



US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: 199925096 - GP16

Date: June 10, 2005

Comments Due: July 18, 2005

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) proposes to modify and reissue Regional General Permit 16 (GP16) for use by the public.

GP16 has been used to authorize minimal impact activities proposed for Corps-regulated activities in the Tahoe Basin since 1988. GP16 is re-evaluated and modified every five years to meet the procedural requirements of authorizing authorities. The current iteration of GP16 expired August 11, 2004, but has been extended until June 30, 2005. With this Public Notice, the current iteration is extended until September 30, 2005, to allow time for the District Engineer to review the comments from this Public Notice. This regional general permit suspends the use of all Nationwide general permits in the Tahoe Basin for all projects that meet minimal impact criteria; proposals that do not meet minimal impact criteria will be evaluated as an individual permit and may be authorized under those procedures (see 33 Code of Federal Regulations Part (CFR) 325.5). This notice is to inform interested parties and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

Authorities: The Corps administers its regulatory program under three federal laws. Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) Regulates all activities that may affect a navigable water (Lake Tahoe (but not its tributaries) is a federally-designated navigable water). Section 404 of the Clean Water Act (33 U.S.C. 1344) regulates the discharge of dredged or fill material in all waters of the United States. A third Corps regulatory, Section 103 of the Marine Protection, Research and Sanctuaries Act, is not applicable at Lake Tahoe. The Corps codified regulations are found at 33 CFR Parts 320-331.

For activities regulated by Section 404, water quality certification (Section 401 of the Clean Water Act) must be granted (or waived) by the Nevada Division of Environmental Protection (NDEP) for projects located in Nevada and by the Lahontan Regional Water Quality Control Board (LRWQCB) for projects in California before a permit may be issued.

LOCATION: The Lake Tahoe basin in Nevada and California (see attached map).

EVALUATION FACTORS: The decision whether to reissue the permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 199925096, must be submitted to the office listed below on or before July 7, 2005:

Eileen Imamura, Project Manager
US Army Corps of Engineers, Sacramento District
Sacramento Valley Office
1325 J Street, Room 1480
Sacramento, California 95814-2922
[Email: Eileen.R.Imamura@usace.army.mil](mailto:Eileen.R.Imamura@usace.army.mil)

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Eileen Imamura, 916-557-5262, Eileen.R.Imamura@usace.army.mil.

Attachments: Proposed GP16 with list of agencies and map of Tahoe Basin.

**DEPARTMENT OF THE ARMY PERMIT
GENERAL PERMIT NO. 16
MINIMAL IMPACT ACTIVITIES
THE LAKE TAHOE BASIN**

Effective Date:

Expiration Date:

The Sacramento District of the U.S. Army Corps of Engineers (Corps) has renewed the attached Regional General Permit GP16. GP16 authorizes minimal impact activities in the Lake Tahoe Basin for work in waters of the United States, including wetlands.

LOCATION: The Lake Tahoe Basin in the States of California and Nevada. (See attached map).

SCOPE OF WORK: This General Permit authorizes minimal impact activities in the Lake Tahoe Region. Typical project work which could be authorized by GP16 includes the repair, modification, or replacement of existing piers, construction of new piers, placement of buoys and buoy fields, construction of shoreline revetment, maintenance dredging, construction or maintenance of culvert and drainage facilities, and restoration of stream channels and wetlands.

The applicant must submit a complete application to the Corps, including Eng Form 435 and a copy of any previous Corps permits. The Corps will make a determination as to whether the proposed project would meet the minimal impact threshold for complying with GP16. If the Corps believes the project would exceed this threshold, a letter would be sent to the applicant indicating non-compliance with GP16.

The General permit does not authorize the placement of dredged or fill material which impact one-third (1/3) or more acres of waters of the United States, including wetlands, unless the project impacts are associated with wetland or stream habitat restoration. Wetlands restoration work impacting greater than 3 acres requires notification to the appropriate U.S. Fish and Wildlife office concurrent with notification to the Corps. Projects which cannot meet the requirements of the General Permit will require processing under individual permit procedures.

