TECHNICAL STAFF REPORT/ENVIRONMENTAL DOCUMENT

AMENDMENTS TO THE WATER QUALITY CONTROL PLAN
FOR THE LAHONTAN REGION

REMOVING A BASIN PLAN DISCHARGE PROHIBITION TO ALLOW NEW PIER DEVELOPMENT IN THE LAKE TAHOE HYDROLOGIC UNIT

State Clearinghouse Number 2018122010

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I. INTRODUCTION

The Lahontan Regional Water Quality Control Board (Water Board) is the state agency responsible for water quality protection in California watersheds east of the Sierra Nevada crest, roughly 20 percent of the state. The Water Board is one of nine Water Quality Control Boards throughout California that function as part of the State Water Resources Control Board (State Water Board) system within the California Environmental Protection Agency. The Water Board implements both the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Water quality standards and control measures for waters of the Lahontan Region are contained in the *Water Quality Control Plan for the Lahontan Region* (Basin Plan). Basin Plan control measures include prohibitions that protect water quality by restricting discharges of waste and/or certain activities. Basin Plan Chapter 5 describes water quality standards and prohibitions for Lake Tahoe. The plan is available online at http://www.waterboards.ca.gov/lahontan.

The Water Board's Basin Plan contains a prohibition that restricts new pier construction within sensitive areas along the Lake Tahoe shoreline. To be consistent with regional regulation while maintaining regulatory oversight, Water Board staff removed the referenced prohibition.

This staff report/environmental document provides: (1) the justification for a Basin Plan amendment to remove the prohibition that restricts new pier construction in areas of Lake Tahoe within spawning habitat or immediately offshore of important stream outlets, and (2) discloses the potential environmental impacts of this change.

The Water Board has prepared this "substitute environmental document" (SED) for Basin Plan amendment. The Water Board's planning process has been certified by the Secretary for Resources under Section 21080.5 of the California Environmental Quality Act (CEQA) as "functionally equivalent" to the preparation of an Environmental Impact Report (EIR). This certification allows the Water Board to prepare a substitute environmental document rather than a negative declaration or EIR for Basin Plan amendments. The document must contain an environmental analysis of the project, a completed Environmental Checklist, and an analysis of the reasonably foreseeable methods of compliance and must be circulated for a public review period.

The CEQA analysis below concludes that the adoption of the Basin Plan amendments will have less-than-significant environmental impacts.

The staff report/environmental document on this Basin Plan amendment is available on request from the Water Board's South Lake Tahoe office. The report is also available on the Internet at:
https://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/

II. SCOPE OF THE AMENDMENT

Basin Plan Chapter 5 describes prohibitions that apply specifically to the Lake Tahoe watershed region. The plan amendment removed the following prohibition noted in Chapter 5, Section 5.2 and eliminate associated references in Chapters 4 and 5:

> *The discharge or threatened discharge, attributable to new pier construction, of wastes to significant spawning habitats or to areas immediately offshore of stream inlets in Lake Tahoe is prohibited.*

The Basin Plan amendment removed this prohibition, allowing pier construction in areas on the California side of Lake Tahoe's shoreline that are currently undeveloped because these areas are within spawning habitat. Areas immediately offshore of stream inlets will be protected from future development by remaining Basin Plan prohibitions related to discharges to stream environment zones and areas below Lake Tahoe's high-water mark.

The amendment does not change the number of allowable piers, nor does the action influence individual project design or implementation elements. The Tahoe Regional Planning Agency (TRPA) Code of Ordinances (Code) establishes pier development potential by specifying parcel eligibility and density criteria.

The amendment does not alter the existing Water Board regulatory oversight required of all pier construction projects at Lake Tahoe. The existing Basin Plan requirement to restore any impacted lakebed area in a ratio of 1.5 times the area disturbed and the requirement to obtain Clean Water Act 401 Water Quality Certification for any lake bottom disturbance remain unchanged. Stream mouths remain protected by other Basin Plan prohibitions and TRPA Code requirements. The amendment only influences the potential location for future pier development.

