan Regional Water Quality Control Board's (Water Board's) efforts to improve the water quality in Lake Tahoe and has taken steps to reduce its impact in the Lake Tahoe watershed. Over the past several years, Caltrans has actively coordinated with other stakeholders in the development of the TMDL and supports the adaptive implementation approach of the TMDL.

The Lake Tahoe TMDL requires substantial outlay of resources in order to comply with the load reduction and crediting requirements. In addition, objective assessment of TMDL compliance is a concern for several reasons. First, Caltrans has significant concerns with the accuracy of the crediting tools being developed by the Water Board. These may require significant adjustments to accurately simulate watershed conditions and estimate loading to the lake. Second, Caltrans is included with "Urban Upland" and has not been assigned a specific waste load allocation. Caltrans will need to prioritize stormwater mitigation needs and work with the State Board, Regional Board, and other stakeholders to explore alternative compliance strategies to supplement capital construction (treatment retrofit) so that compliance with the NPDES Permit and TMDLs can be achieved. The adaptive implementation approach of the TMDL must be integrated in a way to allow the stakeholders to explore these different strategies while staying compliant with the TMDL requirements.

The proposed changes to the existing basin plan language include removal of the discussion of effluent limitations, including numerical standards, from pages 5.6-1 to 5.6-2. We expect the effluent limitation requirements that will be removed from the basin plan will also be removed from the

Comment

STATE OF CALIFORNIA - REGIONAL WATER QUALITY CONTROL BOARD, SACRAMENTO, CALIFORNIA

DEPARTMENT OF TRANSPORTATION

DISTRICT 5

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For your review
of this document

September 10, 2010

Mr. Douglas E. Smith
California Regional Water Quality Control Board
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Dear Mr. Smith:

Re: Comments on the Lake Tahoe Watershed Sediment and Nutrient TMDL and Basin Plan Amendment.

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the Proposed Amendments to the Water Quality Control Plan for the Lahontan Region, including the draft Lake Tahoe Lake Clarity Total Maximum Daily Load (TMDL) for Sediment and Nutrients. Caltrans supports the Lahontan Regional Water Quality Control Board's (Water Board's) efforts to improve the water quality in Lake Tahoe and has taken steps to reduce its impact in the Lake Tahoe watershed. Over the past several years, Caltrans has actively coordinated with other stakeholders in the development of the TMDL and supports the adaptive implementation approach of the TMDL.

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California Department of Transportation

Response

Caltrans-1: The implementation cost analysis is described in the Pollutant Reduction Opportunity Report and the Integrated Water Quality Management Strategy Report. The analyses contained in these two reports indicate the implementation timeframe is achievable. If pollutant load reductions are not achieved due to lack of funding, the Water Board has the discretion to amend the implementation schedule.

Caltrans-2: As described in the proposed Basin Plan amendment (see Table 5-18.8 in the urban uplands implementation section), the Water Board will provide clear guidance and requirements for calculating jurisdiction-specific baseline pollutant load estimates. The Pollutant Load Reduction Model was developed with the input of stormwater managers to provide a continuous simulation tool to evaluate pollutant load and load reduction opportunities in the Lake Tahoe basin. Municipal jurisdictions in the Lake Tahoe area have already used this tool to conduct jurisdiction-scale baseline load analysis, and we anticipate others will similarly use this tool or an equivalent method. The proposed Basin Plan amendment has been changed to state that the Water Board may accept alternative load estimation tools provided such tools "demonstrably produce similar results" to the Pollutant Load Reduction Model or other continuous hydraulic simulation methods.

There are several additional tools being developed to support load estimates. These tools, the BMP and Road Rapid Assessment Methods, are anticipated to be used in the Lake Clarity Crediting Program (LCCP) along with the Pollutant Load Reduction Model. However, the LCCP and associated tools are not proposed as part of the Lake Tahoe TMDL but are anticipated to be used as part of the Municipal Stormwater NPDES Permit program. The LCCP is intended to provide municipal jurisdictions and state highway departments a flexible framework to account for the various pollutant reductions that each jurisdiction chooses to perform. As long as the proposed action can demonstrably reduce the average annual load of the pollutants of concern, such action will be acknowledged as a viable means of compliance.

Caltrans-3: For state highway departments, wasteload allocations (average annual load reductions) will be the compliance metric rather than the numeric effluent limits. The proposed Basin Plan amendment describes how each urban runoff discharger will be required to prepare baseline load estimates for its jurisdiction. Load reduction requirements contained in the load allocation tables will then be applied to the baseline loads to establish five-year load reduction requirements.

