

TRUCKEE RIVER FUND

Enhancing and protecting our water resources

TRUCKEE RIVER FUND ADVISORY COMMITTEE

AGENDA

Friday, May 19, 2023, 8:30 a.m.
Community Foundation of Northern Nevada
50 Washington Street, Suite 300
Reno, NV 89503

Meeting Via Teleconference and In-Person

MEMBERS OF THE PUBLIC MAY ATTEND VIA THE WEB LINK, OR
TELEPHONICALLY BY CALLING THE NUMBER, LISTED BELOW.
NO PHYSICAL LOCATION IS BEING PROVIDED FOR THIS MEETING
(Be sure to keep your phones on mute, and do not place the call on hold)

Please click the link below to join the meeting:

<https://us02web.zoom.us/j/8785686516?pwd=K29WZlN1a0Q2Wm1YbnpIR11SzJUUT09>

Zoom Meeting ID: 878 568 6516

Password: CFNN

NOTES:

1. The announcement of this meeting has been posted in compliance with NRS 241.020(3) at: Truckee Meadows Water Authority (1355 Capital Blvd., Reno), at <https://truckeeriverfund.org/meetings/>, and NRS 232.2175 at State of Nevada Public Notice Website, <https://notice.nv.gov/>.
2. In accordance with NRS 241.020, this agenda closes three working days prior to the meeting. We are pleased to make reasonable accommodations for persons who are disabled and wish to attend meetings. If you require special arrangements for the meeting, please call (775) 834-8002 at least 24 hours before the meeting date.
3. Staff reports and supporting material for the meeting are available on the Truckee River Fund website at <https://truckeeriverfund.org/meeting/> or you can contact Sonia Folsom at (775) 834-8002 or sfolsom@tmwa.com. Supporting material is made available to the general public in accordance with NRS 241.020(6).
4. The Committee may elect to combine agenda items, consider agenda items out of order, remove agenda items, or delay discussion on agenda items. Arrive at the meeting at the posted time to hear item(s) of interest.
5. Asterisks (*) denote non-action items.
6. Public comment is limited to three minutes and is allowed during the public comment periods. **To request to speak, please use the "raise hand" feature or press *9 to "raise your hand" and *6 to unmute/mute your microphone.** Pursuant to Directive 006, public comment, whether on action items or general public comment, may be provided without being physically present at the meeting by submitting written comments online by email sent to lrenda@nevadafund.org prior to the Committee opening the public comment period during the meeting. In addition, public comments may be provided by leaving a voicemail at (775)834-0255 prior to 4:00 p.m. on August 19th. Voicemail messages received will either be broadcast on the telephone call during the meeting or transcribed for entry into the record. Public comment is limited to three minutes and is allowed during the public comment periods. The Committee may elect to receive public comment only during the two public comment periods rather than each action item. Due to constraints of the videoconference system, public comment must be provided by voicemail, email, or online comment as indicated above.

1. Roll Call*
2. Public comment (limited to no more than three minutes per speaker)*
3. Approval of the agenda (**for possible action**)
4. Approve the February 17, 2022 summary meeting minutes (**for possible action**)
5. Review and discuss TRF scope and bylaws (**for possible action**)
6. Discuss possible changes to RFP application including electronic application process (**for possible action**)
7. Review completed projects*
8. Committee and staff comments*
9. Next meeting: August 18, 2023 at 8:30am (**for possible action**)
10. Public comment (limited to no more than three minutes per speaker)*
11. Adjournment (**for possible action**)

MEETING MINUTES
(TRANSCRIPT SUMMARY)

TRUCKEE RIVER FUND ADVISORY COMMITTEE
MEETING OF FEBRUARY 17, 2023

(Meeting via Zoom and teleconference)

The following meeting minutes is a summary of the certified transcript for the Truckee River Fund Advisory Committee meeting held at 8:30 a.m., Friday, February 17, 2023, via Zoom teleconference and in-person at.

Those Present: Committee Members: Brian Bonnenfant, Chair; Jim Smitherman Vice Chair; Michael Cameron; Don Mahin; Dave Stanley; Terri Svetich. Also: Lauren Renda, Community Foundation of Western Nevada; Sonia Folsom, TMWA; Sarah Ferguson, Council for TRF; Susan Merideth, TRF Minutes Recorder. Members of the Public: Sue Jacox, Great Basin Outdoor School; Lisa Wallace, Truckee River Watershed Council; Audrey Bergman & Sean Hill, Sierra Nevada Journeys; Domi Feller, Nevada Tahoe Conservation District; Beverly Harry, Autumn Harry & Brian Beffort, Healing Waters Institute; Chris Cutshaw & Nora Richter, Friends of Nevada Wilderness; Todd Gilens & David Hadel, Truckee Meadows Parks Foundation; Pam Marrone, Invasive Species Foundation;

* Committee member arrived after roll call

** Committee member left meeting before adjournment

Agenda Item #1: Roll Call: Roll call was taken. A quorum was noted.

Agenda Item #2: Public comment: There was no public comment at this time.

Agenda Item #3: Approval of the agenda (for possible action): The agenda was unanimously approved.

Agenda Item #4: Approve the November summary meeting minutes (for possible action): The Meeting Minutes (Transcript Summary) for November 18, 2022 were unanimously approved.

Agenda Item #5: Fund balance report*:

The amount of the fund sits at \$523,187.17, with an available amount to spend of \$359,110. A similar level of funding is expected for 2024.

Agenda Item #6: review grant proposals to Truckee River Fund and select projects to be recommended for funding (for possible action):

The following grant proposals were considered and voted on by the group and approved, rejected/declined, or action taken as follows:

#270, Great Basin Outdoor School: Youth Watershed Education and Protection Projects, amount requested \$13,211

Sue Jacox was present to review the services GBOS offers, including day and overnight camps and restoration projects and answer questions. The proposed budget covered educator compensation for 3 types of events: Truckee Rive Snapshot, Spring & Summer day camps on the Truckee River and Lake Tahoe overnight science camps. With limited funds available and since TRF does not typically fund projects at Lake Tahoe, the Committee suggested cutting the overnight camps from the proposal and funding the remaining amount requested. The \$2,800 for overnight science camps at Lake Tahoe was taken out of the request, and a reduced amount of \$10,411 was unanimously approved.

#271, Sierra Nevada Journeys: Watershed Education Initiative, amount requested \$32,891.

SNJ offers experiential education programs to connect kids to natural areas, and their Watershed Education Initiative is specifically focused on the Truckee River watershed. Sean Hill and Audrey Bergman were present to provide input and answer questions. With limited funding available, the Committee encouraged SNJ to look for partnership or integration opportunities with other entities focused on watershed education and outreach, such as the Indigenous Peoples Council (#275). The total request of \$32,891 was unanimously approved

#272, Truckee River Watershed Council: Coldstream Canyon – Cold Creek Streambank Stabilization, amount requested \$126,000.

The Coldstream Canyon Streambank Stabilization construction project is designed to directly reduce sedimentation in the Truckee River. Lisa Wallace was present to review the proposal and answer questions. She offered to drop \$6,600 for Project Management & Supplies from their proposal, leaving \$119,400 for Construction/Restoration expenses. Mike Cameron abstained from the vote because of his relationship with TRWC, and a reduced amount of \$119,400 was unanimously approved.

#273, US Fish & Wildlife Service: Lower Truckee River Carp Management, amount requested \$24,240.

No representative was present to answer questions or discuss the project. The project area is the Truckee River below Glendale and appears to be outside of TRF's typical scope. No funding was approved for this proposal.

#274, Nevada Tahoe Conservation District: Lower Rosewood Creek Aquatic Organism Passage, amount requested \$217,00.

Domi Fellers was present to answer questions. The project aims to remove and replace two fish barriers to facilitate LCT movement and expand habitat in the Tahoe/Incline Village area. Since this location is outside the scope of TRF, funding was not approved.

#275, Indigenous Peoples Council On Biocolonialism for Healing Waters Institute: River Justice, amount requested \$95,718.

Beverly Harry, Autumn Harry and Brian Beffort from the Healing Waters Institute were present to review the proposal. The project is designed to remove waste accumulating at the terminal end of the Truckee River system. They have already successfully removed hundreds of cubic yards of debris from the river and are looking to expand efforts on cleanup downstream. Beverly highlighted the educational benefit of this project to native people specifically, a group currently underrepresented in other the proposed educational projects. After discussion, it was agreed to remove meeting expenses from the proposal, and a reduced amount of \$89,101 was unanimously approved.