III. BACKGROUND

Environmental Setting. Formed about 2 million years ago by glacial and volcanic forces, Lake Tahoe is located east of the crest of the central Sierra Nevada between California and Nevada and lies in a graben fault at an elevation of 1898 meters above sea level. Lake Tahoe is a deep (550m), oligotropic (low in nutrient levels and primary productivity), subalpine lake with a large surface area (500 km^2) compared to its watershed (810 km^2).

Lake Tahoe's Littoral Zone and Fisheries Habitat. The littoral zone is a very productive area that extends from high water down to a depth of about 66-82 feet with the most critical zone extending from the shoreline to a depth of about 30 feet. This area provides food, cover, and spawning habitat for various fish species. For Lake Tahoe, the TRPA classifies an area as spawning habitat if the

majority of the bottom substrate consists of gravels measuring between 2 to 64 mm in diameter. Feed and/or cover habitat contains interspersed boulders and rocks larger than 64 mm in diameter.

Regional Regulatory Context. Lake Tahoe is located in both California and Nevada. To protect and enhance the unique environment in the Lake Tahoe Basin, the respective state legislatures approved a bi-state compact that was ratified by the US Congress in 1969. The Lake Tahoe Regional Planning Agency Compact created the TRPA, which has the responsibility to set environmental carrying capacity thresholds for water quality and other aspects of the environment, create and keep updated a regional plan and regulations to attain and maintain the thresholds, and implement the regional plan and regulations through various permitting processes and memoranda of understanding.

Antidegradation Analysis. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Renowned for its extraordinary clarity, purity, and deep blue color, the federal and state government designated Lake Tahoe as an Outstanding National Resource Water (ONRW). The Water Board further recognizes Lake Tahoe as an ONRW both for its recreational and its ecological value. ONRWs, like Lake Tahoe, are afforded the highest level of protection through the antidegradation policy by requiring that the water quality be maintained and protected. States are given flexibility to permit limited activities that result in temporary and short-term changes in water quality.

The EPA summarizes § 131.12 (a)(3) of the Antidegradation Policy in the Water Quality Standards Handbook: Second Edition, by stating,

"States may allow some limited activities which result in temporary and short-term changes in water quality, but such changes in water quality should not impact existing uses or alter the essential character or special use that makes the water an ONRW. "

Temporary or short-term changes in water quality are acceptable however, EPA's interpretation of temporary is weeks and months, not years, as indicated in the EPA's Water Quality Standards Handbook: Second Edition. If temporary changes are allowed, the intent is to limit water quality degradation to the shortest time possible.

Any degradation associated with pier development is expected to be limited to the duration of the construction of the pier. Pier construction typically does not extend over years. Though Water Board staff recognize discharges associated with pier construction may cause some temporary degradation, the degradation is believed to be short-term. This limited degradation is to the maximum benefit of the people of the State because removal of the pier prohibition will ensure consistency with existing land use regulations, will not unreasonably affect

present and anticipated beneficial uses of such water, and will not exceed water quality objectives.

Permanent and long-term degradation is not expected, as new pier construction is subject to both TRPA and Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. Exemptions to these prohibitions require the implementation of appropriate Best Management Practices and the restoration of impacted area in an amount 1.5 times the area disturbed. The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and conduct an antidegradation analysis.

The overall high-quality water of the Lake is maintained because existing pier project approval processes, including complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, fisheries habitat restoration requirements, and Basin Plan prohibition exception requirements all ensure resource protection.

Shoreline Structure Prohibition. In 1987, the TRPA adopted its Code to implement land use policies and regulations to protect natural resources in the Lake Tahoe Basin. Based on early U.S. Fish and Wildlife Service, California Department of Fish and Game, and the Nevada Department of Wildlife recommendations the 1987 Code included shoreline protection ordinances that prohibited the construction of new shoreline structures (i.e., piers, boat ramps, buoys, etc.) in areas considered prime fish habitat. To be consistent with TRPA, the Water Board's Basin Plan incorporated the following prohibition:

> *The discharge or threatened discharge attributable to new pier construction of waste to significant spawning habitats or to areas immediately offshore of stream inlets in Lake Tahoe is prohibited.*

The 1987 Code required TRPA to evaluate the impacts associated with the construction and use of structures on fish habitat and spawning areas in Lake Tahoe and the mouths of its tributaries. In the 1990s, consistent with this requirement, TRPA reconsidered the location standards for shoreline structures, analyzed shoreline conditions, and evaluated future development alternatives and their potential environmental impacts.

