

Opinion: TMDL really means Total Madness Delivered by Lahontan

By Claire Fortier

Four simple letters, TMDL, spell significant consequences for the city of South Lake Tahoe, and the entire Lake Tahoe Basin. What started with the best of science and intentions has morphed into a disjointed and costly regulatory process that could tie-up local financial resources for years, if not decades.

Worse, we don't even know if these new standards, which are an expensive administrative game-changer for local jurisdictions, will work on a small scale, much less for the entire region. The first real results are at least 15 years away.



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The regulations, however, may start as early as this week, now that Lahontan Water Board has imposed them.

Further, we don't know what non-compliance means. It may well result in staggering mandatory penalties that could bankrupt the city.

When first conceived, the challenge to increase lake clarity to 100 feet in 65 years was a noble cause. According to scientists, greater clarity in the middle of the lake could be

achieved by reducing fine sediment runoff into the lake. Much of the problem lay in the 10 percent of the Lake Tahoe watershed that had already been disturbed or built upon.

What that meant to most of us who live at Lake Tahoe was that by fixing what was aging and crumbling – our roads and dated infrastructure and architecture – we could improve the Tahoe economy and environment at the same time. That was a win-win for us.

The science was reassuring. The deliverable – a cleaner, clearer lake – was measurable. The economic possibilities were invigorating. With the new TMDL (Total Maximum Daily Load) standards, investors wouldn't face the costly and time-consuming regulatory process that stalls so many good projects at the lake.

But the TMDL model was flawed. First, scientists never factored in the water quality of the near shore, the place most people see and feel Lake Tahoe. Second, it was assumed that all water (rainfall, snow) eventually landed in the lake, which is simply not true. Much of the precipitation in the Lake Tahoe Basin is absorbed into the ground, which contributes miniscule amounts of fine sediment to the lake. Finally, the definition of TMDL, even the measurement of clarity, varied from one state to another.

While the clarity challenge, which trigger Lake Tahoe's unique TMDL, has the backing of two states and the EPA, the reality of TMDL has markedly different interpretations and implications.

First, there is federal interpretation. TMDL is not unique to Lake Tahoe. It is a mandatory measurement of any impaired water body. What's unique to Lake Tahoe is exactly what the EPA claims on its website: The underpinnings of "final restoration plan are among the most advanced ever applied to a TMDL in the nearly 40-year history of the Clean Water Act. The

Lake Tahoe TMDL has blazed new ground”

The problem is that Lake Tahoe’s water clarity goal is an aesthetic measure, judged entirely on how far down a dinner plate can be seen at mid-lake, and not a pollutant discharge problem, which is the standard for most EPA TMDL.

Then there is the U.S. Forest Service’s TMDL interpretation. As owner of more than 80 percent of the land in the Tahoe basin, the Forest Service may embrace the TMDL goals, but is not be held to the same standards or requirements.

Nevada, in the meantime, has its own answer on the clarity challenge. It is a shared public-private responsibility dependent in large part on private development and investment.

Finally, there is the California interpretation, or more to the point, the Lahontan Water Board’s staff interpretation of TMDL. That interpretation places the regulatory and financial burden on local government. Local jurisdictions must figure out how to meet b Lahontan’s TMDL and stormwater objectives, and must do so while populating, monitoring and reporting on the very model that determines that TMDL effectiveness.

Precisely how these standards are met is up to the individual localities. Lahontan has no long-term management plan. What Lahontan offers is an array of options in its “tool box.” But some of the tools (like costly, state-of-the-art street sweepers) have never been proven in Tahoe.

Nor has Lahontan given the jurisdictions any clue as to the consequences of not meeting the TMDL. Theoretically, it could cost the city a minimum of \$3,000 a day if it fails to meet the model numbers.

Worse, Lahontan has no overall plan to incorporate TMDL into other aspects of the Lake Tahoe regulatory or funding process. TMDL was supposed to establish a standard, and in theory, reduce the regulatory nightmare that is Tahoe. But what is

required for California won't be imposed in Nevada and the standards for the TRPA may not dovetail with Lahontan's requirements.

While the Tahoe TMDL model faces some significant challenges, it may well be the new pathway toward Lake Tahoe restoration. But it needs some significant tweaking and some real collaboration between regulatory agencies around the lake, local government and the EPA. Lahontan's plan simply isn't ready for prime time.

But even if Tahoe TMDL reached a successful, collaborative conclusion, the real question is who is going to pay for it?

And that's one no one can answer at this point.

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