#276, Friends of NV Wilderness: Mount Rose Noxious Weed Monitoring, Treatment, and Re-seeding 2023, amount requested \$26,343.

The goal of the 2023 Mount Rose Wilderness Noxious Weed Monitoring, Treatment, and Re-Seeding project is to remove noxious weeds from the Hunter Creek watershed and reseed treated areas with native seeds to protect the water quality of the Truckee River and its watershed. Chris Cutshaw and Nora Richter were present to provide input and answer questions. The full amount requested of \$26,343 was unanimously approved.

#277, Truckee Meadows Parks Foundation: Confluence: Stream Science, Handwriting and Urban Curbs, amount requested \$33,300.

The *Confluence* project, supported by the Reno Arts & Culture Commission, is an interactive art installation using texts on sidewalks to engage the public about how water shapes land, how ecologists study streams as living systems, and how we understand the places we live, and funding from TRF was requested for installation costs. Todd Gilans and David Hall from the Truckee Meadows Parks Foundation were present to review the proposal and answer questions. It was determined that this project is outside the scope of TRF grants, and funding was not approved.

#278, Invasive Species Foundation: Truckee River Asian Clam, New Zealand mud snail, Zebra and Quagga Eradication Project, amount requested \$82,350.

The Invasive Species Foundation requested funding to test the efficacy of the bacteria Zequanox® in eradicating invasive Asian clams and New Zealand mud snails in the Truckee River, and Pam Marrone was present to review the proposal. The Committee expressed concern about adding a novel organism to the river ecosystem, although the bacteria is naturally occurring and has been found to be benign. Since this project is experimental in nature as opposed to need-based and with limited funds available, the project was not funded at this time.

#279, US Fish & Wildlife Service: Truckee River Water Temperature Monitoring, amount requested \$14,315.

The primary project goal is to extend and expand the river wide Truckee temperature monitoring program, and USFWS requested funding for supplies and labor associated with the monitoring. The full amount requested of \$14,315 was unanimously approved.

Project advisors for the approved proposals were assigned as follows:

GBOS = #270, Dave Stanley; #271, Don Mahin; #272, Terri Svetich; #275, Dave Stanley; #276, Brian Bonnenfant; #279, Don Mahin

Closing notes

Brain thanked the members of the public for attending the meeting. With \$331,397 in grants allocated for 2023, there is a \$20,000 buffer remaining in the fund.

Jim Smitherman will be attending the March 15th TMWA Board of Directors Meeting as a representative of TRF in place of Brian who is unable to attend.

Agenda Item #7: Review completed projects*:

- a. **TRF#252 Truckee Meadows Parks Foundation:** Dog Waste Awareness Campaign, \$60,775 (Jim):

Jim Smitherman reported that the Campaign accomplished all its goals, including PSAs (in English & Spanish) on dog waste issues that is being broadcast in partnership with the Nevada Broadcaster's Association. Furthermore, social media posts have exceeded their goals and >350,000 bags for dog waste have been distributed.

- b. **#253 One Truckee River:** River-Friendly Landscaping Program Expansion, \$48,000 (Terri)

Terri Svetich discussed the accomplishments of the Landscaping Program. They have been partnering with TMWA and the Storm Water Committee to provide classes on how to create rain gardens and guidance on how to incorporate low impact development strategies, and they have been successfully promoting the low impact development concept.

- c. **#254 One Truckee River:** Broadhead Park Restoration Project: Phase 1, \$69,724 (Don)

Don Mahin reported that the development of a 30% Design for the restoration project has been completed. One Truckee River will be finishing up the Design and Implementation Phases with funding from other sources.

- d. **#255 KTMB:** 2022 Great Community Cleanup, Truckee River Cleanup, Adopt-A-River Program, & Adult and Community Education Program, \$82,880 (Jim)

Jim Smitherman discussed three KTMB projects and their progress. The Great Community Cleanup exceeded their goals with > 900 volunteers (114 youth volunteers) and 36 tons of trash collected. The Truckee River Cleanup hosted 579 volunteers (80 youth volunteers) who stenciled 300 storm drains. The Adopt-A-River Program exceeded its goals of documenting waste levels and performed 58 cleanups with >1,000 volunteers who removed ~13 tons of material.

- e. **#261 Friends of Nevada Wilderness:** Mount Rose Noxious Weed Monitoring, Treatment, and Re-Seeding #10, \$23,250 (Brian)

Brian Bonnenfant reported on noxious weed monitoring. Friends of Nevada Wilderness exceed their goals and held 8 weed-pulling events, spread seed over 32.4 acres, removed 27,000 musk thistle, and had 80 volunteers participating with over 450 volunteer hours recorded.

- f. **#267 Sierra Nevada Journeys:** Watershed Education Initiative, \$30,542 (Michael)

Michael Cameron reported that SNJ has met their goals in providing education for the urban Truckee River Corridor.

Agenda Item #8: Review meeting calendar: No action taken.

March 15, 2023	TMWA Board for approval
May 19, 2023	TRF Committee Meeting
June 16, 2023	Open proposal RFPs distributed (close date July 28 th)
August 18, 2023	TRF Committee Meeting
November 17, 2023	TRF Committee Meeting

Agenda Item #9: Committee and staff comments:

Future agendas will be revised to include in-person meeting instructions.

This was Mike Cameron's last meeting serving on the TRF Committee and the members thanked him for his years of service, and Mike thanked the Committee for the opportunity.

A celebration of life for Janet Phillips is being planned and details will be provided as they become available.

Agenda Item #10: Next meeting: May 19, 2023 at 8:30am; consideration for in-person meeting: The next meeting is set for May 19, 2023 at 8:30am.

Agenda Item #11: Public comment (limited to no more than three minutes per speaker): There was no public comment.

Agenda Item #11: Adjournment: The meeting was adjourned at 10:42 am.

**TRUCKEE RIVER FUND ADVISORY COMMITTEE
GOVERNING RULES**

1. **Members:** Membership in the Advisory Committee is governed by the Truckee River Fund Agreement.
2. **Compliance with NRS Chapter 241:** Consistent with other advisory committees constituted to advise the Truckee Meadows Water Authority Board, meetings shall be conducted in compliance with NRS Chapter 241 (“Open Meeting Law”).
3. **Quorum:** A quorum shall consist of a simple majority of the Members. Members may participate telephonically in meetings, and such participation shall be considered in establishing a quorum.
4. **Action:** An action may be taken affirmative vote of a simple majority of the Members present. Members participating telephonically may vote on action items.
5. **Officers:** There shall be a Chair and a Vice Chair, elected by the Members. The Chair will conduct meetings. The Vice Chair will conduct meetings in the absence of the Chair. The Chair and Vice Chair will serve for two-year terms, with terms expiring at the end of each even-numbered year. . Officers may be reelected for any numbers of terms.
6. **Conflicts of Interest:** Members shall disclose conflicts of interest regarding any decisions of the Committee, and shall disclose any financial interest in Committee decisions and in organizations sponsoring proposals brought to the Committee for action. Members who will receive a direct financial benefit from any action taken by the Committee shall abstain from voting on such action.
7. **Ex parte communications:** Organizations or entities sponsoring proposals for the Committee’s action are prohibited from ex parte communications regarding such proposals with Members while such proposals are pending before the Committee, and such communications may be grounds for rejecting a proposal. Members shall disclose to the Committee any such ex parte communications.
8. **Amendment of Rules:** Any amendment of these Rules shall require an affirmative vote of a majority of the Members.

Adopted by Action of the Advisory Committee: November 11, 2005

Amended by Action of the Advisory Committee: February 26, 2016 to allow voting by members participating telephonically

Amended by Action of the Advisory Committee: November 18, 2022 omitting language of nominating Chair and Vice Chair at the “beginning of the third fiscal year following their election.”



TRUCKEE RIVER FUND
Project Evaluation Guidance Document
May 2013 (updated January 2016)

By
Ron Penrose, M.S., P.E.
Truckee Meadows Water Authority

PURPOSE

The purpose of this guidance document is to provide the Truckee River Fund Advisors, (the “Advisors”), detailed information relative to the Truckee River (the “River”). The document provides a framework or tool which the Advisors can use to evaluate future grant requests from the TRF.

This document sets forth a concise description of the watershed; information relative to Federal and State Statutes which protect the watershed from contamination and pollution; information about State and local programs having a positive impact to the River; information concerning current water quality issues affecting the river; and recommendations and guidance relative to evaluating future grant requests.