In 1999 TRPA released a Draft Environmental Impact Study (Draft EIS) analyzing a set of shoreline Code amendments that included lifting the prohibition on constructing structures in fish spawning habitat. Significant controversy unrelated to the prohibition remained, and the 1999 DEIS was never finalized. TRPA released another Draft EIS in 2004 that included additional study and analysis. In subsequent years, TRPA and partner agencies worked closely with stakeholders

to address concerns identified during the 2004 Draft EIS comment period and released a supplemental Draft EIS in 2005 and a proposed Final EIS in 2006.

In 2008, TRPA certified a supplemental Final EIS and adopted a set of shoreline ordinance amendments. Between 2008 and 2010, TRPA implemented the amended ordinances while a legal challenge made its way through the federal court system.

In 2010, a United States District Court vacated the 2008 shoreline ordinances and remanded the EIS back to TRPA to address issues related to determining the baseline number of buoys and the specificity of mitigation measures related to boat use.

In 2016, TRPA initiated a mediated stakeholder process to revisit outstanding shoreline ordinance needs and address identified environmental analysis issues. After extensive program and policy discussion, the TRPA released a new Draft EIS and associated draft Code amendments in May 2018. TRPA certified the EIS and approved the amended Code in October 2018. As with previous iterations, TRPA's latest shoreline Code amendments allow new pier development in spawning areas.

Under the amended shoreline Code, the approval and placement of shoreline structures is limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers, and a total buildout of up to 10 new public piers. The construction of new piers must comply with design standards adopted by TRPA, as incorporated in the Code, to ensure that scenic requirements and other resource thresholds are met. Both TRPA Code and the Water Board Basin Plan require any fish habitat loss (spawning or otherwise) be re-established at a rate of 1.5 to 1. The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and require needed mitigation of any potential impact.

Resource impact mitigation required by TRPA Code includes complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, and fisheries habitat restoration requirements.

IV. PROJECT PURPOSE AND NEED

Both the Water Board's Basin Plan and TRPA's Code contain provisions that prohibit certain activities that may affect resources like water quality, aquatic ecosystems, and aquatic habitats necessary for reproduction and early development of fish.

TRPA has concluded that protective measures can be taken to reduce and avoid the impacts of a new piers in spawning habitat at Lake Tahoe. This finding, coupled with demonstrated mitigation measure success, prompted TRPA to reconsider its location standards for shoreline structures. Recently adopted amended Code revises outdated shoreline standards and removes the referenced prohibition on developing new piers in spawning habitat.

To be consistent with regional land development regulations and defer land use oversight to the appropriate regional entity, the Water Board intends to remove a Basin Plan Prohibition that currently prevents the construction of new piers in certain areas along the California side of the Lake Tahoe. If all applicable mitigation measures are included in a project, lakefront property owners in El Dorado and Placer Counties will be able to construct new piers in areas determined to be within significant spawning habitat. Areas immediately offshore of stream inlets in Lake Tahoe remain protected by both TRPA Code and remaining Water Board discharge prohibitions.

The Water Board action will: (1) provide area-wide consistency regarding pier development, (2) recognize that potential environmental impacts from allowing pier development in mapped spawning areas are de minimis, and (3) acknowledge established regulatory oversight and required mitigation adequately protects fish spawning habitat

V. ACTION

Water Board staff deleted the Lake Tahoe Hydrologic Unit's prohibition No. 4 and update associated Basin Plan language.

VI. PROJECT APPROVALS

After adoption by the Water Board, the Basin Plan amendment becomes effective upon approval by the California State Water Resources Board and the Office of Administrative Law.

Since this Basin Plan amendment does not involve a surface water beneficial use designation, a surface water quality objective, and/or a policies or actions to implement surface water quality standards, this Basin Plan Amendment is not subject to U.S. EPA approval.