Mr. Douglas Smith
September 10, 2010
Page 2

pending Caltrans Statewide NPDES permit. Caltrans anticipates receiving a second-term statewide NPDES permit renewal, and the current statewide permit (Order 99-06-DWQ) does not include requirements for compliance with the TMDL. Caltrans requests the Water Board ensure consistency between the TMDL requirements and the Caltrans permit.

For the past ten years, Caltrans has dedicated resources and participated on the Lake Tahoe Capital (Environmental) Improvement Program (CIP or EIP). Caltrans has implemented many structural and non-structural BMPs since the baseline period of 2002 to 2004. Caltrans also performs maintenance and has modified other practices since this baseline period to reduce the potential for pollutants to be discharged from its facilities. We have reduced the amount of traction sand applied to roadways and increased the amount of sand recovered through improved sweeping, and have worked to improve the quality of traction sand to lessen potential discharge of particles and constituents that impact lake clarity to date. Caltrans has installed five (5) detention basins, 50 infiltration devices, and 136 traction sand traps in the Lake Tahoe watershed since the baseline period. We have also assessed our roadway system to determine areas where roadway runoff does not reach receiving waters by virtue of the sheet flow condition. Collectively, these actions constitute compliance with the requirements of our NPDES permit. It is critical that the crediting tools developed by the Water Board allow the flexibility to account for the load reductions from these activities. The Caltrans NPDES Permit Order No. 99-06-DWQ, Provision L.4 states:

All Caltrans facilities within the Lake Tahoe Hydrologic Unit must be retrofitted to comply with this requirement by the year 2008. If site conditions do not allow for adequate on site disposal, all site runoff must be treated to meet applicable Effluent Limits and/or Receiving Water Limitations specified in the Basin Plan.

Caltrans shall continue to participate in the Capital Improvement Program (CIP), as described in Volume IV of the CWA Section 208 Water Quality Management Plan (208 Plan). The purpose of the CIP is to identify projects, develop an implementation program, and develop a funding mechanism for storm water runoff and erosion control projects in the Lake Tahoe Hydrologic Unit.

In addition, Tables 5.18-2 through 5.18-4 of the proposed new Basin Plan subsection (Subsection 5.18: Lake Tahoe TMDL for Sediment and Nutrients) establish the schedules of reductions that are required to meet the TMDL. The reductions are based on the estimated loads from the Lake Tahoe Watershed Water Quality Model. Caltrans submitted a comment letter on the water quality model to the Regional Water Board on May 3, 2010 that expressed various concerns with the model load estimates. Major concerns include:

1. The accuracy of the assumptions used in the watershed model for the particle size distribution, event mean, and runoff concentrations;
2. The accuracy of the sediment-particle converter equations used to convert fine sediment mass to particle numbers;
3. The linkage of runoff to streams that assumes that all Caltrans runoff discharges directly into Lake Tahoe; and
4. The estimates of Caltrans drainage area and the portion that is composed of impervious land.

Response

Comment

Mr. Douglas Smith
September 19, 2010
Page 3

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2. The accuracy of the sediment-particle conversion equations used to convert fine sediment mass to particle numbers;
3. The linkage of runoff to streams that assumes that all Caltrans runoff discharges directly into Lake Tahoe; and
4. The estimates of Caltrans drainage area and the portion that is composed of impervious land.

Caltrans-4: Water Board staff will work with the State Water Board to incorporate Lake Tahoe TMDL wasteload allocations in the Statewide NPDES permit following USEPA approval of the Lake Tahoe TMDL.

Caltrans-5: See Response Caltrans-2 with this addition: The baseline period includes all projects that have been implemented since 2004, so Caltrans will be able to account for load reductions from actions taken and continued since 2004.

Caltrans-6: On August 13, 2010, Water Board staff sent a response to Caltrans on all concerns expressed in Caltrans letter of May 3, 2010. The complete copy of responses, which addressed the four major concerns listed here by Caltrans, is attached to the end of these responses as Attachment 1 (Caltrans letter of September 10, 2010).

Mr. Douglas Smith
September 10, 2010
Page 3

The Water Board should schedule reassessment milestones in the implementation plan to allow for readjustment of these load reduction requirements as the understanding of the actual loads discharged from different jurisdictions and sources improves.

We hope our comments are helpful. If you have any questions, please call me at (530) 741-4233, or the Chief Environmental Engineer, Scott McGowen at (916) 653-4446.