Work in California may require authorization/approval from the California State Lands Commission, the California Department of Fish and Game, the Lahontan Regional Water Quality Control Board, and local governments. Work in Nevada may require a authorization/approval from the Nevada Division of State Lands, Nevada Division of Environmental Protection, and other state and local jurisdictions.

Any work under this General Permit must be conducted in accordance with the conditions listed below.

AUTHORITY: This General Permit is issued under the authority of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 USC 403), and Section 404 of the Clean Water Act (33 USC 1344) in accordance with provisions of "Regulatory Programs of the Corps of Engineers" (33 CFR 320-330).

DEFINITIONS: For the purpose of these actions, the following definitions are applicable:

Section 10 Activity- Project work in or over a navigable water of the United States (i.e., Lake Tahoe) or project work which affects the course, location, condition, or capacity of such waters, requires authorization pursuant to Section 10 of the Rivers and Harbors Act of 1899. Typical activities include construction of piers and boat ramps, placement of buoys, and dredging or excavation.

Section 404 Activity- Project work involving discharging dredged or fill material into waters of the United States including wetlands, and requires authorization pursuant to Section 404 of the Clean Water Act. Typical activities include construction of revetments, breakwaters, weirs, bank stabilization, and fill for stream and wetland restoration, or "natural" functions of riparian areas.

Ordinary High Water Line: Elevation 6229.1 (Lake Tahoe Datum).

Ordinary Low Water Line: Elevation 6223.0 (Lake Tahoe Datum).

Wetland and Stream Restoration Activities: Addition of dredged or fill material into waters of the United States, for the purpose of restoring, creating or enhancing "natural" wetland hydrology, vegetation, and function of an altered or degraded wetland or stream.

APPLICATION PROCESS

1. In order for the Corps to provide preliminary concurrence the project may be considered for authorization under GP16, the applicant must submit a complete application, including Eng Form 4345, and a copy of any previous Corps permits. Once the Corps has concurred that the project may be considered for authorization under GP16:

2. Submit complete application material to agencies on the attached list.

3. The applicant shall submit written notification to the appropriate Corps office at least thirty days (30) days prior to initiation of work. (See attached address list). The notification shall demonstrate that proposed project meets requirements of the General Permit 16 and include, but not be limited to:

- a. a completed Department of the Army form *Eng Form 4345*
- b. a copy of all Department of the Army authorizations previously issued for work at the project site;
- c. a valid permit from TRPA, including two (2) copies of the stamped, TRPA-approved project drawings;
- d. all other permits and authorizations as required by law, ordinance, or regulation;
- e. pre-construction photographs of the project site;
- f. proposed construction schedule;
- g. for projects occurring in Nevada, a statement that Nevada Division of Environmental Protection, Bureau of Water quality Planning has been provided with a courtesy copy of the project notification;

In addition, Section 404 activities shall include the following:

- a. volume and type of material to be placed into waters of the United States;
- b. total area of waters of the United States to be directly and indirectly affected;
- c. a wetland delineation in accordance with the 1987 Wetland Delineation Manual when wetlands are proposed for impact;
- d. a description of habitat, including plant community, located in the project area;
- f. a description of any environmental impacts that are expected to occur including methods to avoid, minimize, or mitigate adverse impacts to water quality or aquatic function at the project site;
- g. any other information pertinent to the wetland, stream or water body involved.
- h. for projects involving the restoration of greater than 3 acres of wetlands, evidence that U.S. Fish and Wildlife Service has been provided with a courtesy copy of the project notification;
- i. a copy of 401 Water Quality Certification or waiver issued for the project.

GENERAL CONDITIONS:

1. This General Permit will expire on December 31, 2010.
2. The permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this permit, you must immediately notify the Corps, the state Historic Preservation Office and, if appropriate, the Washoe Tribe of what you have found. We will initiate the coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If the property associated with this permit is sold, the permittee must notify the appropriate Corps office to validate the transfer of the permit authorization.
5. If a conditioned water quality certification and/or Waste Discharge Requirements have been issued for the project, the permittee must comply with the conditions specified in the certification as special conditions to this permit. In Nevada, all conditions of Nevada Division of Environmental Protection's Temporary Authorization Permit (Rolling Stock/Dewatering Permit) or any other discharge permit(s) issued by NDEP must be followed.
6. The permittee must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the permit.
7. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
8. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
9. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

10. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant.

Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

11. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

13. The permittee shall submit post-construction photographs within thirty (30) days of project completion to demonstrate the project was constructed in accordance with the conditions of General Permit 16. For Section 404 activities, the permittee shall also provide photographs of best management practices used during construction to control siltation and erosion.

14. For activities where the District Engineer determines that more than minimal impacts may occur as a result of the proposed work, a Department of the Army individual permit will be required. Except as specified in paragraph d below, this General Permit does not apply to work that may impact a Federal enforcement action or to work where construction is initiated prior to satisfying all the terms and conditions of this General Permit.

15. When work is the subject of any State or Federal enforcement action, the enforcement action must be resolved prior to authorization of the work. If, after an investigation, the District Engineer determines that it is in the public's interest, the District Engineer may authorize the work under this general permit or may process an individual Department of the Army permit. For work where construction has been initiated prior to satisfying all the terms and conditions of this General Permit, the Corps may determine after an investigation that the work must be processed under normal Department of the Army or U.S. Environmental Protection Agency enforcement procedures. If the District Engineer determines that it is not necessary to initiate enforcement procedures, then the District Engineer may authorize the work under this general permit or may determine that an individual Department of the Army permit should be processed.

16. No activity which may affect historic properties listed or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. (See General Condition 3 for additional requirements).

6. For work in Lake Tahoe beyond 350' lakeward of elevation 6229.1' or for projects involving buoy fields, the permittee or the authorized representative of the permittee shall notify the U.S. Coast Guard in writing at least 2 weeks before commencing construction. Such notification will include:

- a. Name and telephone number of project manager;
- b. Size and placement of any floating construction equipment;
- c. Radio telephone frequencies and call signs of any marine equipment;
- d. Start and finish dates.

Permittee shall provide lighting for buoys, platforms and piers if the Coast Guard determines lighting is needed for the protection of navigation.

7. Mooring buoys in Lake Tahoe shall be white with a blue band clearly visible above the waterline. The markings are required to conform to the U.S. Coast Guards Aids to Navigation Marking System.

8. The permittee shall exercise every reasonable precaution to protect the waters of Lake Tahoe and all waters of the United States within the Lake Tahoe basin from pollution by contaminants and from construction related turbidity and siltation impacts.

9. Permittee shall contact the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, for those projects (dredging or placement of dredged or fill material) on beaches supporting populations or potential habitat of the Tahoe Yellow Cress (Rorippa subumbellata Roll.), to insure that the work will not adversely affect the Tahoe Yellow Cress and that management recommendations made by Fish and Wildlife Service have been addressed.

10. Permittee shall contact the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office and Sacramento Fish and Wildlife Office for those projects in the area of Emerald Bay, and surrounding Taylor Creek and Tallac Creek if work is to occur between October 1 and July 31, to insure that the work will not adversely affect the nesting and wintering bald eagles (Haliaeetus leucocephalus).

11. The Corps of Engineers will contact the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office for any new water intake structures or work involving the modification of existing structures which would increase the quantity of water taken from the lake to ensure the downstream habitat of the cui-ui, (Chasmistes cujus), and the Lahontan cutthroat trout (Oncorhynchus clarki henshawi) are not affected. If the diversion may affect those species, consultation required by Section 7 of the Endangered Species Act of 1973 must be completed before the structure or work is authorized by this General Permit.

12. In the state of California, any work which involves the discharge of dredged or fill material will require certification from the State Water Resources Control Board (SWRCB), or waiver of certification and/or Waste Discharge Requirements from the California Regional Water Quality Control Board, in accordance with Section 401 of the Clean Water Act. Since the SWRCB has not certified or waived certification for discharge of dredged or fill material authorized under this General Permit, such activities are denied without prejudice until the state issues 401 certification or waiver. A copy of individual certification or waiver must accompany the General Permit 16 notification as specified in Special Condition a. (See General Condition 5 for additional requirements).