BACKGROUND

From a water quality/municipal water supply perspective, TMWA considers the TRF a vital element in its overall water quality protection program. Also, to a lesser extent, the TRF provides benefits relative to the sustainability of TMWA’s surface water resource.

There are four main elements to TMWA’s water protection program:

- A. Source water protection as it pertains to groundwater and surface water,
- B. Water Treatment to ensure that water supplies are treated to the highest level practical and in keeping with Federal and State standards,
- C. Maintenance of water quality within TMWA’s distribution system,
- D. Preservation of water quality by preventing the “backflow” of potentially contaminated water from a customer’s internal plumbing or irrigation system back into TMWA’s distribution system.

Source Water Protection

Groundwater: TMWA protects its groundwater supplies through its “State Approved” Groundwater Protection Program. A key component is an inventory of potential contaminant sources (“PCS’s”) throughout the Truckee Meadows. TMWA works with local governmental agencies with regulatory oversight of anthropogenic discharges to ensure that all regulations concerning the storage, use, transport and discharge of on-site contaminants meet all Federal, State and local requirements. Another notable element of the groundwater program is the operation of the Central Truckee Meadows Remediation District (the “CTMRD”). As part of this program, TMWA operates and maintains groundwater treatment facilities at a number of municipal wells where volatile organic chemicals must be removed. TMWA is then reimbursed by the CTMRD for the operation and maintenance costs associated with these wells. The operation provides potable water to the community as well as providing clean-up of a portion of the local groundwater aquifer.

Surface Water: With the exception of projects mandated by the U.S. Environmental Protection Agency (“EPA”), the Nevada Division of Environmental Protection (“NDEP”), or the Tahoe Regional Planning Agency (“TRPA”), prior to 2005 TMWA did not possess the ability to participate in projects designed to remediate or improve River water quality or the watershed. Since inception of the TRF, the program has evolved into an important component of TMWA’s overall water quality program. Financially, the TRF provides tremendous leverage for source water protection projects. To date, the TRF has collaborated with other non-profit organizations and governmental agencies to support 86 projects, contributing over \$8.1 million with a match of over \$15.9 million from its partners.

Federal Statutes which support groundwater and surface water protection include the Safe Drinking Water Act (“SDWA”), the Clean Water Act (“CWA”), the Resource Conservation and Recovery Act (“RCRA”), the Comprehensive Environmental Response, Compensation and Liability Act, (“CERCLA”), and, to a lesser extent, the Endangered Species Act (“ESA”). In Nevada, the Nevada Division of Environmental Protection oversees enforcement of these statutes as they pertain to Nevada waters. In California, and in regards to the Truckee River and its tributaries, the Lahontan Regional Water Quality Control Board, California Environmental Protection Agency, and TRPA have regulatory and enforcement authority. A review of these statutes follows in a subsequent section dealing with statutes and regulations.

Water Treatment

An obvious element of TMWA’s water quality protection program is the treatment of groundwater and surface water for potable use. TMWA’s treatment processes employ state-of-the-art technology for the removal of pathogens, turbidity, and chemical substances deemed detrimental to public health. Such processes include filtration and disinfection of surface water, and disinfection and the removal of arsenic and volatile organic compounds through filtration, air-stripping and disinfection of groundwater. Treatment employed by TMWA meets or exceeds drinking water standards promulgated by the USEPA and enforced by NDEP pursuant to the

federal SDWA. Detailed information concerning treatment and water quality is also made available to the public through Consumer Confidence Reports (mandated by EPA).

Distribution System Water Quality

TMWA maintains high water quality within its distribution system through a program of sampling, testing and flushing. Daily and monthly sampling and testing is accomplished through its State certified laboratory and tests are performed on a myriad of constituents as mandated by EPA through its numerous rules and regulations. A flushing program is also employed by TMWA to mitigate stagnant water in dead-end sections of the distribution system.

Backflow Prevention and Control

The final component of TMWA's water quality protection program is a backflow prevention and cross-connection control program. The purpose of the program is to prevent "backflow" of potentially contaminated water from a customer's internal plumbing or irrigation system back into TMWA's distribution system. The program requires the installation of backflow prevention assemblies on all commercial and industrial domestic services, irrigation services, fire services and on all residential irrigation systems. Backflow prevention is required of all municipal water suppliers through the Nevada Administrative Code Section 445A. Backflow prevention of residential properties is required under the Uniform Plumbing Code. The type of backflow prevention assembly is determined based upon a hazard assessment of water use on the premise.

FEDERAL STATUTES WHICH PROTECT THE TRUCKEE RIVER

Statute Evolution

In the United States attempts to deal with water pollution can be traced back to the early 1800's. Then, the emphasis was on collection systems (sewers) which were used to discharge untreated wastes into rivers and lakes. The connection between human wastes and the spread of pathogenic disease was not known. Also, because the U.S. population was quite small and dispersed, there were ample resources to assimilate human and industrial waste. A local example of this approach was the indiscriminate dumping of sawdust from lumber mills upstream of Reno on the Truckee River and the local discharge of wastes from sewers and storm drains directly into the River. Ranching and farming in the Truckee Meadows also contributed to the discharge of agricultural waste products, including pathogens and nutrients into the River.

In the early 1900's, with growing urbanization combined with acceptance of the "germ theory" relating bacteriological contamination to disease, there became an increasing public demand for wastewater and discharge management. Simply put, the old way of doing things- the indiscriminate discharging of human waste and other sources of pollution- became unacceptable. The enactment of environmental laws and regulations began.

The Clean Water Act (1972)

Along with the slowly-changing perceptions and attitudes towards the River, perhaps the most important positive water quality event for the River was the enactment of the federal Clean Water Act of 1972 (CWA). The CWA established nationwide effluent standards, a nationwide discharge permit program with effluent guidelines, and a stated goal of reducing microbiological and nutrient-based pollutants to the nation's rivers and streams.

A major facet of the CWA was a program providing federal support to local governments for the construction and upgrading of wastewater treatment plants. These "publicly owned treatment works" or "POTWs" are subject to regulation under the CWA, and must meet standards imposed under the CWA permitting system (described below). The local effect of the CWA led to the eventual decommissioning of the existing "Reno Sewage" plant (located just east of the River and adjacent to the Glendale Avenue) and the construction of a new secondary plant, TMWRF, near the Vista narrows. Initial construction and operation the TMWRF plant provided biological treatment meeting effluent standards at the time. It has since been retrofitted with nutrient removal processes allowing the Cities of Reno and Sparks to meet point discharge standards for BOD, nitrogen and phosphorus.

The CWA established the National Pollutant Discharge Elimination System, a complex permitting program for the issuance of "NPDES" permits for discharge of pollutants. The CWA prohibits "the discharge of any pollutant by any person" into waters of the United States except in compliance with the Act. Section 303(c) of the Act requires States to classify waters to determine beneficial uses (e.g., drinking water, recreation, irrigation). The States then must set standards (both "narrative" and "numeric" to protect the beneficial uses and to accomplish the goals of maintaining existing higher quality). Numerical limitations on given pollutants are established at a level determined necessary to protect the most sensitive of the designated uses for the water body. Section 303(d) then requires an inventory of waters to determine which are "impaired." This inventory is the basis for the establishment of a "Total Maximum Daily Load" ("TMDL") for specific pollutants. TMDL's are the maximum amount of a specific pollutant a water body can receive and still meet the applicable water quality standards. Setting a TMDL also requires an allocation of the sources of the pollutant, including both point-sources and non-point sources. On the basis of this determination, numerical limitations are set in individual dischargers' NPDES permits, as necessary to stay within the TMDL and maintain the water quality standards. The permitted discharger must then follow a prescribed monitoring program, including sampling, analysis, and reporting, to demonstrate continued compliance with the conditions of the permit. If the receiving water is not in compliance with the established State water quality standards, an anti-degradation policy will require the permit to include limitations as stringent, or even more stringent, than the water quality standards.

The United States EPA establishes minimum criteria necessary to meet the goals of the CWA and retains oversight over state standards; however, states may set and enforce more stringent requirements. Within the Truckee River watershed, NPDES permitting authority has been delegated by EPA to California and to Nevada. As discussed in more detail below, EPA has also accorded the Pyramid Lake Paiute Tribe status as a "state" for the development of water quality standards for waters within its reservation.