VII. AMENDMENT JUSTIFICATION

De minimis potential affect to spawning habitat and offshore stream inlet areas
Pier piling placement in fish spawning habitat results in a small habitat loss, as the piling directly covers spawning substrates and renders the substrate unusable by fish. Assuming a typical pier requires 20 pilings for support and each piling displaces 0.07 square meters of bottom substrate, an individual pier constructed in spawning habitat has the potential to cover 1.4 square meters (15 square feet) of spawning habitat. Of the estimated 2,041 acres of spawning habitat present in Lake Tahoe, 1,482 acres remain undisturbed. Considering the loss of habitat associated with an individual pier, only 0.0003 acres or 0.00002% of the total undisturbed acres that remain could be impacted by the construction of a single new pier.

Conservatively assuming 100% of the 128 allowable new private piers are located in spawning habitat, up to 179 square meters (1,920 square feet, or 0.04 acres) would be disturbed by new pier construction. This conservative estimate of 0.04 acres of potential spawning habitat disturbance represents approximately 0.003% of the total undisturbed spawning habitat that exists in Lake Tahoe. This estimate represents a worst-case scenario by assuming all of the new piers are located in spawning habitat. In reality, only a fraction of new pier construction would occur in these areas. With regard to percent removal of total habitat, the individual and cumulative impacts to spawning habitat resulting from new pier development are less than significant.

Existing regulatory oversight provides adequate protection
The addition of new piers is subject to local, state and regional approval processes. Any pier construction project at Lake Tahoe must implement resource impact mitigation measures described by TRPA's amended shoreline Code, including complying with design standards, scenic and noise ordinances, designated stream and water intake setbacks, and fisheries habitat restoration requirements.

New pier development at Lake Tahoe must conform to parcel eligibility and density criteria specified by the TRPA. The only parcels eligible for new piers are littoral parcels (1) where fee title is owned to at least the high-water mark (6221.9 feet); (2) that can accommodate a pier outside of specified stream mouth setbacks (ranging between 50 feet-1000 feet); and (3) that are outside of established drinking water intake setbacks unless allowed by permission from the water purveyor. Under TRPA's amended Code, the approval and placement of shoreline structures will be limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers along Lake Tahoe's California and Nevada shoreline. Initially, TRPA will permit up to 96 piers over a 16-year period.

Importantly, new pier construction is also subject to stringent Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. Exemptions to these prohibitions require the implementation of appropriate Best Management Practices and the restoration of impacted area in an amount 1.5 times the area disturbed. The Water Board commonly implements these Basin Plan provisions through the Clean Water Act Section 401 Water Quality Certification process, allowing the Water Board the opportunity to review design considerations, assess construction methods, and require needed mitigation of any potential impact.

VIII. ENVIRONMENTAL CHECKLIST AND DISCUSSION

On October 24, 2018 the TRPA Governing Board certified a comprehensive Environmental Impact Statement (EIS) (State Clearinghouse No. 2017072020) that assessed the environmental effects of four shoreline program alternatives. The analysis identified several areas of controversy, including:

- the number and location of new shoreline structures,
- processes for allocating new shoreline structures,
- effects of structures and boating on non-motorized water recreation,
- visual effects of shoreline structures,
- water and air pollution from boating, and
- effects on public access along the shoreline.

The final approved EIS identifies necessary mitigation measures to reduce overall program impacts to less than significant levels.

The answers to environmental checklist questions below only focus on the impacts of the Basin Plan amendments rather than the full programmatic impacts analyzed by TRPA's EIS. The Basin Plan amendments do not change the number of allowable piers constructed, nor does it influence the number or type of boats on Lake Tahoe. The Basin Plan amendments narrowly influences the allowable location of future pier construction.

An SED is required to include an analysis of the reasonably foreseeable methods of compliance with the project. (Cal. Code Regs., tit.23, § 3777.). The project is not expected to lead to more stringent conditions or permit terms, or activities to comply with the designation and de-designation of the beneficial uses. Therefore, no reasonably foreseeable methods of compliance are identified for the project and there are no environmental impacts associated with reasonably foreseeable methods of compliance. The CEQA checklist includes an environmental analysis of impacts of the project.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS- Would the project:				
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

I. AESTHETICS:

The potential aesthetic impacts are less than significant. TRPA project approvals require that all pier projects comply with design standards, meet the eligibility criteria, and incorporate measures to offset increases in visual magnitude.

Key elements of the pier design standards address the length, width, and lighting of piers and pierheads, pile placement, catwalk dimensions, and other features affecting the visual magnitude and contrast. Compliance with design standards ensures that the visible impact of a pier will be minimized.