13. In the state of Nevada, Section 10 Activities and Section 404 activities resulting in less than one-quarter (1/4) acre of impact to wetlands or less than 500 linear feet of impact to a stream channel have been certified by Nevada Division of Environmental Protection (NDEP) to meet state and federal water quality standards. However, work which involves the discharge of dredged or fill material exceeding 1/4 acre of impact to wetlands or exceeding 500 linear feet of impact to a stream channel will require certification or waiver of certification from NDEP, in accordance with Section 401 of the Clean Water Act. These projects are denied without prejudice until the NDEP issues 401 certification or waiver. A copy of individual certification or waiver must accompany the General Permit 16 notification as specified by Special Condition a. (See General Condition 5 for additional requirements).

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Issued for and in behalf of the District Engineer.

Andrew W. Rosenau, Chief, Regulatory Branch

Date

Attachments:

Map of Lake Tahoe Region

Address List of Agency Contacts

DRAFT

AGENCY CONTACTS

CALIFORNIA PROJECTS

U.S. Army Corps of Engineers
Regulatory Branch
1325 J Street, Room 1480
Sacramento, California 95814-2922
(916) 557-5250

U.S. Fish and Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W2605
Sacramento, California 95825
(916) 414-6620

State Historic Preservation Office
California State Department of Parks and Recreation
P.O. Box 942896
Sacramento, California 94296-0001
(916) 653-6624

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, California 95825-8202
(916) 574-1835

**California Regional Water Quality Control Board -
Lahontan Region**
2501 Lake Tahoe Boulevard
South Lake Tahoe, California 96150
(530) 542-5400

California Department of Fish and Game
Environmental Services
1701 Nimbus Road
Rancho Cordova, California 95670
(916) 358-2929

Tahoe Regional Planning Agency
308 Darla Court
P.O. Box 1038
Zephyr Cove, Nevada 89448-1038
(775) 588-4547

U.S. Coast Guard
Commander (oan)
Eleventh Coast Guard District
Building 50-6, Coast Guard Island
Alameda, California 94501-5100
(510) 437-2983

Washoe Tribe
Washoe Archive and Cultural Resources
861 Crescent Drive
Carson City, Nevada 89701
(775) 888-0936

NEVADA PROJECTS

U.S. Army Corps of Engineers
Nevada Regulatory Office
C. Clifton Young Federal Building
300 Booth Street, Room 2103
Reno, Nevada 89509
(775) 784-5304

U.S. Fish and Wildlife Service
Nevada Fish and Wildlife Office
1340 Financial Boulevard, Suite 234
Reno, Nevada 89502-5093
(775) 861-6300

Nevada State Historic Preservation Office
Capitol Complex, 100 Stewart Street
Carson City, Nevada 89710
(775) 684-3448

