

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LAHONTAN REGION
TENTATIVE RESOLUTION NO. R6T-2022-XXXX**

**GRANTING AN EXEMPTION TO THE AQUATIC PESTICIDE DISCHARGE PROHIBITION
IN THE WATER QUALITY CONTROL PLAN FOR THE LAHONTAN REGION FOR THE
CONTROL METHODS TEST OF HERBICIDES AND OTHER TECHNIQUES TO REDUCE
AQUATIC INVASIVE PLANTS IN THE TAHOE KEYS LAGOONS**

FOR

**THE TAHOE KEYS PROPERTY OWNERS ASSOCIATION
CITY OF SOUTH LAKE TAHOE**

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Water Board) finds:

1. The Tahoe Keys Property Owners Association (TKPOA) submitted information to the Water Board requesting an exemption from the prohibition on discharges of pesticides to surface waters contained in the 'Water Quality Control Plan for the Lahontan Region' (Basin Plan) to use aquatic herbicides as part of the Tahoe Keys Lagoons Control Methods Test (hereafter referred to as the Project), in the Tahoe Keys Lagoons and Lake Tallac, in the City of South Lake Tahoe.
2. The abundant growth of non-native plants in the Tahoe Keys Lagoons has caused several adverse effects to cold water ecosystems, impaired navigation, created potential health and safety risks, impaired fishing and aesthetic quality, and led to increased predation of native fish species by invasive fish species. TKPOA has implemented a variety of non-chemical control methods in the Tahoe Keys Lagoons. However, due to the size, density and dominance of the infestation in the Tahoe Keys Lagoons, these control methods have produced limited results.
3. Lake Tahoe is designated as an Outstanding National Resource Water (ONRW). The Tahoe Keys Lagoons are hydraulically connected to Lake Tahoe. Aquatic Invasive Plants (AIP) infestations threaten Lake Tahoe's ecosystem, water quality, iconic clarity, and \$5 billion recreation-based economy.
4. The Project is a multi-year test to evaluate the effectiveness of aquatic herbicide active ingredients (endothall and triclopyr) and two other non-chemical technologies (Laminar Flow Aeration (LFA) and Ultraviolet light range C (UV-C)) in reducing and controlling Eurasian Watermilfoil (EWM), and Curlyleaf Pondweed (CLP) in the Tahoe Keys Lagoons and Lake Tallac.
5. The goal of the Project is to test a range of large-scale and localized AIP control methods suitable for long-term management of AIP, to determine what combination of methods within the test area will: 1) quickly reduce the AIP biomass, 2) bring infestation to a level that can be managed by non-chemical treatment methodologies, 3) improve water quality, 4) improve recreational benefits, and 5) reduce re-infestation.

6. The Lake Tahoe Aquatic Invasive Species Coordination Committee’s 2015 Aquatic Invasive Species Plan produced by University Nevada Reno, ranks the Tahoe Keys Lagoons as the top priority area to be addressed due to the magnitude of the invasive plant and fish infestations and the high recreational use of the area. Targeted AIP species are Eurasian Watermilfoil and Curlyleaf Pondweed. Recent studies in Lake Tahoe and TKPOA’s mesocosm studies on the herbicides indicate that the multiple treatment methodologies to be evaluated by the Project have the potential to treat the target AIP species.
7. Test applications of aquatic herbicides will be made in year one of the project, expected to begin in Spring 2022 or later. The application of the aquatic herbicides will be by California licensed pesticide applicators to a total of 16.9 acres between the Tahoe Keys Lagoons and Lake Tallac. The one-time herbicide application in year one may be followed by one or several non-chemical aquatic invasive plant (AIP) control methods and approaches, including selective hand-removal, bottom barriers and UV-C.
8. The Basin Plan contains prohibitions that apply to all surface water of the Lahontan Region. Chapter 4, section 4.1 of the Basin Plan specifies the following waste discharge prohibition: “The discharge of pesticides to surface or ground waters is prohibited.” Exemptions to this prohibition may be allowed subject to the criteria detailed in the section entitled “Exemption Criteria for Aquatic Pesticide Use” in Chapter 4, section 4.1 of the Basin Plan. An exemption to the waste discharge prohibition for aquatic pesticide use may be granted by the Regional Board if all of the following findings are made: (a) The project is an eligible circumstance as described in the Basin Plan, and (b) The project satisfies all the applicable exemption criteria.
9. TKPOA submitted an exemption request to apply endothall, and triclopyr in the Tahoe Keys Lagoons and Lake Tallac. The exemption request and additional information submitted by TKPOA for endothall and triclopyr is consistent with the Basin Plan and is accepted by the Water Board for consideration of an exemption to the prohibition on the discharge of pesticides to surface water.
10. The use of aquatic herbicides in the Project is an eligible circumstance and satisfies all the applicable exemption criteria. Lahontan Water Board staff have prepared a document entitled “Exemption to the Aquatic Pesticide Discharge Prohibition for the Control Methods Test of Herbicides and Other Techniques to Reduce Aquatic Invasive Plants in the Tahoe Keys Lagoons Staff Report” (Staff Report) that describes how the application of aquatic herbicides in the Project is eligible for an exemption and how the aquatic herbicide application meets the exemption criteria specified in the Basin Plan. The Staff Report was reviewed and considered by the Water Board before acting and used in determining that the use of aquatic herbicides in the Project is an eligible circumstance and satisfies all the applicable exemption criteria.

11. The pre-project biological monitoring program and the monitoring, reporting, and mitigation program for non-target communities was peer reviewed by an independent expert through the Tahoe Science Advisory Council. The review found “the proposed monitoring plan will provide ample evidence to assess whether non-target communities have fully restored/recovered after the aquatic weed treatments.”
12. This action is consistent with the Antidegradation Policy. Granting of the exemption alone will not result in a discharge and any degradation. Any authorized discharge under this exemption will be subject to waste discharge requirements. Antidegradation will be considered as part of the NPDES permit.
13. The Tahoe Regional Planning Agency (TRPA) is the Lead Agency for the Environmental Impact Statement (EIS) required by the Tahoe Regional Planning Compact and the Water Board is the CEQA Lead Agency for the Environmental Impact Report (EIR). Impacts and mitigation measures are set forth in the Final Environmental Impact Report/Final Impact Statement (FEIR/FEIS). The Water Board certified the FEIR at a meeting of the Board in XXXX. Mitigation measures identified in the FEIR/FEIS are required to be implemented as adopted by the Lahontan Water Board in the NPDES permit for aquatic herbicide residual discharges for the Project and in the Mitigation Monitoring and Reporting Program (MMRP). The mitigation measures have eliminated or substantially lessened all significant effects on the environment, where feasible. TKPOA must monitor or report on mitigation measure implementation, as described in the Mitigation Monitoring and Reporting Program (MMRP).
14. The Water Board has notified TKPOA and interested agencies and persons of its intent to adopt this Resolution by emailing a list server and posting on the Water Board’s internet website
15. The Water Board, in a public meeting, heard and considered all comments related to this resolution.
16. The documents and other material, which constitute the record, are located at the Water Board office at 2501 Lake Tahoe Boulevard, South Lake Tahoe, CA.

THEREFORE BE IT RESOLVED THAT: The Water Board hereby grants to TKPOA an exemption to the Basin Plan Prohibition on the discharge of pesticides to surface waters for the application of aquatic herbicides (endothall and triclopyr) to the surface waters of the Tahoe Keys Lagoon and Lake Tallac for the Project.

CERTIFICATION

I, Michael R. Plaziak, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on January XX, 2022.

MICHAEL R. PLAZIAK, PG
EXECUTIVE OFFICER