To further ensure that scenic resources are not being impacted, TRPA's limited authorization of new piers will allow TRPA to monitor the effects of new pier construction and refine scenic requirements, as needed, to ensure that pier development complies with scenic code and scenic threshold requirements. Since new piers must include built-in scenic mitigation, new pier construction will not significantly degrade the existing visual quality of the project site or broader expanses of Lake Tahoe's shoreline.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES- Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

II. AGRICULTURAL RESOURCES:

There are no impacts to agricultural resources, as there are no farm lands or agricultural uses along the shoreline of Lake Tahoe.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY- Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

III. AIR QUALITY:

There are no air quality impacts, as the Water Board's Basin Plan amendment does not alter the number of allowable piers or boats on Lake Tahoe nor will it change the magnitude of traffic associated with pier construction or use.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

IV. BIOLOGICAL RESOURCES:

The potential impacts to biological resources are less than significant. Without adequate regulatory oversight, the construction and placement of new piers could (1) displace suitable spawning gravels, (2) potentially obstruct fish migration, (3) potentially disturb riparian plant communities, and (4) potentially disturb known or unknown areas that contain Tahoe Yellow Cress plants. TRPA and Water Board pier approval processes ensure these potential impacts are less than significant. New pier construction is subject to stringent Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. The basin plan amendment does not remove those protections, and exemptions can only be granted in certain circumstances.

Spawning Gravels
Impacts to spawning gravels are less than significant. Pier piling placement in fish spawning habitat results in a small habitat loss. Assuming a typical pier requires 20 pilings for support and each piling displaces 0.07 square meters of bottom substrate, an individual pier constructed in spawning habitat has the potential to cover 1.4 square meters (15 square feet) of spawning habitat. Of the estimated 2,041 acres of spawning habitat present in Lake Tahoe, 1,482 acres remain undisturbed. Considering the loss of habitat associated with an individual pier, only 0.0003 acres or 0.00002% of the total undisturbed acres that remain could be impacted by the construction of a single new pier. New private, multi-use, and public pier projects with the potential to displace spawning habitat are required by the Basin Plan and TRPA to offset any lake bottom disturbance at a 1.5:1 ratio. New piers cannot be approved unless this requirement is met.

Fish Migration and Reproduction
Impacts to migrating and reproducing fish are less than significant. TRPA Code requires new piers be placed outside of established stream mouth setbacks. Stream mouth setbacks, which range between 50-2000 feet depending on the stream, have been determined by TRPA based on historic records that document the natural meander pattern of a stream mouth. Furthermore, new piers must obtain exemptions to Basin Plan requirements that prohibit the disturbance to stream environment zones and areas below Lake Tahoe's high-water rim. Necessary exemption criteria cannot be met in sensitive stream mouths areas.

Native Riparian Vegetation
Impacts to native riparian vegetation are less than significant. TRPA's Code and the Water Board Basin Plan both require that new projects disturbing riparian plant communities restore disturbed area in a ratio of 1.5:1 (restoration:disturbance). New pier projects cannot be approved unless restoration of riparian habitat is included in the project.

Tahoe Yellow Cress (Rorippa subumbellata)
Impacts to TYC are considered less than significant. Tahoe Yellow Cress (TYC) is a rare plant species found only along the shores of Lake Tahoe in California and Nevada. TYC is listed as endangered in California (California Fish and Game Code 2050 et seq.) and critically endangered in Nevada (Nevada Revised Statutes (NRS 527.260 et seq.) and considered a species of concern by the U.S. Fish and Wildlife Service.

Conservation strategies for protection of TYC involve TRPA contacting property owners and educating them about ways to protect the plants. Additional measures are in place to protect TYC populations present at public beaches.