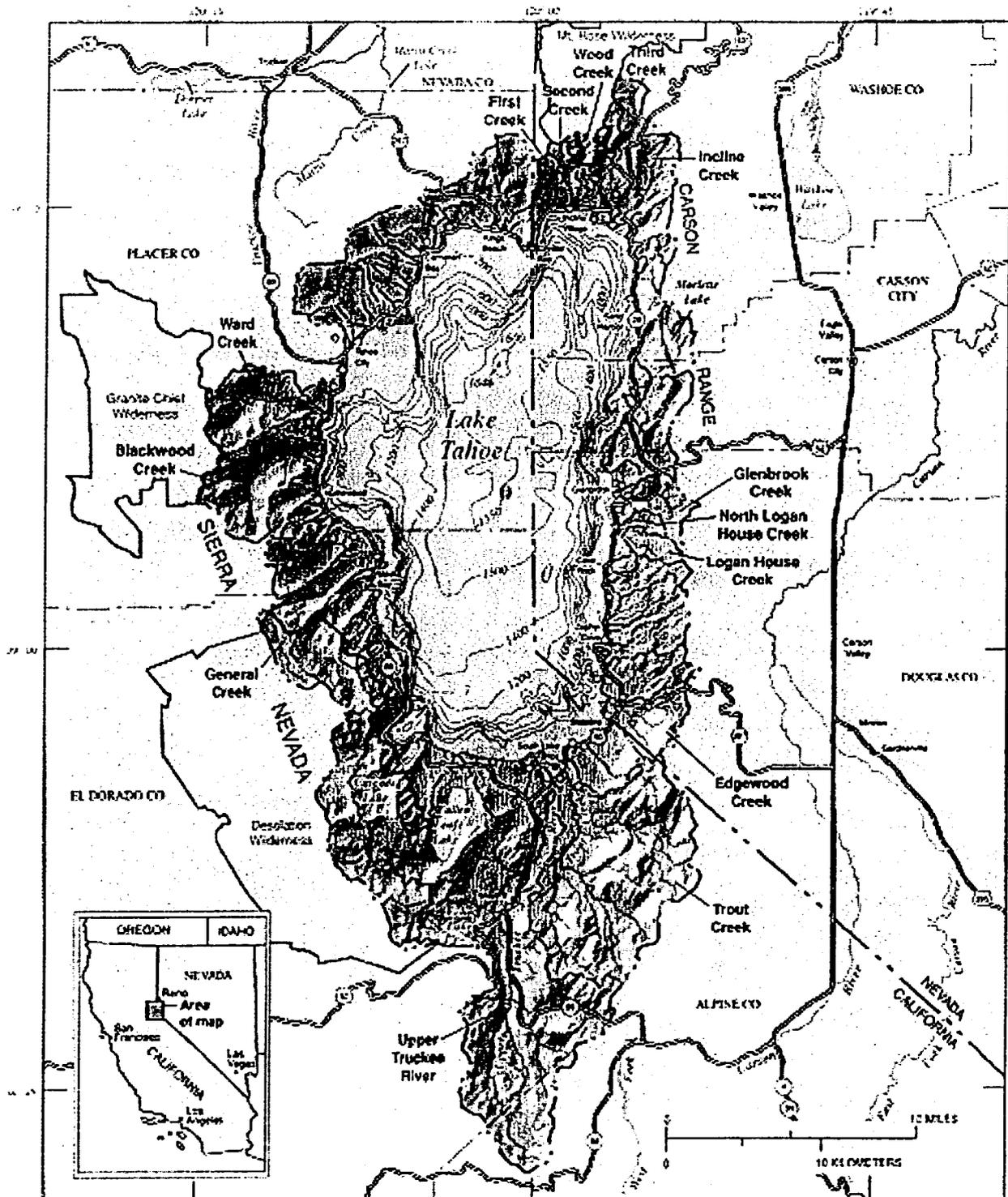
Nevada Division of State Lands
333 West Nye Lane, Room 118
Carson City, Nevada 89706-0857
(775) 687-4363

Nevada Division of Environmental Protection
Bureau of Water Quality Planning
333 West Nye Lane, Room 138
Carson City, Nevada 89706-0851
(775) 687-4670

Nevada Division of Wildlife
Region I Office
380 West B
Fallon, Nevada 89406
(775) 423-3171

CALIFORNIA AND NEVADA PROJECTS

FIGURE 1. LAKE TAHOE BASIN
GEOGRAPHIC AREA OF GP 16



From U.S. Geological Survey digital data 1:24,000 and 1:100,000, 1969-85
Universal Transverse Mercator projection, Zone 11
Bathymetric contours from Blum, 1973. Compiled from aerial photographs
by U.S. Geol. and Geol. Survey (1983)
Altitudes areas from U.S. Forest Service digital data, 1997

EXPLANATION

- Boundary of Lake Tahoe Basin
- Boundary of subbasin
- 100' Bathymetric contour, in feet below highest legal lake-surface altitude (6,229.1 feet above U.S. Bureau of Reclamation datum of 1929)
- Lake Tahoe Interagency Monitoring Program monitoring stations
- Surface-water site
- Ground-water site