The EPA has also initiated a program to control pollution from storm water runoff that will discharge into jurisdictional waters under the NPDES program. This program allows the state to cover permittees under general permits administered by NDEP for (1) “Medium” and “large” municipal separate storm sewer systems (“MS4s”) generally serving populations of 100,000 or greater; (2) Construction activity disturbing 5 acres of land or greater; (3) Eleven categories of industrial activity (4) Small MS4s located in “urbanized areas” as delineated by the Bureau of the Census; and (5) small construction activities that disturb equal to or greater than 1 (one) and less than 5 (five) acres of land, and any other construction activity with the potential for contribution to a violation of a water quality standard or contribute significant amounts of pollutants to Waters of the United States. These permits require the operator to implement certain “Best Management Practices” to ensure that storm water runoff from the permittee’s operations does not cause an exceedance of applicable TMDLs or water quality standards.

Section 404 of the CWA was enacted to protect the significant hydrologic and environmental benefits of wetlands, not only in the protection and preservation of ecologic diversity, but also in regards to practical values such as flood control. Section 404 requires permits to be issued by U.S. Army Corps of Engineers for the discharge of dredged or fill material to wetlands that are associated with “Waters of the United States.” Since these wetlands are often located on private property, the extension of federal jurisdiction and permitting requirements to wetlands often impedes or prohibits landowners’ exercise of perceived property rights, and is often controversial. Permits are be issued by the United States Army Corps of Engineers with coincident review by other agencies such as the USFWS and NDOW.

Resource Conservation and Recovery Act (RCRA)

The Resource Conservation and Recovery Act, RCRA, applies to “active facilities” which manage or generate hazardous waste. The goal of RCRA is to reduce or eliminate the generation of hazardous waste as expeditiously as possible with land disposal being the least favored alternative. Key elements of RCRA include the following:

- Requires EPA to promulgate regulations identifying hazardous wastes, either by lists or by establishing characteristics of hazardous wastes.
- Requires EPA to establish regulations for generators of hazardous wastes including handling wastes properly and preparing manifests to track shipment of wastes to treatment, storage and disposal facilities (TSD’s).
- Requires EPA to establish regulations for transporters of hazardous waste.
- Requires EPA to develop performance standards for the operation of TSD facilities.
- Requires owners of TSD facilities to obtain permits which establish operating procedures.
- Authorizes states to assume responsibility for RCRA if state program is as stringent as EPA’s.
- Authorizes site inspections for state and federal employees.

Enactment and enforcement of RCRA has had a positive impact on the Truckee River and the nearby watershed for a number of reasons. First and foremost, the strict regulatory requirements in regard to the transport of hazardous waste and materials means that transporters must exercise

upmost care, follow exact transport procedures and regulations, and have appropriate transport permits including manifests. This is indeed important considering the I-80 and railroad corridors closely parallel the River making the river susceptible to hazardous spills. Secondly, and notwithstanding the current PCE Truckee Meadows Remediation Program, the current strict regulatory requirements concerning storage and disposal of hazardous materials lessens the likelihood of an accidental or intentional spill which could further contaminate the local aquifer. In Nevada, NDEP enforces RCRA with support from local governmental environmental enforcement departments.

The Comprehensive Environmental Response, Compensation and Liability Act, (CERCLA).

Like RCRA, CERCLA does not directly regulate water quality, but is a significant tool in the protection of water quality. The Superfund Amendments and Reauthorization Act of 1986 (“SARA”) changed CERCLA’s clean-up programs to be more regulatory in nature. SARA allows the EPA to set technology forcing standards to define the required clean-up level for sites contaminated by certain hazardous materials that are regulated under CERCLA. CERCLA imposes liability on current and past owners or operators, generators who brought wastes to a site and transporters of such waste. The potential for CERCLA liability has significantly heightened awareness of environmental compliance. Avoidance of federal enforcement of CERCLA was an important incentive in the creation of the Central Truckee Meadows Remediation District that focuses on PCE remediation of groundwater.

Endangered Species Act, ESA

Prior to 1973, there was no national policy relative to protecting fish, wildlife and plants that were faced with possible extinction due to intrusion or destruction of habitat and taking of species for consumption or economic gain. Passage of ESA was seen by Congress as a means to rectify the situation. Congress noted the following when enacting ESA.

- That various species of fish, wildlife and plants in the U.S. have been rendered extinct and others depleted to the point of being “endangered” or “threatened” with extinction.
- That depleted species have value.
- That the United States has pledged through various treaties and agreements to conserve various species.
- That the United States wanted to encourage states and private parties to develop conservation programs.

One of the immediate impacts to the Truckee River system upon implementation of the ESA was the Federal Government’s decision to use water stored in the then newly constructed Stampede Reservoir for fishery purposes. Prior to the ESA, the reservoir was intended for flood protection and a storage source of municipal water for the Reno-Sparks area. With implementation of the ESA, releases from Stampede were designated for fishery use rather than municipal and timed to coincide with spawning runs of Cui-ui, a listed endangered species inhabiting Pyramid Lake. The ESA has also been used to protect and preserve the Lahontan Cutthroat Trout (LCT). The

ESA has proven beneficial to the health of the River since the Act requires that impacts to threatened or endangered species be mitigated whenever construction or development is being considered in the River. The review and permitting process is overseen by the United States Army Corps of Engineers (USACE) and the United States Fish and Wildlife Service.

The Safe Drinking Water Act (“SDWA”)

The most significant Federal Legislation directly affecting municipal water systems in the United States was the 1974 passage of the Safe Drinking Water Act. Passage of the SDWA was spurred on in part by the detection of organic contaminants in drinking water in the United States. Since 1974, the SDWA has been amended from time to time requiring additional regulations for the control or removal of pathogens and chemical substances in drinking water. Some of the important features of the SDWA are the following:

- The SDWA is enforced by the EPA. The States can choose to implement and enforce SDWA requirements on their own, called primacy. For States that do not accept primacy, the various EPA districts provide enforcement. In Nevada, the Nevada Division of Environmental Protection enforces the SDWA with some Counties assisting with the enforcement effort.
- From the SDWA, the EPA has developed a list of National Primary Drinking Water Regulations (primary standards) for those constituents known to have adverse health effects.
- The primary standards can take the form of a prescribed maximum contaminant level (MCL) or a rule or regulation where particular treatment techniques are prescribed. Primary standards cover a range of contaminants or constituents and include microorganisms, disinfectants, disinfectant byproducts, inorganic chemicals, and radionuclides.
- The EPA has established a set of secondary standards which are not enforceable unless a particular state wishes to do so. These standards are related to the aesthetics or appearance of drinking water and are not health related. Examples of secondary standards are those set for iron and manganese, naturally occurring elements in many drinking waters.

Passage of the Safe Drinking Water Act has had a dramatic, positive impact on the operation of TMWA’s water treatment facilities. Promulgation of the Surface Water Treatment Rule (“SWTR”) in 1989 greatly increased treatment requirements for surface water. The SWTR eventually led to TMWA decommissioning three older and outdated surface water plants and replacing those plants with the Chalk Bluff Plant in northwest Reno. The SWTR also led to improvements to TMWA’s Glendale Water Treatment Plant in Sparks. The other significant impact of the SDWA (together with CERCLA), was the installation of wellhead treatment at a number of groundwater wells adversely affected with contamination from Tetrachloroethylene (PCE), a chemical used in dry cleaning operations. Treatment for PCE removal was later placed under the umbrella of the Central Truckee Meadows Remediation District, a Washoe County

Department established for the operation and funding of the PCE remediation program in the Truckee Meadows.

STATE LAWS

Nevada and California have both enacted laws giving them the requisite powers to accept delegation of CWA enforcement from the EPA. The Nevada Water Pollution Control Act regulates discharges into “waters of the state.” NRS 445A.415 defines “waters of the state” as follows:

445A.415 “Waters of the state” defined. “Waters of the state” means all waters situated wholly or partly within or bordering upon this state, including but not limited to:

1. All streams, lakes, ponds, impounding reservoirs, marshes, water courses, waterways, wells, springs, irrigation systems and drainage systems; and
2. All bodies or accumulations of water, surface and underground, natural or artificial.

The inclusion of groundwater in the definition significantly expands Nevada’s permitting authority compared with the CWA which applies to surface waters only.

Nevada also adopts an extremely broad prohibition on the discharges of pollutants. NRS 445A.465 includes a provision that makes it unlawful for “any person” to “Allow a pollutant discharged from a point source or fluids injected through a well to remain in a place where the pollutant or fluids could be carried into the waters of the state by any means.” This provision can be interpreted very broadly and is the provision that is usually cited by the Nevada Division of Environmental Protection as the authority for most enforcement actions involving soil and groundwater contamination.