	Potentially Significant Impact	**Less than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

V. CULTURAL:

A less than significant adverse change of known or unknown cultural resources could occur as a result of the construction of any new pier. The construction of new piers could potentially disturb artifacts or remnants of Washoe Indian campsites and historic shoreline remnants of the Comstock Era and from the 1900s to 1950s. CEQA and TRPA policy require project applicants to identify and evaluate all historic structures, retain a qualified archaeologist to conduct surveys, follow survey recommendations, including but not limited to conducted subsurface testing, cultural resource monitoring during construction, avoidance of identified resources, and/or preservation in place. By avoiding disturbance, disruption, or destruction of archaeological resources, cultural impacts are less than significant.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

VI. GEOLOGY AND SOILS:

Geology and soil impacts associated with the project are less than significant. Although additional piers may encourage the conversion of shoreline areas from native vegetation to non-native landscaping (e.g., turf grass) and removal of native vegetation may increase soil erosion and result in more nutrient loss to the Lake associated with fertilizer needs for non-native species, the potential impacts are less than significant through compliance with county, TRPA, and Water Board requirements, permit conditions, and regulations.

The small number of allowable piers (12 new piers every two years, lake-wide) coupled with required design standards and construction best management practices inherent in project approval ensure there will be no substantial soil erosion or other geologic impacts.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
VII. GREENHOUSE GAS EMISSIONS Would the project:				
a) Generate Greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X

VII. GREENHOUSE GAS EMISSIONS

Greenhouse gas emission impacts will be less than significant. Implementation of the Basin Plan changes do not alter the number of allowable piers or boats on Lake Tahoe, nor does it alter the magnitude of existing traffic patterns. Any greenhouse gas emissions resulting from pier construction will be short term. Furthermore, the small number of allowable piers in Lake Tahoe (12 new piers every two years, lake-wide) and required design standards prevent any significant impact.

The project is not expected to have an impact on an applicable plan, policy or regulation adopted for the purposes of reducing the emissions of greenhouse gases.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

VIII. HAZARDS AND HAZARDOUS MATERIALS:

Established regulatory oversight ensures less than significant hazards and hazardous materials impacts.

The Basin Plan Amendment allows additional shoreline pier projects that have the potential to impact public facilities such as waste water facilities. Since areas of Lake Tahoe's shoreline contain a sewer main below highwater, pier projects constructed in these areas could cause the release of hazardous waste if the sewer line was severed during pier construction (e.g., pile driving).

To protect underground infrastructures, California law requires that persons conducting excavation contact established regional notification centers, such as Underground Service Alert, before digging so any underground utilities can be identified and properly

marked. (California Government Code, Chapter 3.1, Article 2, Section 4216-4216.9). Since the California law requires person to contact the appropriate regional notification center prior to commencing excavation work, exposure of hazardous wastes from accidents associated with pier construction is identified as a less than significant impact.

To further ensure pier projects do not impact public facilities, water quality, or human health, pier project approvals may require the project applicant to prepare and implement a Spill Contingency Plan. The Spill Contingency Plan must identify measures that will be employed if a utility line is damaged during construction or if the utility line requires repair in the future. In addition, when utility lines are identified within the project area, the affected utility district should review the project to ensure that placement of the structure will not interfere with routing maintenance, repair, or replacement of the utility line.

	Potentially Significant Impact	**Less than Significant with Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**
IX. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

IX. HYDROLOGY AND WATER QUALITY:

New piers, especially floating piers, along Lake Tahoe's shoreline could affect littoral drift processes and stream environment zones which cross the shorezone at the mouth of each river and creek. These impacts are expected to be less than significant.

Littoral Drift
The construction of new piers that may affect littoral drift processes. Implementation of required best management practices will lead to less than significant impacts to littoral drift. TRPA's Code amendments prohibit the construction of floating piers that 1) float along their full length, and 2) interrupt natural littoral processes.

Stream Environment Zones
Loss of SEZs and beach soils may result from the construction of access pathways associated with new shoreline structures. Potential SEZ impacts are less than significant. Both TRPA and Water Board approval processes for new shoreline structures require protective vegetation BMPs be built into the project. New pier construction is subject to stringent Water Board regulatory oversight. The Water Board Basin Plan prohibits the discharge of any waste or deleterious material to surface waters, stream environment zones, and to land below the high-water rim of Lake Tahoe. The basin plan amendment does not remove those protections. TRPA's Code and the Water Board Basin Plan both require that new projects disturbing riparian plant communities include an in-kind restoration at a 1.5:1 ratio (restoration:disturbance). New pier projects cannot be approved unless restoration of riparian habitat is built-in to the pier project.

