



File Code: 2500

Date: May 8, 2009

Harold Singer
Executive Director
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd
South Lake Tahoe, CA 96150

Dear Mr. Singer:

I would like to provide the following comments regarding the proposed "Timber Waiver" (April 15, 2009 version). My comments are in addition to the letter you received from Regional Forester Randy Moore. I feel that since the Lake Tahoe Basin has restrictions, not common to other National Forest areas, specific comments are warranted.

Overall we appreciate the efforts you have made to work with our Regional Office and local staff in providing clear direction, and developing opportunities for streamlining the process for permitting vegetation management projects. I recognize the complexity of the Timber Waiver and anticipate the need for continued dialogue to share our understandings and interpretations related to perceived risk and actual impacts to soil and water resources, particularly as it relates to fuels reduction treatments in WBZs (waterbody buffer zones), SEZs, and 100 year floodplains. I hope that the continued monitoring efforts of our agency, as well as independent research, will continue to provide information that both of our agencies can utilize as we move forward in accomplishing work in these areas to achieve fuels reduction goals, as well as restoration of degraded riparian ecosystems.

The following describes our areas of comment and interpretation of portions of the Timber Waiver. If our understanding is incorrect, then I believe further discussion and clarification is needed in the Timber Waiver.

1. In our estimation the proposed restriction of burn piles allowed within a WBZ under Category 2 and 4, to 10% of the WBZ (with 5' high by 10' wide piles) will be extremely difficult to meet for most hand thinning units implemented in the WBZ with the Tahoe Basin. We typically encounter fuels loads in excess of 50 tons/acre in upland areas and can reach up to 120 tons/acre within SEZs (ex. Prey Meadows and Saxon Creek SEZs) that would result in 40 to 60% coverage of burn piles/per acre within a unit. Under the current LTBMU design features proposed for SEZs under the South Shore EIS (no more than 30% coverage, with no more than 15% burned within a year), this would require a minimum of two entries to thin, resulting in a total of four years of piling and burning in a given unit before target fuel load reductions are achieved. The 10% restriction proposed in the timber waiver would require 4 to 6 entries to create piles, which means it could take up to eight years before fuel load reductions are achieved once hand thinning treatment is initiated in a particular unit.



Therefore, we understand that if we implement burn piling in a WBZ over the 10% restriction, and any burn piling in SEZs or 100 year floodplains, these projects will need to be submitted under Category 6. This will essentially include all hand thinning and pile burning proposed for our meadow and aspen stand restoration projects. We understand that under this category we will need to provide the supplemental information as described under condition 20(b) (within WBZs), and a request for a basin plan prohibition exemption for work proposed within an SEZ/floodplain. We assume that the information provided, and criteria and monitoring proposed, for burn piles in SEZs as part of the South Shore Fuels Project EIS is an example of sufficient criteria and information to receive approval and a Basin Plan prohibition exemption, if permitted under the Timber Waiver. We believe that with the associated limitations on pile size and pile spacing that these restrictions adequately reduce the degree and amount of impact received on soils within these areas, to prevent adverse water quality impacts. (See attached South Shore Project burn pile design features)

The design features/criteria provided in Attachment Q are not the ones proposed by the LTBMU, as part of the South Shore Project EIS, and therefore should either not list us as the source or should be replaced with the attachment that displays the design features proposed by the LTBMU.

2. We believe that Basin Plan discharge prohibitions related to discharge of solid or liquid waste, and construction activity resulting in permanent soil disturbance within SEZs should not apply to fuels reduction treatment practices. Fuels reduction and vegetation management projects on the National Forest are designed primarily for long term benefit to water quality and forest health, and are not comparable to the typical construction development that occurs on private land in the Lake Tahoe Basin. Information gained from our Forest monitoring program, and our understanding of current research, indicates the level of risk associated with soil disturbance and threat of discharge in relationship to current fuels reduction practices is quite low, in comparison to more conventional definitions of “construction activity”. We understand that given the interpretation as described in the Attachment N, we will need to apply for Basin Plan prohibition exemptions for many fuels reduction activities within a SEZ. We will continue to work with your staff to share information gained through internal and external research and monitoring efforts that we believe will enable exemptions to be granted.
3. We encourage the inclusion of a table that clearly displays the restrictions regarding pile burning relative to HU and proximity to WBZ, SEZs, and 100 year floodplains. (Based on informal communications, we believe you may be working on this already.)
4. Attachment E is a good tool for documenting whether conditions are operable. For monitoring during winter period operations, we recommend that you clarify in Attachment E that daily monitoring is not required during dry weather periods during dry soil conditions, and that for frozen conditions and over the snow, monitoring will also depend on temperatures and snow cover.

Also it's not clear why operations "over dry soil conditions" require no precipitation in the last two weeks. Operations should be based on the actual soil conditions, rather than a past weather event. We think this statement should be removed.

5. We understand from a recent conversation with your staff, that 303(d) waterbodies listed for sediment impairment that will be required to conduct focused "high risk" effectiveness monitoring includes Lake Tahoe, meaning that a determination of high risk sites for focused BMPEP monitoring will need to be determined for every project in Lake Tahoe.

In Appendix O, Monitoring Requirements for the USFS, the language is unclear regarding the determination of high risk sites for focused monitoring. We would like to have language included in this appendix that specifies that it will be the responsibility of Forest Service staff to make the determination of where to conduct focused BMPEP monitoring, which BMPEP protocols to apply, and frequency of monitoring. We believe the monitoring plan described in our South Shore Project EIS, constitutes an example of where we have worked with your staff to identify an appropriate level of focused BMPEP monitoring.

Thank you for the opportunity to provide comments on the proposed Timber Waiver. If you have questions, please contact Sue Norman of my staff at 530-543-2662.

Sincerely,

/s/ Terri Marceron
TERRI MARCERON
Forest Supervisor

USFS Hand-Piling and pile burning in SEZs design features, South Shore Project

- Maintain a 50 ft buffer (no piling or burning) along perennial or intermittent streams, lakes, bogs, and fens.
- Permit piling and burning up to 10 feet from the edge of ephemeral channels.
- Allow fire to creep between piles and into these buffers, maintaining flame lengths of less than 2 ft in height except where sensitive plant occurrences, fens, and the noxious weeds whitetop and cheatgrass are present.
- Place piles in a non-linear pattern in each unit where possible.
- The maximum pile size shall not exceed 10 foot diameter by 5 foot height.
- No more than 30% of any SEZ acre may be occupied by piles.
- No more than 15% of any SEZ acre may be burned each year.
- Maximize the distance between piles to the extent feasible, maintaining approximately 20 ft average spacing between piles in each unit.
- After initial ignition of piles, but while still burning, allow each pile to be re-piled once (i.e. place large unburned pieces back into the burning pile). Additional re-piling will be allowed if necessary to achieve 80% consumption of the piled material.
- Hot piling of burn piles is prohibited within SEZs (i.e. don't feed one pile with the material from other piles or ground material), unless necessary to meet desired fuel load conditions.
- When piles are adjacent to aspen trees, re-piling during pile burning shall be restricted to one time per pile and hot piling is prohibited without exception.