California’s major water quality law is the Porter-Cologne Water Quality Control Act (Cal. Water Code, Division 7, Section 13000 et seq.) (“Porter-Cologne Act”). The Lahontan Regional Board administers the region of California encompassing Lake Tahoe and the Truckee River watershed. The Regional Boards are responsible for adopting and implementing Water Quality Control Plans (or “Basin Plans”) which set forth water quality standards and beneficial uses for waters within the Region.

TRIBAL JURISDICTION

The Clean Water Act allows Indian tribes to be treated as a state for certain purposes of the Act if the tribe meets certain criteria (33 USC § 1377, CWA § 518). To qualify for “treatment as a state” or “TAS” status, a tribe must be recognized by the Secretary of the Interior, must have governing body that carries out substantial governmental functions, and must have the demonstrated capability of carrying out the proposed regulatory actions. A tribe with TAS status

may set its own water quality standards for waters within its jurisdiction. These standards are subject to EPA approval.

Tribal water quality standards may be more stringent than state standards for the same water body and tribal water quality standards may effectively constrain upstream discharges, even if the upstream state standards are less rigid.

On January 30, 2007, the Pyramid Lake Paiute Tribe received TAS status for the purpose of administering Sections 303 and 401 of the CWA. The Tribe then developed a “Water Quality Control Plan” or “WQCP,” which was approved by the EPA in December, 2008.

RIVER/ WATERSHED DESCRIPTION

The River flows approximately 121 miles from its Lake Tahoe source eventually terminating at Pyramid Lake. The River’s source is the outlet at Lake Tahoe located in Tahoe City, California. It flows generally in a northeast direction through a ravine to Truckee California, then turns sharply to the east and flows into Nevada, through Reno and Sparks, and along the northern Carson Range of the Sierra Nevada Mountains. At Fernley it turns north, flowing along the east side of the Pah Rah Range. It finally empties into Pyramid Lake in northern Washoe County within the Pyramid Lake Paiute Indian Reservation.

The River’s drainage basin is about 3,000 square miles of which 2,300 square miles are within Nevada. The Middle Watershed is approximately 15 miles in length of river and tributaries and extends from Tahoe City through the town of Truckee in Nevada County, and then to the state line between Sierra and Washoe County. Major California tributaries to the River include: Bear Creek, Squaw Creek, Cabin Creek, Pole Creek, Donner Creek, Trout Creek, Martis Creek, Prosser Creek, the Little Truckee River, Gray Creek, and Bronco Creek. Tributaries in Nevada include Dog Creek, Mogul Creek, Hunter Creek, Chalk Creek and Steamboat Creek. Major lakes and reservoirs on the system include Lake Tahoe, Donner Lake, Independence Lake, Webber Lake, Stampede Reservoir, Boca Reservoir, Prosser Creek Reservoir, Martis Creek Reservoir, and Washoe Lake.

Since the early 1900’s many modifications have been made to the Truckee River System which have resulted in a highly regulated and diverted river system prone to much litigation. Modifications of note include the Tahoe City Dam, Derby Dam (with diversions to the Truckee Carson Irrigation District (“TCID”), Donner Lake Dam, Stampede Dam and Reservoir, Boca Dam and Reservoir, Prosser Creek Dam and Reservoir, Martis Creek Dam and Reservoir, and Washoe Lake Dam. The Truckee River Operating Agreement (“TROA”) is an outgrowth of this litigation and a settlement agreement between the Pyramid Lake Paiute Tribe, Sierra Pacific Power Company was ratified by Congressional act. TROA is intended to provide the framework, rules and procedures for the operation of the Truckee River Reservoirs and Independence and Donner Lakes, and for the management of flows in the Truckee River to meet the requirements of the water rights holders and implement the interstate allocation between California and Nevada of the waters of the Lake Tahoe and Truckee River Basin. On-going litigation is delaying the final implementation of TROA.

Many of the issues affecting the River today stem in part from the highly regulated operation of upstream storage and river flows and from past practices that have significantly affected the hydrologic character of the river. Many of the recent restoration projects on the river- particularly those downstream- have been designed to help restore the original nature of the river as much as possible.

CURRENT ISSUES AFFECTING THE TRUCKEE RIVER

Major water quality and watershed issues facing the Truckee River, its tributaries and watershed include the following:

- **Aquatic Invasive Species:** The introduction and proliferation of invasive species, both terrestrial and aquatic, is a major concern to TMWA. Aquatic Invasive species pose the threat of jeopardizing TMWA’s treatment operations and dramatically increasing the costs of treatment operations. In Southern Nevada, the quagga mussel has become firmly established in Lake Mead. As a result, the Southern Nevada Water Authority (“SNWA”) has implemented an intensive monitoring and control strategy. The control portion included the addition of new chlorine injection points along raw water pipelines at a cost of \$5 million with annual operating costs of \$1-4 million. Should quagga mussels ever gain a foothold in the Truckee River System, the consequences could be quite severe. Besides the ecological damage which would impact the pristine nature and reputation of Lake Tahoe, TMWA could be faced with expensive improvements and operating costs to deal with fouling of water supply canals, intakes and pipelines serving the treatment facilities and run-of-the-river hydroelectric plants. Other species of concern include Eurasian Milfoil and the Asian Clam. Because of these concerns, TMWA supports prevention and control programs relative to AIS for all Truckee River water bodies.
- **Terrestrial or Land-Based Invasive Species:** TMWA considers the spread of terrestrial invasive species as a threat to River quality and treatment operations. Such invasive species crowd out native vegetation needed to protect river banks and upland areas from erosion which, left unchecked, can increase suspended solids and total dissolved solids (TDS) concentrations in the River. Because of these concerns, TMWA supports prevention and control programs associated with terrestrial invasive species.
- **Urbanization of Local Watershed:** Recent development in the Truckee Meadows has led to a degradation of local tributaries to the Truckee River via irrigation run-off and storm water discharges. The tributaries of major concern include Chalk and Mogul Creeks, both being upstream of the Chalk Bluff Treatment Plant. This situation has led to increased sediment, TDS and turbidity loading to the Chalk Bluff Plant and its raw water delivery systems. Because of these concerns, TMWA supports projects and programs that will mitigate water quality and storm water control issues associated with tributaries.

- **Recent Wildfires and Forest Thinning:** Recent wildfires have taken its toll on the local River watershed, thereby increasing the likelihood of additional sediment and turbidity loading to the River. In response to the fires and watershed damage, TMWA has provided TRF grants towards recovery efforts in order to mitigate adverse impacts to the River. TMWA supports such recovery and rehabilitation efforts. TMWA will also support forest thinning efforts designed to reduce potential for forest fires.
- **Erosion Due to Past Logging Operations:** Some areas of the watershed have been impacted by past logging practices that neglected reforestation and erosion control. As a result, some of these areas have experienced incising of tributary creeks which have impacted the river with increased sediment, suspended solids, and TDS loading. TMWA supports efforts to restore the watershed forest to its natural state.
- **Impaired Sections of the Truckee River and its Tributaries:** In conformance with the requirements of the Clean Water Act, both the State of Nevada and the State of California have developed water quality standards for the River taking into account an analysis of beneficial uses. As an outgrowth of these standards, both states have identified impaired sections of the River and its tributaries through the establishment of 303d lists. These lists identify constituents that are adversely impacting the river system. For the most part the constituents of concern for the River include suspended solids and TDS for upper reaches and suspended solids, TDS, and nutrients for lower River reaches. TMWA supports water quality improvement projects targeting impaired reaches of the river.

EXISTING PROGRAMS/AGENCIES/ORGANIZATIONS PROTECTING AND IMPROVING TRUCKEE RIVER WATER QUALITY AND WATERSHED HEALTH

Nevada Division of Environmental Protection

The Nevada Division of Environmental Protection (“NDEP”), a division within the Nevada Department of Conservation and Natural Resources, through its enforcement of the Clean Water Act, is the environmental watch dog of the Truckee River. The River is protected by water quality standards that are based on beneficial uses of the River, including municipal water use. As part of the standards process, the 303d list of impaired sections of the River provides a tool for River advocates relative to planning, designing and constructing water quality and watershed improvements. The State of California and the Lahontan Regional Water Quality Control Board provides a similar function for those portions of the Truckee River located in California. TMWA supports the watchdog role of NDEP and similar agencies in California.