Sincerely,



JODY JONES
District 3 Director



G. SCOTT MCGOWEN, P.E.
Chief Environmental Engineer
Division of Environmental Analysis

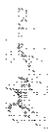
Mr. Douglas Smith
September 10, 2010
Page 3

Comment

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Sincerely,



JODY JONES
District 3 Director



G. SCOTT MCGOWEN, P.E.
Chief Environmental Engineer
Division of Environmental Analysis

Response

Caltrans-7: As stated on page 17 of the proposed Basin Plan amendment, the Regional Board is committed to operating a TMDL Management System (Chapter 12 in the Lake Tahoe TMDL Report details the components of the Management System). Based on Management System findings, the Regional Board may consider reopening the TMDL to adjust load reduction milestones and/or the TMDL implementation approach if needed. Following the first fifteen year implementation period of this TMDL, the Regional Board will evaluate the status and trend of the lake's deep water transparency relative to the load reductions achieved. The Regional Board, in partnership with implementation, funding, and regulatory stakeholders, anticipates conducting this adaptive management process as needed to ensure the deep water transparency standard will be met by year 65.

ATTACHMENT: 2

**Lahontan Regional Water Quality Control Board February 09, 2011, Order
13267 to Caltrans DISTRICT 3**



California Regional Water Quality Control Board
Lahontan Region



Linda S. Adams
*Acting Secretary for
Environmental Protection*

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Edmund G. Brown Jr.
Governor

FEB 09 2011

John Greenhut
City of South Lake Tahoe
1052 Tata Lane
South Lake Tahoe, CA 96150

Jody Jones
Caltrans District 3
PO Box 911
Marysville, CA 95901

Ken Grehm
Placer County Dept. of Public Works
3091 County Center Drive, Suite 220
Auburn, CA 95603

James Ware
El Dorado County DOT
2850 Fairlane Court
Placerville, CA 95667

**ORDER TO SUBMIT TECHNICAL REPORTS IN ACCORDANCE WITH SECTION 13267 OF
THE CALIFORNIA WATER CODE – LAKE TAHOE URBAN STORMWATER
IMPLEMENTATION**

Background and Findings

Pursuant to California Water Code section 13267, subdivision (a), the Water Board may investigate the quality of any waters of the state within its region "in establishing or reviewing any water quality control plan or waste discharge requirement." The need for a technical report pursuant to California Water Code section 13267, subdivision (b) must bear a reasonable relationship to the benefits to be obtained from the report. In compliance with California Water Code section 13267, subdivision (b), the Water Board is required to provide a written explanation with regard to the need for the report and shall identify the evidence that supports the request.

The following findings support the Water Board's request for a technical report from each municipal stormwater discharger on the California side of Lake Tahoe that establishes their baseline loading of fine sediment particles, total nitrogen and total phosphorous.

1. On November 16, 2010, the Lahontan Regional Water Quality Control Board (Water Board) adopted Resolution R6T-2010-0058 to amend the Water Quality Control Plan for the Lahontan Region to include the Lake Tahoe Total Maximum Daily Load (TMDL) and make related changes to relevant portions of the Plan.

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James Ware

- 2 -

2. The TMDL analysis indicates that fine sediment particles are the greatest contributor to the decline in the Lake Tahoe's transparency standard, and that urban stormwater runoff is the largest contributor of fine sediment particles. Total nitrogen and total phosphorous discharges in storm water also contribute to transparency decline.
3. The TMDL implementation plan analysis finds that urban stormwater dischargers have significant load reduction opportunities, and sets out average annual mass-based, pollutant loads reduction requirements from a baseline load.
4. City of South Lake Tahoe, El Dorado County, Placer County, and the California Department of Transportation (hereafter referred to as "Jurisdictions") control and operate stormwater conveyances and discharge points that contribute fine sediment particles, total nitrogen, and total phosphorus loads to Lake Tahoe.
5. Stormwater discharges from the Jurisdictions are regulated by National Pollutant Discharge Elimination System municipal stormwater permits (NPDES Permits).
6. Following TMDL approval by the State Water Board and the United States Environmental Protection Agency, Water Board staff intend to ask the Water Board to adopt revised NPDES Permits to include fine sediment particle, total nitrogen, and total phosphorus load reduction requirements consistent with the TMDL. Water Board staff are currently working with State Water Board staff to include similar load reduction requirements in the Statewide Caltrans Permit.
7. To implement stormwater requirements based on reducing average annual mass-based, pollutant loads, municipal stormwater dischargers in the Lake Tahoe basin must provide information regarding the magnitude of baseline pollutant loading from each discharger's jurisdiction.
8. In addition to establishing baseline loads from each municipal stormwater discharger's jurisdiction, each municipal stormwater discharger must prepare a plan describing how proposed operations and maintenance activities, capital improvements, facilities retrofit projects, ordinance enforcement, and other actions will achieve pollutant load reduction requirements established by the TMDL for the first five year implementation period.

