ATTACHMENT 1 - BASIN PLAN PROHIBITION EXEMPTION FINDINGS

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains waste discharge prohibitions applicable to the discharge of waste within surface waters in the Lake Tahoe Hydrologic Unit (HU) and to land below the highwater rim of Lake Tahoe. These prohibitions apply to projects involving certain activities covered under Board Order No. R6-2025-0008, Granting Clean Water Act Section 401 Water Quality Certification for Regional General Permit 4 for Lake Tahoe Minimal Impact Activities and Structures (Order). The Lahontan Regional Water Quality Control Board (Water Board) has created this attachment to:

1. Provide information on applicable waste discharge prohibitions from the Basin Plan.

2. Provide information on Table 4.1-1, which already exempts certain activities within the Basin Plan.

3. Make findings for granting an exemption to waste discharge prohibitions for the following activities:
    - Fish Habitat Mitigation
    - Crayfishing Structures
    - Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains
    - Removed or Reconstructed Piers
    - Bulkheads or Static Revetments
    - Dynamic Revetments
    - Benthic Barriers
    - Removal of Previously Authorized Structures
    - Maintenance Suction Dredging

WASTE DISCHARGE PROHIBITIONS FOR THE LAKE TAHOE HYDROLOGIC UNIT

Chapter 5.2 of the Basin Plan specifies the following waste discharge prohibitions:

1. *"The discharge attributable to human activities of any waste or deleterious material to surface waters of the Lake Tahoe Hydrologic Unit is prohibited."*

2. *"The discharge attributable to human activities of any waste or deleterious material to land below the highwater rim of Lake Tahoe or within the 100-year floodplain of any tributary to Lake Tahoe is prohibited."*

An exemption to the prohibitions can be granted if the Water Board makes the findings specified in the Basin Plan for the applicable prohibition or if the Water

Board finds that the waste discharges meet the general conditions in the Basin Plan section on Limited Threat Discharges.

Some activities covered under the Order involve discharges of dredged and/or fill material into Lake Tahoe that are prohibited unless an exemption is granted. An exemption to the prohibitions has been granted based on the findings described below.

LOW THREAT DISCHARGES THAT ARE CONDITIONALLY EXEMPT FROM WASTE DISCHARGE PROHIBITIONS

New Piers, Mooring Buoys, and Scientific Devices meet the general conditions in the Basin Plan section on Limited Threat Discharges (page 4.1-12), enumerated below, in addition to meeting the applicable discharge category-specific conditions cited in the table below and incorporated into the Order.

General Conditions for Exemption:

1. *"For proposed discharges to surface water, the applicant must provide information supporting why discharge to land is not practicable."*

   Due to the nature of projects involving New Piers, Mooring Buoys, and Scientific Devices, these projects must be sited within the surface waters of Lake Tahoe. Discharge to land is not possible and therefore not practicable.

2. *"The discharge must not adversely affect the beneficial uses of the receiving water."*

   The Order includes conditions that ensure the beneficial uses of Lake Tahoe are not adversely affected by Limited Threat Discharges, including discharges associated with New Piers, Mooring Buoys, and Scientific Devices. All applicable specific conditions for discharge categories listed in Table 4.1-1 have been incorporated into activity-specific conditions within the Order. See General Condition 4, below, for applicable activity-specific conditions.

3. *"The discharge must comply with all applicable water quality objectives."*

   Water quality impacts associated with New Piers, Mooring Buoys, and Scientific Devices are expected to be temporary and minimal.

4. *"Best practicable treatment or control of the discharge must be implemented to ensure that pollution or nuisance will not occur."*

   The following activity-specific conditions included in the Order for each conditionally exempt activity incorporate specific conditions for exemption from

Table 4.1-1 below, as well as additional control measures to ensure that pollution or nuisance will not occur:

- New Piers: Section VI.C.44.a. through Section VI.C.44.d.
- Mooring Buoys: Section VI.C.39.a. through Section VI.C.39.c.
- Scientific Devices: Section VI.C.42.a. through Section VI.C.42.c.

Specific Conditions for Exemption:

Covered Activity	Discharge Category	Conditions for Exemption
New Piers	Pier pilings (driven)	Piles must be driven. Where the lakebed contains clayey or silty substrate, caissons, turbidity curtains, or other best management practices must be used to limit generated turbidity to smallest area practicable.
Mooring Buoys	Buoys and aids to navigation	Must not contain chemicals or materials that would adversely affect water quality.
Scientific Devices	Scientific instrumentation for water quality or resources study	Must meet the general conditions for exemption.