Tahoe Regional Planning Agency (“TRPA”)

The goal of TRPA is to maintain the clarity of Lake Tahoe to near pristine levels. In order to accomplish this goal, this bi-state agency has been given extraordinary powers relative to Tahoe Basin regional planning and development including the power to set building standards and issue building permits. The net result of TRPA’s actions from a water quality perspective is very positive for TMWA in as much as a very significant portion of TMWA’s raw water comes from

Lake Tahoe. Recently TRPA also became very proactive with implementation of a very aggressive Aquatic Invasive Species program. The program includes a mandatory watercraft inspection and decontamination program which has been extremely helpful in preventing AIS from getting into TMWA intakes. TMWA is supportive of TRPA's water quality programs helping to preserve the clarity of Tahoe waters.

The Pyramid Lake Paiute Tribe (“PLPT”)

As noted above, the PLPT adopted a Water Quality Control Plan for waters within its jurisdiction, approved by the USEPA. The Tribe has adopted a comprehensive water quality monitoring program, and is engaged in various river restoration and wetland protection programs. TMWA supports these efforts and encourages more coordination with tribal programs.

The Nature Conservancy (“TNC”)

The Nature Conservancy (“TNC”) is a national non-profit engaged in the preservation and restoration of ecologically sensitive lands. Locally the TNC has been extremely proactive in the Truckee River watershed. Local projects The TNC has engaged in include the following:

1. Independence Lake: In 2010 The TNC purchased the watershed lands surrounding Independence Lake, an important drought-protection surface water source for TMWA. With this purchase the TNC will prevent the property from being commercially developed, thereby removing the potential water quality degradation of this vital resource. Along with the land purchase, the TNC has developed and implemented recreation and forest management plans for the area, including a forest thinning program to reduce fire threats and a restrictive watercraft program eliminating the possibility of AIS from entering the water body.
2. Lower Truckee River: The TNC has completed several river restoration projects on the River downstream of Reno-Sparks. These projects have restored several damaged reaches of the river, improving river biology and riparian habitat along the river.

TMWA supports the TNC's efforts in protecting and restoring ecologically damaged sections of the River.

Tahoe Resource Conservation District (“TRCD”)

The Tahoe Resource Conservation District (“TRCD”) is a regional non-profit engaged in restoration and conservation projects in the Tahoe Truckee area. As such, the agency frequently collaborates with the TRPA on projects. More recently, the TRCD collaborated with the TRPA on the implementation of the AIS program at Lake Tahoe. It is currently very much engaged in the final implementation of AIS programs for upstream reservoirs that serve TMWA and the Reno-Sparks community. TMWA supports these efforts.

Truckee River Watershed Council

The Truckee River Watershed Council is a Truckee-based non-profit organization engaged in programs and projects benefiting the River in the Donner-Truckee area. The organization collaborates and manages conservation projects including restoration of forest and creek habitat damaged by historical logging operations. TMWA supports the efforts of this organization.

Nevada Land Conservancy

The Nevada Land Conservancy is a locally based non-profit engaged in restoration projects for the Truckee River watershed in the local Reno-Sparks area. Recently this organization has been proactive in the coordination of restoration of areas devastated by local wildfires, including the Hawken Fire, Caughlin Fire and Washoe Drive Fire. The organization also manages programs for the control of terrestrial invasive species (invasive weeds). TMWA supports the efforts of this organization.

University of Nevada Cooperative Extension-Weed Coordinating Group

The Truckee Meadows Weed Coordinating Group, often in collaboration with the Nevada Land Conservancy, coordinates local programs for the control and monitoring of invasive land based weeds along the River corridor. The Group has developed a master plan which can be used to prioritize control and monitoring activities. TMWA supports the efforts of this organization.

Truckee Meadows Storm Water Coordinating Committee

This committee, established between inter-local agreement between the Cities of Reno, Sparks, and Washoe County has been proactive in promoting advances in storm water control and techniques and methods to improve storm water quality prior to discharge into the Truckee River. The committee has contributed to the formulation of low-impact development standards for the minimization of storm water run-off and the *Field Contractors Guide for Construction Site Best Management Practices*. In addition, on their own the two cities and Washoe County have completed projects supported by the TRF relative to storm water quality improvement in tributary creeks and main stem River. TMWA supports the work of this committee.

Keep Truckee Meadows Beautiful

The Keep Truckee Meadows Beautiful organization, a local non-profit, has been instrumental in the coordination and management of annual Truckee River Clean-Up Days. These events help keep the River corridor clean and increase environmental stewardship and awareness of our River.

RECOMMENDATIONS AND GUIDANCE – FUTURE TRF SUPPORTED PROJECTS AND PROGRAMS

In presenting recommendations and guidance to the Advisors relative to evaluation of future grant requests, TMWA recognizes the following concerning the Truckee River:

- **Anthropogenic Impacts:** TMWA recognizes that growth and development of land in the Truckee River watershed can contribute negative effects on water quality and the watershed. TMWA also recognizes that recent efforts to remediate and protect the River have had a positive impact to river health. These efforts include efforts to restore downstream reaches of the river to a more or less natural state in order to reduce flood impacts and to improve overall river health.
- **Impact of Environmental Regulations:** TMWA believes that enactment and implementation of federal environmental statutes has had a positive effect to the overall health of the Truckee River and its associated watershed. Most of the regulatory programs in place today that protect the River come from the federal statutes cited earlier in this document.
- **River Connectivity:** TMWA recognizes the connectivity of the Truckee River in that any negative activity affecting a reach of the River may manifest negative consequences to other reaches of the River, both downstream and upstream.
- **River Health and Impact to Regional Economy and Quality of Life:** TMWA's mission is to provide potable water meeting all water quality standards in the most efficient, economical way possible. However, TMWA also rigorously supports protection of other beneficial uses of the River system, including recreational opportunities afforded by the River. TMWA understands that support of the River's beneficial uses is important to the overall economic vitality of the region.
- **Stewardship and Support from Non-Profit Organizations:** TMWA recognizes that personal and group stewardship of the River is important in protecting the future health of the River. TMWA supports the development and implementation of educational programs in this effort and also supports non-profits relative to projects and programs that protect or remediate the River and watershed.

Grant Priorities

Based upon the aforementioned discussion, TMWA recommends that the Advisors give preference to well-prepared and thought out grant requests for projects and programs that mitigate substantial threats to water quality and the watershed, particularly those threats upstream or nearby treatment and hydroelectric plant intakes:

- I. **Aquatic Invasive Species (AIS):** Projects/Programs that support the prevention or control of aquatic invasive species in the main stream Truckee River, Lake Tahoe, other tributaries and water bodies in the Truckee River system.
- II. **Watershed Improvements:** Projects that reduce erosion or sediment, suspended solids, or TDS discharges to the River. Projects or programs that are located within 303d (impaired waters) sections of the River should be considered, both in California and Nevada. Innovative techniques should be encouraged.
- III. **Local Stormwater Improvements:** Projects that are well designed which mitigate storm water run-off due to urbanization of the local watershed. Priority should be given to those improvement projects in close proximity to TMWA's water supply intakes and canals and which will improve the reliability and protect the quality of the community's municipal water supply.
- IV. **Re-forestation and Re-Vegetation Projects:** Projects to restore forest and upland areas damaged by fire and historical logging operations, and to improve resiliency in extreme drought situations. Projects/programs in this category should be given a high priority due to urbanization of the watershed and increased susceptibility of the urban and suburban watershed to wildfire.
- V. **Support to Rehabilitation of Local Tributary Creeks and Drainage Courses:** Practical projects to support water quality improvement in Gray Creek, Bronco Creek, Mogul Creek, Chalk Creek, Steamboat Creek and the North Truckee Drain.
- VI. **Stewardship and Environmental Awareness:** Support to Clean-Up programs and the development and implementation of educational programs relative to water, water quality and watershed protection.
- VII. **Meet Multiple Objectives:** Projects/Programs should identify opportunities to meet multiple water quality and watershed objectives as outlined above with preference given to those achieving multiple benefits.
- VIII. **Leverage Stakeholder Assets and Participation:** Projects/Program selection should include an assessment of various stakeholder interests in all aspects of river water quality, watershed protection, source water protection and species enhancement thereby leveraging available funds and other assets.

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AGO 2005-07 AGREEMENTS: CITIES AND TOWNS: COUNTIES:

FUNDS: TMWA is vested with the power to make charitable donations to the River Fund.