Based on the above findings, the Water Board requests from the Jurisdictions:

A. Request for Jurisdiction-Specific Baseline Pollutant Load Estimate

Jurisdiction-specific, baseline pollutant load estimates are needed to provide the Water Board the basis for evaluating compliance with TMDL load reduction requirements. Pursuant to Section 13267 of the California Water Code¹, each Jurisdiction is directed to prepare a

¹ See enclosed Fact Sheet regarding Submitting Technical Reports Under Section 13267.

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Ken Grehm
James Ware

- 3 -

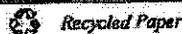
jurisdiction-specific, average annual baseline pollutant load estimate for runoff from urban lands² within its respective jurisdictional boundaries in accordance with the following guidance.

1. The baseline pollutant load estimates shall include average annual fine sediment particle, total nitrogen, and total phosphorus loads.
2. Jurisdictions shall use the Pollutant Load Reduction Model (PLRM) or an equivalent method acceptable to the Water Board Executive Officer to generate average annual pollutant loads. Specific requirements for using an equivalent method are defined in items 4 and 5 below.
3. Baseline is defined as the conditions present during the TMDL baseline period of October 1, 2003 – May 1, 2004. Jurisdictions shall use modeling assumptions and field condition variables consistent with those found in the Lake Tahoe Basin when Lake Tahoe TMDL basin-wide assessment was conducted. The Lake Clarity Crediting Program Handbook describes the following typical basin-wide conditions and maintenance practices that shall be used to estimate jurisdiction-specific baseline pollutant loads. PLRM input parameters that must be incorporated to the baseline analysis are described below. Please refer to the PLRM User's Manual and Applications Guide for specific definitions of the terms used above.
 - a. Road Abrasive Application Strategy
 - i. None where abrasives not applied
 - ii. Minimal for secondary roads
 - iii. Moderate for primary roads
 - b. Sweeper Type – Mechanical Broom
 - c. Sweeping Strategy
 - i. Level 1 (rare) – 2 times per year for secondary roads
 - ii. Level 2 (occasional) – 4 times per year for primary roads
 - d. Private property BMP Implementation
 - i. Single Family Residential – 7% of total SFR parcels
 - ii. Multi-Family Residential – 19% of total MFR parcels
 - iii. Commercial/Institutional/Communications/Utilities – 5%
 - iv. Vegetated Turf (general) – 0%
 - v. Vegetated Turf (golf courses) – 100%
 - vi. Source Control Certification for all land uses – 0%

² Urban lands are defined as all lands listed on the Lake Tahoe TMDL Geographical Information System Land Use Layer as Single Family Residential (pervious and impervious); Multi-Family Residential (pervious and impervious); Roads (Primary and Secondary); Commercial, Industrial, Communications, and Utilities (pervious and impervious); and Vegetated Turf. The TMDL Land Use layer is available on the Water Board website:

http://www.waterboards.ca.gov/lahtorian/water_issues/programs/tmdl/lake_tahoe/docs/lu010606.zip

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- e. Baseline infrastructure and treatment BMPs – Jurisdictions shall use the best available information to accurately represent actual infrastructure and treatment BMP conditions as of May 1, 2004.
4. If a jurisdiction wishes to use an alternative load estimation method, the method must be reviewed for acceptance by the Water Board Executive Officer. The alternative, equivalent method for estimating pollutant loads must be able to:
 - a. Generate average annual pollutant loads for fine sediment particles, total nitrogen, and total phosphorus using a continuous hydrologic simulation process (or other modeling method that demonstrably produces similar results);
 - b. Incorporate stormwater discharge characteristics from established land uses; and
 - c. Integrate the effectiveness of stormwater management actions and accounts for changes in roadway and stormwater treatment facility condition.
 5. Any proposal for using an alternative load estimation method must include clear documentation of calculation methods, assumptions, and limitations. The proposal must also include a comparison between pollutant load estimates from the proposed method and the PLRM for a sample catchment to demonstrate an ability to produce results consistent with the PLRM.

B. Baseline Pollutant Load Estimate Development Plan

Pursuant to Section 13267 of the California Water Code, each Jurisdiction is directed to submit a work plan for the development of the baseline pollutant load estimates no later than **April 1, 2011**. At a minimum, the work plan must include the following elements:

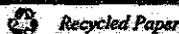
1. A description of the proposed baseline pollutant load estimation method. The Jurisdiction must state whether it will use the PLRM or alternative method. Should an alternative method be selected, the Jurisdiction must provide information to satisfy the conditions described above in items A.4 and A.5.

