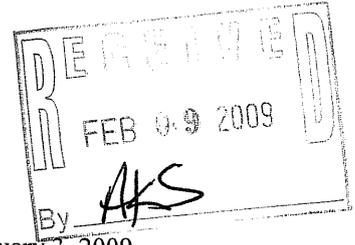


Brett Emery
P.O. Box 758
Bridgeport, CA 93517
760/920-0734



February 3, 2009

Andrea Stanley
Lahontan RWQCB
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150

Re: Comments on proposed 2009 Timber Waiver Program.

I received a copy of the 2009 proposed revisions to the Timber Waiver Program and would like to comment on the Program and some of the proposed changes.

It is not clear from the accompanying documents that there are data substantiating a region-wide need for this level of regulation, especially in the case of infrequent entry, non-commercial fuel reduction or habitat enhancement projects. It appears that the standards applied in the Tahoe Basin under the 2007 Timber Waiver Program are now arbitrarily being imposed on the Region as a whole.

It is also not clear why the proposed Lahontan Region Timber Waiver Program appears to rely so much on the California Forest Practice Rules and Registered Professional Foresters/Federal Forestry Professionals to supervise vegetation management activities that have minor incidental or no commercial timber harvest component. Timber management activities that are subject to Forest Practice Rules primarily include sustainable yield of commercial species, with secondary concerns about fuels reduction and restoration of forest structure, and little to no concerns about restoration of declining habitat or non-commercial species (eg. riparian forests, pinyon/juniper forests). Commercial harvest of sawlogs and/or fuelwood is an important and appropriate component of some, but not all, fuel reduction and restoration activities. The application of the California Forest Practice Rules and oversight by RPFs/FFPs is in part responsible for the current condition of our forests. Forest Practice Rules should continue to be revised and applied where commercial timber harvest activities take place, but it is not appropriate to apply them to fuel reduction and habitat enhancement projects that do not include commercial harvest.

Perhaps the Regional Board should consider structuring separate Waiver Programs - one for commercial timber harvest activities (which would fall under Forest Practice Rules, revised to address the concerns of the Lahontan Regional Board), and another for infrequent vegetation management activities primarily focused on fuel reduction and restoration projects. Separate programs with separate titles would also help to clarify the purpose and need of the programs for property owners and land managers. In my experience, many property owners are uncomfortable signing an application labeled "Timber Waiver", thus compromising the effectiveness of community or watershed scale fuel reduction and restoration efforts.

Forests, brushlands, and grasslands in the Lahontan Region evolved under conditions where disturbance from fires occurred relatively frequently. Riparian forests are adapted to the added disturbance of overbank flows. Attempting to manage forests and brushlands without consideration of natural disturbance regimes and their effect on baseline water quality is inappropriate. Prescribed fire and fire use are important for restoring and managing lands in the Lahontan Region, and should not only be available, but promoted as appropriate tools for land owners and managers. Disturbance and impacts to water quality from properly applied fire is minimal compared to the disturbance and impacts to water quality from watershed and regional scale fires that result from lack of or inappropriate management.

Category 1 projects. Why is there a three acre limitation on parcels eligible for this category? Are there data to support negligible impacts associated with projects at this scale? The threshold of a three acre or less residential lot size may be appropriate in areas such as the Lake Tahoe Basin, Truckee, or Mammoth Lakes, but is not appropriate to the majority of lands within the Lahontan Region. In areas with smaller parcel size, threats to water quality may already be greater than in those areas with larger parcels. Impacts from landscaping, pesticide use, vehicle use, disposal of pet and yard waste, and encroachment into waterbody buffer zones already exist in many of these areas. Projects eligible under Category 1 should be expanded to include larger residential parcels.

Why are there no waterbody setbacks for Category 1 projects? It is implied that projects eligible under Category 1 allow use of any size equipment or vehicle to at least the top of bank of any waterbody (and possibly to water's edge in areas with coarse soils). Similarly, it is implied that pile burning, broadcast burning, and disposal of chips/harvest debris may be allowed to the top of bank of a waterbody. There are no requirements for retention of stabilizing vegetation, large woody debris, or thermal cover within waterbody protection zones. The conditions of Category 2 should be included for Category 1 projects.

Construction projects may include a large amount of soil and ground disturbance. At a minimum, the conditions of Category 2 should apply.

Category 2 projects. What is the justification for requiring an RPF/FFP or supervised designee to mark trees three inches or greater in size for treatment or retention within waterbody buffer zones? Once again, this requirement may be appropriate in the Lake Tahoe Basin, Mammoth Lakes, or Truckee, but is not appropriate for the majority of lands within the Lahontan Region. To apply this requirement to non-commercial thinnings, riparian restoration, and removal of invasive exotic species (Tamarisk, Russian olive) in riparian areas is ridiculous and costly. The requirement of hiring an RPF to perform this work will likely lead to the increase in otherwise unnecessary removal of merchantable trees as a component of fuel reduction and riparian enhancement projects in order to pay the additional cost of having an RPF on the project. Many fuel reduction and riparian enhancement projects will either not be implemented or will be reduced in size if this requirement is retained. The availability of grant funding for such projects is already limited without imposing this costly and unnecessary requirement. The remaining required conditions for projects under Category 2 seem sufficient to protect surface waters from discharges of deleterious material and retention of an appropriate percentage of vegetation within waterbody buffer zones.

Category 4 and 6 projects. Retention and recruitment of large woody debris is important in forest and riparian ecosystems. Many forests within the Lahontan Region currently have an overabundance of large woody debris as a result of fire suppression policies and poor land and livestock management. Under proposed Categories 4 and 6, prescribed burning is allowed within waterbody buffer zones as long as this activity does not result in the loss of large woody debris. This is inconsistent with the fact that Categories 1 through 6 contain no specified limitation on hand removal of large woody debris within waterbody buffer zones. Rather than prohibiting loss or removal of large woody debris, and given the variability between watersheds in existing volume and placement of large woody debris, it may be better to prescribe certain retention or recruitment targets.

The term "stabilized" as used in the conditions for Categories 1, 2, 4, and 6 is not defined in Attachment A.

Finally, I would recommend that Regional Board staff work on development and dissemination of educational materials for landowners, land managers and public works employees. A publication similar to the Sediment and Erosion Control Handbook (available for purchase from the San Francisco Regional Board office), focusing on applied best practices to avoid or mitigate water quality concerns associated with vegetation management and timber harvest activities, would be helpful.

Thank you for the opportunity to comment on the proposed changes to your Timber Waiver Program

Sincerely,


Brett Emery