Carson City, June 23, 2005

Honorable Richard A. Gammick, District Attorney, County of Washoe
Post Office Box 30083, Reno, Nevada 89520

Dear Mr. Gammick:

On January 21, 2005, this Office issued an opinion concerning the Truckee Meadows Water Authority (TMWA) and whether it can make charitable contributions to the Truckee River Fund (River Fund). Attorney General Opinion (AGO) No. 2005-01 concluded that TMWA is not vested with the power to make charitable donations to the River Fund.

Since AGO No. 2005-01 was issued, new information, including a persuasive legal analysis¹ concerning both TMWA itself and the River Fund, has been submitted. Because of the new information and a more complete understanding of the purposes of TMWA and the River Fund, we have reconsidered our opinion. Based on the following analysis, we believe that TMWA, a joint powers authority created pursuant to Nevada Revised Statutes (NRS) chapter 277 and a Cooperative Agreement entered into among Reno, Sparks, and Washoe County, is able to make charitable contributions to the River Fund² as long as the contributions further TMWA's purpose to develop and appropriately manage the water resources of the Truckee Meadows geographic area.

QUESTION

Whether TMWA may make charitable contributions to the River Fund?

ANALYSIS

Pursuant to NRS chapter 277, Reno, Sparks, and Washoe County entered into a Cooperative Agreement creating TMWA to, among other things, develop and manage the present and future water needs of the greater Truckee Meadows community. Cooperative Agreement at 2. The parties expressed the desire "to establish a separate legal entity to exercise power, privilege and

¹ Michael Pagni provided an in-depth analysis by letter to Attorney General Brian Sandoval dated May 3, 2005 (Pagni letter)

² The River Fund is intended to fund projects designed to improve the Truckee River watershed, water quality, and recreational uses of the river. The Cooperative Agreement creating TMWA establishes that TMWA's purpose is to develop and appropriately manage the water resources of the Truckee Meadows geographic area.

OFFICIAL OPINIONS OF THE ATTORNEY GENERAL

authority, . . . to develop and maintain supplies of water for the benefit of the Retail Service Area”³ Cooperative Agreement at 2.

NRS 277.100 defines a “public agency” to include “[a]ny agency of this state” NRS 277.120 provides that any agreement made pursuant to NRS 277.110 which establishes a separate legal or administrative entity to conduct the relevant joint or cooperative undertaking is a separate legal entity. Here the Cooperative Agreement plainly evidences the intention of Reno, Sparks, and Washoe County to create a “political subdivision of the State of Nevada” which “shall be separate from the Members, pursuant to NRS 277.074 and 277.120.” Cooperative Agreement at 5.

NRS 277.120 sets forth the statutory requirements for the establishment of such a separate legal or administrative entity. NRS 277.120 provides, in relevant part:

1. Except as otherwise provided in [NRS 277.105](#), any agreement made pursuant to [NRS 277.110](#) which establishes a separate legal or administrative entity to conduct the joint or cooperative undertaking shall specify:
 - (a) The precise organization, composition and nature of such entity and the powers delegated thereto.
 - (b) The duration of the agreement.
 - (c) The purpose of the agreement.
 - (d) The manner of financing such undertaking and of establishing and maintaining a budget therefor.
 - (e) The method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.
 - (f) Any other necessary or proper matters.

In addition to expressing the intention to create a separate legal entity, the Cooperative Agreement specifically designates TMWA, the boundaries of its authority, its duration, its purpose, the manner of financing the agency, maintenance of an annual budget, the means for terminating the agreement,

³ “Retail Service Area” is defined by the Cooperative Agreement to mean “the former Sierra Pacific Power Company retail water service area as described in the agreement between Sierra Pacific Power Company and Washoe County dated June 25, 1996, as amended, or as said retail service area may be modified from time to time pursuant to such agreement.” Cooperative Agreement at 4.

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and numerous other “necessary or proper matters” incident to TMWA’s mission. *See* Cooperative Agreement at 3, 5, 6, 8, 17, 22, 23.

NRS 277.120 recognizes that when local governments create a joint powers authority such as TMWA, they establish “*a separate legal or administrative entity* to conduct the joint or cooperative undertaking” [Emphasis added.] By evidencing the clear intention to create such a separate legal entity in the Cooperative Agreement, Reno, Sparks, and Washoe County created TMWA to be an independent and legally equivalent public agency.

NRS chapter 277 contemplates that *any* governmental function may be exercised by a joint powers authority. NRS 277.110 provides that any public agency “may exercise all the powers, privileges and authority conferred by NRS 277.080 to 277.180, inclusive, upon a public agency.” Thus, based on this precise statutory language, it appears that TMWA, as a public agency, is empowered by NRS chapter 277 to exercise the same discretionary powers as its local government creators as long as these powers are exercised consistently with the mission of TMWA and within its geographic area.

NRS 244.1505 and 268.028 vest counties and incorporated cities with the discretionary power to expend money to nonprofit organizations “for a selected purpose if it provides a substantial benefit to the inhabitants.” NRS 277.045(1) directs that political subdivisions “may enter into a cooperative agreement for the performance of *any* governmental function.” [Emphasis added.] Because Reno, Sparks, and Washoe County have statutory authority by virtue of NRS 244.1505 and 268.028 to expend money to nonprofit, charitable organizations for selected, beneficial purposes, it follows that TMWA has the same authority to perform the same governmental function. NRS 277.045.

The Cooperative Agreement grants TMWA the powers consistent with those previously exercised by Sierra Pacific Power Company for the management and stewardship of the water resources within the Truckee Meadows. Because most of the water used in the Truckee Meadows in normal water years is derived from the Truckee River, management of the river is central to TMWA’s mission. The River Fund is intended to further appropriate stewardship of the river’s resources. As set forth in the Pagni letter, the River Fund provides “a funding source for larger projects than contemplated by the Community Outreach Plan, by increasing community involvement and attracting matching private funding sources to enhance the value of TMWA’s contributions.” Pagni letter at 5. According to Pagni, TMWA provides “seed money” for private investments in projects that are independently determined by TMWA to protect and enhance water quality or water resources of the Truckee River or its watershed. All expenditures to the fund are subject to TMWA Board approval as established in specially adopted resolutions. Assuming that contributions to the River Fund are for projects within

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TMWA's geographical jurisdiction, such contributions appear to be consistent with TMWA's mission.

CONCLUSION

Based on the foregoing, we have determined that the Truckee Meadows Water Authority does have the legal authority to make contributions to the Truckee River Fund for the furtherance of its objectives as long as its contributions go to projects within TMWA's geographic jurisdiction.

Sincere regards,

BRIAN SANDOVAL
Attorney General

By: MARTA A. ADAMS
Senior Deputy Attorney General



Truckee River Fund 2023 Request for Proposals

The Community Foundation of Northern Nevada is accepting proposals for grants from the Truckee River Fund. Proposals will be considered by the Truckee River Fund Advisory Committee and grant recommendations must be approved both by the TMWA Board and the Board of Trustees of the Community Foundation. The fund advisors may recommend up to a total of \$800,000 in grant awards but may choose to award less than the amount available.

The mission of the Truckee River Fund is to protect and enhance water quality or water resources of the Truckee River or its watershed. To be considered for funding, project proposals must demonstrate measurable impact in accordance with this mission. Please note that land and/or water rights acquisition projects are not considered to be a Truckee River Fund priority. To see projects funded by the Truckee River Fund, please go to <http://www.truckeeriverfund.org>.

Projects must begin within 180 days of award. Applicants must be registered 501(c)(3) nonprofit agencies, nonprofit educational institutions, or governmental entities. Grants are paid on a reimbursable basis for actual expenditures.

Please **submit 1 pdf copy¹ via email** of your proposal. Proposals are encouraged for the following:

- A. Projects that improve bank or channel stabilization and decrease erosion.
- B. Structural controls or Low Impact Development (LID) projects on tributaries and drainages to the Truckee River where data supports evidence of pollution and/or sediments entering the Truckee River.
- C. Projects that remove pollution from the Truckee River.
- D. Projects that remove or control invasive aquatic species or terrestrial invasive plant species that are adverse to water supply.²
- E. Other projects that meet the grant priorities listed on page 2.

Applicants must provide a minimum 25 percent match for funds requested. Guidelines for requests of matching funds are provided in the attached application form. For larger grant requests, priority will be given to projects that significantly leverage the grant with funding from other sources. **Indirect/overhead expenses cannot exceed 25 percent**; TRF *may* fund indirect/overhead up to 25% based on availability of funds. Applicants should be prepared to provide reduced budgets during the review of applications by the TRF Board when funds are limited.