If the Jurisdiction needs additional time to articulate its preference for an alternative method, it may provide a schedule for preparing and submitting the needed information so long as the Jurisdiction can commit to completing the required baseline pollutant load estimate by the date listed in Section C below.

2. A list of catchments or sub-watersheds the Jurisdiction will use to model average annual baseline pollutant loads. If the Jurisdiction chooses to model a subset of catchments within its jurisdiction and extrapolate the results, the Jurisdiction must describe (both qualitatively and quantitatively) how selected catchments are adequately representative of all other catchments.

Specifically, the Jurisdiction must describe the proposed extrapolation method, including quantitative assessments of hydraulic connectivity, land use, impervious

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coverage characteristics, slope, soil type, and other relevant factors to demonstrate the equivalence between those catchments that are modeled and those that are not.

C. Deadline for Baseline Pollutant Load Estimate Submittal

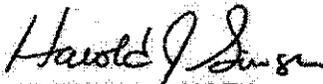
Pursuant to Section 13267 of the California Water Code, each Jurisdiction must complete and submit its average annual fine sediment particle, total nitrogen, and total phosphorus baseline load estimate no later than **September 1, 2011**.

Next Steps

Following the submittal of the Jurisdiction's baseline pollutant load estimate, Water Board staff plan to include the baseline pollutant load estimates into the upcoming draft NPDES Permit update and into the recommend it be included in Caltrans statewide NPDES Permit as the basis for assessing pollutant load reduction progress. Water Board staff expect to bring an updated NPDES Permit to the Water Board for consideration at its October 2011 meeting and will be working with State Water Board staff to incorporate the baseline pollutant load estimates and relevant Lake Tahoe TMDL tracking methods into the Caltrans NPDES Permit as soon as possible.

Water Board staff are scheduling a series of meetings with the Jurisdictions to discuss NPDES permit requirements related to Lake Tahoe TMDL implementation. Assessing the magnitude of pollutant load reductions achieved since the 2004 baseline period and identifying additional activities needed to reduce baseline fine sediment particle loads to achieve the first five-year TMDL requirement of ten percent will be an important first step in the planning process. Water Board staff look forward to working with you and your representatives to discuss these issues.

You may contact Robert Larsen, Environmental Scientist at (530) 542-5439 or Doug Smith, Supervising Engineering Geologist at (530) 542-5453 if you have any questions.


HAROLD J. SINGER
EXECUTIVE OFFICER

Enclosures: Fact Sheet for Submitting Technical Reports Under Section 13267

cc: Robert Erlich – City of South Lake Tahoe
Robert Costa – Placer County Department of Public Works
Steve Kooyman – El Dorado County DOT
Leslie Case – Caltrans
Joyce Brenner – Caltrans
Bruce Fujimoto, State Water Board Division of Water Quality

BL/adw/T/LoadEstimate.13267.v4d0c
File Under: City of SLT, El Dorado and Placer County /Mun Strmwr, WDJD No. 6A090010004, 6A090010005, 6A31010006 and Caltrans District 3 General File

California Environmental Protection Agency

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**Fact Sheet – Requirements for Submitting Technical Reports
Under Section 13267 of the California Water Code**

October 8, 2008

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged...waste that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires".

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

Providing the required information in a technical report is not an admission of guilt or responsibility. However, the information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected discharge of waste, and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension can be given for good cause. Your request should be submitted in writing, giving reasons. A request for a time extension should be made as soon as it is apparent that additional time will be needed and preferably before the due date for the information.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$1,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information is guilty of a misdemeanor and may be fined as well.

What if I disagree with the 13267 requirement and the regional water board staff will not change the requirement and/or date to comply?

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of the Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Claim of Copyright or other Protection

Any and all reports and other documents submitted to the Regional Board pursuant to this request will need to be copied for some or all of the following reasons: 1) normal internal use of the document, including staff copies, record copies, copies for Board members and agenda packets, 2) any further proceedings of the Regional Board and the State Water Resources Control Board, 3) any court proceeding that may involve the document, and 4) any copies requested by members of the public pursuant to the Public Records Act or other legal proceeding.

If the discharger or its contractor claims any copyright or other protection, the submittal must include a notice, and the notice will accompany all documents copied for the reasons stated above. If copyright protection for a submitted document is claimed, failure to expressly grant permission for the copying stated above will render the document unusable for the Regional Board's purposes, and will result in the document being returned to the discharger as if the task had not been completed.

If I have more questions, who do I ask?

Requirements for technical reports normally indicate the name, telephone number, and email address of the regional water board staff person involved at the end of the letter.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov. Copies of the regulations cited are available from the Regional Board upon request.