BASIN PLAN PROHIBITION EXEMPTION CRITERIA AND FINDINGS

An exemption to Prohibition 1, above, is granted because the Water Board finds all of the following:

a. *"The discharge of waste will not, individually or collectively, directly or indirectly, adversely affect beneficial uses."*

   The Order certifies activities considered minimal by nature and ensures beneficial uses will not be adversely affected by requiring implementation of applicable Best Management Practices (BMPs).

b. *"There is no reasonable alternative to the waste discharge."*

   Due to the nature and the minimal threat of the activities covered by the Order, there is no reasonable alternative to the discharges.

c. *"All applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses."*

   The Order provides reasonable assurance, including size limitations for specific categories of activities, that authorized activities are designed to

avoid and minimize impacts to Lake Tahoe to the greatest practicable extent.

Along with activity-specific conditions referenced in criteria 1.b and 2.c for Prohibition 2 below, the following general conditions/mitigation measures constitute all applicable and practicable control and mitigation measures to minimize potential adverse impacts of all activities covered under the Order to water quality and beneficial uses.

- Standard Conditions, Section VI.B.1. through Section VI.B.4.
- Additional Conditions, Section VI.C.1 through Section VI.C.38.
- Monitoring and Reporting Requirements, Section VI.C.51.a. through Section VI.C.51.f.

An exemption to Prohibition 2, above, is granted because the Water Board finds all of the following:

(1) For erosion control projects, habitat restoration projects, wetland rehabilitation projects, Stream Environment Zone (SEZ) restoration projects, and similar projects, programs, and facilities:

a. "There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment below the highwater rim of Lake Tahoe, within the 100-year floodplain, or within the SEZ."

Due to the nature of the following activities occurring in surface waters, there is no reasonable alternative to the extent of encroachment below the highwater rim of Lake Tahoe: Fish Habitat Mitigation; Crayfishing Structures; Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains; Removed or Reconstructed Piers; Benthic Barriers; Bulkheads or Static Revetments; Dynamic Revetments; Benthic Barriers; Removal of Previously Authorized Structures; and Maintenance Suction Dredging. These activities will control erosion and/or improve habitat within Lake Tahoe.

b. "Impacts are fully mitigated."

Along with general conditions referenced in exemption criterion c for Prohibition 1, activity-specific conditions specified in the Order and described below ensure all impacts associated with the following activities are fully mitigated:

- Fish Habitat Mitigation: Section VI.C.40.a. through Section VI.C.40.e.
- Crayfish Structures: Section VI.C.41.a through Section VI.C.41.d.
- Diver-Assisted Suction Harvesting, Laminar Flow Aeration, and Bubble Curtains: Section VI.C.43.a. through Section VI.C.43.e.

- Benthic Barriers: Section VI.C.48.a. through Section VI.C.48.h.
- Bulkheads or Static Revetments: Section VI.C.46.a. through Section VI.C.46.c.
- Dynamic Revetments: Section VI.C.47.a. through Section VI.C.47.d.
- Removal of Previously Authorized Structures: Section VI.C.49.a. through Section VI.C.49.b.

(2) For public outdoor recreation facilities or private piers:

a. *"The project by its nature must be sited below the highwater rim of Lake Tahoe, within the 100-year floodplain, or within the SEZ."*

Due to the nature of Removed or Reconstructed Piers and Maintenance Suction Dredging, these projects must be sited below the highwater rim of Lake Tahoe.

b. *"There is no feasible alternative that would reduce the extent of encroachment below the highwater rim of Lake Tahoe, within the 100-year floodplain, or within the SEZ."*

The extent of encroachment of pilings below the highwater rim of Lake Tahoe is the minimum necessary to provide pier access. Dredge areas and depths are limited to footprints that have been previously established for maintenance of navigation channels.

c. *"Impacts are fully mitigated."*

In addition to the general conditions referenced in exemption criterion c for Prohibition 1, the activity-specific conditions specified in the Order and described below ensure all impacts associated with Removed or Reconstructed Piers, and with Maintenance Suction Dredging, are fully mitigated.

- Removed or Reconstructed Piers: Section VI.C.45.a. through Section VI.C.45.c.
- Maintenance Suction Dredging: Section VI.C.50.a. through Section VI.C.50.f.

d. *"SEZs are restored in an amount 1.5 times the area of SEZ disturbed or developed for the project."*

Waste discharges to SEZs are not authorized in the Order.

e. "*Wetlands are restored in an amount at least 1.5 times the area of wetland disturbed or developed. Certain wetland areas may require restoration of greater than 1.5 times the area disturbed or developed.*"

Waste discharges to wetlands are not authorized in the Order.