As a result, the project is expected to have a less than significant impact on water quality and hydrology.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

X. LAND USE AND PLANNING:

No significant land use and planning impacts are identified. The Water Board action is being taken to align with recent changes to the TRPA shoreline Code and previous Basin Plan amendments that defer development authority to the TRPA. The shoreline Code provisions providing a framework for development within the shoreline that is consistent with that existing plans. The allowed pattern of development is restricted not only by land use designations identified in local plans, but also by other existing provisions of the code that would remain unchanged, as well as by the requirement for compliance with environmental thresholds.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

XI. MINERAL RESOURCES:

No significant impacts on mineral resources are identified, as there are no mapped deposits or identified mineral resources along Lake Tahoe's shoreline.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

XII. NOISE:

New pier construction will not result in substantial noise increase, and the impacts will be less than significant. The Basin Plan amendment will allow projects which could result in temporary increases of ambient noise associated with the construction of a pier. Projects within Lake Tahoe's shoreline in the City of South Lake Tahoe and El Dorado and Placer Counties are referred to the TRPA for review and permitting. The city and counties defer to TRPA's conditions for noise and incorporate these same conditions if city or county building permits are required in addition to TRPA permits. Shoreline projects must comply with the following condition:

> *Any normal construction activities creating noise in excess of the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 am and 6:30 pm.*

Construction outside of this specified timeframe may take place only if the noise associated with the construction activity complies with TRPA's noise thresholds.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. POPULATION AND HOUSING -- Would the project:				X
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

XIII. POPULATION AND HOUSING:

No impacts to population growth and housing needs associated with new pier construction along Lake Tahoe's shoreline have been identified.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X

XIV. PUBLIC SERVICES:

No impacts on public services are identified or expected to occur as impacts of the Basin Plan amendment. The basin plan amendments do not effectively change the number of constructed piers, nor does it influence the number or type of boats on Lake Tahoe. The Basin Plan amendments narrowly influences the allowable location of future pier construction.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	

XV. RECREATION:

Potential recreation impacts associated with the Basin Plan amendment are less than significant. The basin plan amendments do not effectively change the number of constructed piers, nor does it influence the number or type of boats on Lake Tahoe. The Basin Plan amendments narrowly influences the allowable location of future pier construction. The location of those piers is not expected to increase the use of existing neighborhood and regional parks or expected to require construction or expansion of facilities. Under the amended shoreline Code, the approval and placement of shoreline structures is limited by a graduated approval rate of up to 12 new private piers every two years, for a total buildout of no more than 128 private piers, and a total buildout of up to 10 new public piers.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

XVI. TRANSPORTATION/TRAFFIC:

No impacts on transportation or traffic are identified or expected to occur as direct or indirect impacts of the Basin Plan amendment.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. TRIBAL CULTURAL RESOURCES - - Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?				X

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?				X

XVII. TRIBAL CULTURAL RESOURCES:

No impacts on tribal cultural resources are identified or expected to occur as direct or indirect impacts of the Basin Plan amendment. The construction of new piers could potentially disturb artifacts or remnants of Washoe Indian campsites and historic shoreline remnants of the Comstock Era and from the 1900s to 1950s. CEQA and TRPA policy require project applicants to identify and evaluate all historic structures, retain a qualified archaeologist to conduct surveys, follow survey recommendations, including but not limited to conducted subsurface testing, cultural resource monitoring during construction, avoidance of identified resources, and/or preservation in place.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. UTILITIES AND SERVICE SYSTEMS -- Would the project				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c)Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

XVIII. UTILITIES AND SERVICE SYSTEMS:

No new domestic water or wastewater treatment systems will be associated with future pier projects located along Lake Tahoe's shoreline.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIV. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

All potential impacts of the Basin Plan Amendment are considered less than significant. The Water Board and TRPA currently allow pier construction at Lake Tahoe. As the responsible land use regulatory agency, TRPA has set limits on the number, distribution, and allocation of allowable piers and has established detailed design criteria for shoreline development. The action does not change the current regulatory oversight condition regarding pier construction. Therefore, the project has a less the significant impact to potentially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

In addition, any cumulative impacts are expected to be less than significant. Pier piling placement in fish spawning habitat results in a small habitat loss, as the piling directly covers spawning substrates and renders the substrate unusable by fish. Assuming a typical pier requires 20 pilings for support and each piling displaces 0.07 square meters of bottom substrate, an individual pier constructed in spawning habitat has the potential to cover 1.4 square meters (15 square feet) of spawning habitat. Of the estimated 2,041 acres of spawning habitat present in Lake Tahoe, 1,482 acres remain undisturbed. Considering the loss of habitat associated with an individual pier, only 0.0003 acres or 0.00002% of the total undisturbed acres that remain could be impacted by the construction of a single new pier.

Conservatively assuming 100% of the 128 allowable new private piers are located in spawning habitat, up to 179 square meters (1,920 square feet, or 0.04 acres) would be disturbed by new pier construction. This conservative estimate of 0.04 acres of potential spawning habitat disturbance represents approximately 0.003% of the total undisturbed spawning habitat that exists in Lake Tahoe. This estimate represents a worst-case scenario by assuming all of the new piers are located in spawning habitat. In reality, only a fraction of new pier construction would occur in these areas. With regard to percent removal of total habitat, the individual and cumulative impacts to spawning habitat resulting from new pier development are less than significant.

The project does not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Other Considerations. California Water Code Section 13241 includes a list of factors that must be considered by Water Boards when establishing water quality objectives. Section 13241 does not apply to Basin Planning projects that do not establish or revise water quality objectives.

DETERMINATION:

On the basis of this initial evaluation:

___X___ I find that the project COULD NOT have a significant effect on the environment

_____ I find that the project MAY have a significant effect on the environment. However, there are feasible alternatives and/or feasible mitigation measures available which would substantially lessen any significant adverse impact. These alternatives and mitigation measures are discussed in the attached written report.

_____ I find that the project MAY have a significant effect on the environment. There are no feasible alternatives and/or feasible mitigation measures available which would substantially lessen any significant adverse impacts. See the attached written report for a discussion of this determination.

Patty Z. Kouyoumdjian
Signature

MARCH 13, 2019
Date

XI. ALTERNATIVES

California Code of Regulation Title 23, Section 3777 states that any standard, rule, regulation, or plan proposed for board approval or adoption must be accompanied by a discussion of reasonable alternatives to the project and consideration of reasonably foreseeable methods of compliance that could feasibly avoid or substantially reduce any potentially significant adverse environmental impacts. The Preferred Alternative (i.e., this Basin Plan Amendment) and a No Action Alternative are discussed in this section. The adoption of Basin Plan amendments will not result in significant adverse environmental impacts (defined as physical changes in the environment.)

A. Alternative I. No Project

Under this alternative, the Basin Plan would not be amended to remove the discharge prohibition; the current prohibition would remain in place. The Water Board's prohibition would be inconsistent with provisions in TRPA's amended shoreline Code that allow new piers in spawning habitat. Areawide location standards for piers would not be consistent along the shoreline of Lake Tahoe. On the Nevada-side of the Lake, new piers would be allowed on private and public littoral parcels located in significant spawning habitat or areas immediately offshore of important stream outlets; new piers, however, would not be allowed in these areas along the California-side of the Lake.

B. Alternative 2. Remove the Basin Plan Prohibition

Under this alternative, the Basin Plan prohibition restricting new pier development in specific areas along the California-side of Lake Tahoe would be removed. Provided all applicable regulatory requirements are met, new piers could be built within public and private littoral parcels located in significant spawning habitat or areas immediately offshore of important stream inlets. Littoral parcels located immediately offshore of important stream outlets would only be able to construct a new pier provided the pier was located outside of the established stream mouth setback which ranges between 50 and 1000 feet depending on the stream.

LIST OF PREPARERS

The Basin Plan amendments, the technical staff report, and this draft environmental document were prepared by Robert Larsen, Senior Environmental Scientist at the Water Board's South Lake Tahoe office.

The September 12, 2018 CEQA Scoping Meeting was prepared and presented by Mr. Larsen.

The following additional Water Board staff provided management direction regarding the project, provided information used in preparation of the Basin Plan amendment, and related documents, and/or reviewed preliminary drafts:

(1) At the Water Board's South Lake Tahoe Office

Doug Smith
Ben Letton

LIST OF PERSONS/AGENCIES/ORGANIZATIONS CONSULTED

California State Clearinghouse
Tahoe Regional Planning Agency