Deadline for submitting **your completed proposal is Friday February 3, 2023 at noon**. Applications must be confirmed as received by the Community Foundation of Northern Nevada by the deadline to be considered for funding. For questions, additional information, or an electronic copy of the application, contact the Community Foundation. The application is also available online at www.truckeeriverfund.org.

The application may be reproduced, retyped, or sections increased or reduced in length but must follow the same order. Please use the following checklist to ensure your application is complete:

- Proposal, including Cover Sheet and narrative, is a maximum of 5 pages on 8 ½" x 11" paper in readable font (i.e. Times New Roman 12 pt.)
- Budget is page 6
- Pages are numbered
- You are submitting 1 pdf copy
- You have emailed the pdf to lrenda@nevadafund.org so it is received no later than **Friday February 3, 2023 at noon**

¹ Note: Put your application page, budget, and any photos into ONE Pdf file. Submit your required attachments via email as individual files clearly labeled with your organization's name in the file name. Send your files to lrenda@nevadafund.org.

² For proposals related to weed control/eradication, contact Lauren Renda at the Community Foundation of Northern Nevada for additional criteria: lrenda@nevadafund.org; 775-333-5499.



**COMMUNITY
FOUNDATION**
of Northern Nevada

TRUCKEE RIVER FUND
Enhancing and protecting our water resources



Grant Priorities

TMWA recommends that the Advisors give preference to well-prepared and thought out grant requests for projects and programs that mitigate substantial threats to water quality and the watershed, particularly those threats upstream or nearby treatment and hydroelectric plant intakes:

- I. **Aquatic Invasive Species (AIS):** Projects/Programs that support the prevention or control of aquatic invasive species in the main stream Truckee River, Lake Tahoe, other tributaries and water bodies in the Truckee River system.
- II. **Watershed Improvements:** Projects that reduce erosion or sediment, suspended solids, or TDS discharges to the River. Projects or programs that are located within 303d (impaired waters) sections of the River should be considered, both in California and Nevada. Innovative techniques should be encouraged.
- III. **Local Stormwater Improvements:** Projects that are well designed which mitigate storm water run-off due to urbanization of the local watershed. Priority should be given to those improvement projects in close proximity to TMWA's water supply intakes and canals and which will improve the reliability and protect the quality of the community's municipal water supply.
- IV. **Re-Forestation and Re-Vegetation Projects:** Projects to restore forest and upland areas damaged by fire and historical logging operations, and to improve watershed resiliency in drought situations. Projects/programs in this category should be given a high priority due to urbanization of the watershed and increased susceptibility of the urban and suburban watershed to wildfire.
- V. **Support to Rehabilitation of Local Tributary Creeks and Drainage Courses:** Practical projects to support water quality improvement in Gray Creek, Bronco Creek, Mogul Creek, Chalk Creek, Steamboat Creek and the North Truckee Drain.
- VI. **Stewardship and Environmental Awareness:** Support to Clean-Up programs and the development and implementation of educational programs relative to water, water quality and watershed protection.
- VII. **Meet Multiple Objectives:** Projects/Programs should identify opportunities to meet multiple water quality and watershed objectives as outlined above with preference given to those achieving multiple benefits.
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Cover Sheet Page 2



Cover Sheet

Date:

Organization Name:				
Type:	501(c)(3) EIN#	Governmental entity? Y/N		
Address:				
Project Name:				
Amount requested:		Website:		
This funding will be used to (complete this sentence with a max of 2 sentences):				
Key People:	Director:			
	Board Chair:			
	Project Contact:	Name:		
		Position:		
		Phone:		
		Fax:		
Email:				
Organization Mission:				
Has your organization received other grants from the Truckee River Fund? Yes No (use additional page if necessary)	If yes,			
	Date awarded:			
	Project title:			
	Amount of Award:			
	Date awarded:			
	Project title:			
	Amount of Award:			
	Date awarded:			
	Project title:			
	Amount of Award:			

DESCRIPTION OF PROJECT UNDER CONSIDERATION

Indicate the description that best fits the project you are proposing. Mark no more than three categories:

- A. Projects that improve bank or channel stabilization and decrease erosion.
- B. Structural controls or Low Impact Development (LID) projects on tributaries and drainages to the Truckee River where data supports evidence of pollution and/or sediments entering the Truckee River.
- C. Projects that remove pollution from the Truckee River.
- D. Projects that remove or control invasive aquatic species or terrestrial invasive plant species that are adverse to water supply.³
- E. Other projects that meet the evaluation criteria.

³ For proposals related to weed control/eradication, contact Lauren Renda at the Community Foundation of Northern Nevada for additional criteria. lrenda@nevadafund.org; 775-333-5499.



NARRATIVE REQUIREMENTS

Provide answers for all 11 sections below; use the numbers and topics (in **bold**) to label each section in your response. Your application is limited to 5 narrative pages, including the cover sheet. Your budget is page 6. **All projects are required to have measurable outcomes:**

1. Specific **project goals and measurable outcomes and how you will measure and report them.**
2. **Project location.**
3. **Project description.** Include site map and aerial photos if applicable/possible. Maps and photos must fit on 8-1/2" x 11" paper. Cite any studies that support your project.
4. **Grant priorities.** Explain how the proposed project advances the TRF's grant priorities (page 2 of the cover sheet); refer to the priorities by number in your narrative.
5. **Permitting.** Provide a permitting schedule for your project along with your plan for getting the required permits. Be sure to include the cost of permitting as a line item in your budget.
6. **Future land use.** List any known or foreseeable zoning, land use, or development plans that may affect your proposed project.
7. If **future phases** of the project will be needed, identify anticipated sources of funding.
8. **Principals involved** in leading or coordinating the project or activity.
9. Number of **staff positions involved** in project: Fulltime Part-time ("Fulltime" means 100% of their staff position will be dedicated to this project; "part-time" means only a portion of their staff position will be dedicated to this project)
10. Number of **volunteers involved** in project and an estimated number of volunteer hours.
11. **Time Line** of Project. List key dates and include project milestones. *Note:* Be realistic in your estimate of dates and milestones. List any factors that may cause a delay in implementing and/or completing the project.
12. **Success.** Tell the committee how we will know you succeeded in what you proposed to do.
13. **Collaboration.** List partnerships or collaborations with other entities in relation to your proposal, if any.
14. **Grant match.** All applicants must provide a match of at least 25 percent for dollars requested. The match may be with funding and/or in-kind services. For larger grant requests, priority will be given to projects that significantly leverage the grant with funding from other sources. Complete the Grant Match section.
15. **Project budget** (see Sample Budget Template on page 5 of this RFP). Provide detail on line-item expenditures and show which costs are to be paid for by the Truckee River Fund grant, which expenses will be paid for by other sources, and which will be paid for with in-kind services. Other sources of funding should be provided.
 - *Note 1:* Project budget must be a stand-alone, one-page attachment.
 - *Note 2:* Indirect/overhead expenses cannot exceed 25 percent; TRF may fund indirect/overhead up to 25% based on availability of funds. Applicants should be prepared to provide reduced budgets during the review of applications by the TRF Board when funds are limited.

Grants from the Truckee River Fund are paid on a reimbursable basis for actual expenditures only. Craft your budget in such a way that requests for reimbursement correspond to the original budget.



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Grant Match

Match amount to be provided:	\$			
Match details:	Please provide the form of your matching funds. If match is made up of both cash and in-kind, fill in both sections.			
	Match is:			
	<table border="1" style="width: 100%;"> <tr> <td style="width: 30%;">Cash</td> <td>\$</td> </tr> <tr> <td>In-kind</td> <td>\$</td> </tr> </table> <p>Note: Volunteer and in-kind hours may be calculated at a maximum rate of \$20/hour per individual. Indirect cost may not be counted as match.</p>	Cash	\$	In-kind
Cash	\$			
In-kind	\$			
For the cash portion of your match, is the funding already being held by the applicant for this project? Yes ___ No ___				
Description of matching funds/in-kind donations:				

ATTACHMENTS

You may be asked to submit the following attachments via email. If you are asked to submit the attachments, clearly label each file with your organization’s name. If you do not have the ability to email them, place each of the items listed below on a separate page and submit just one copy.

Nonprofits submit:

- Last audited financial statements if your organization has been audited
- List of Board of Directors
- Copy of agency’s IRS 501(c)(3) Tax Determination Letter
- Copy of the agency’s most recent IRS Form 990

Governmental entities submit:

- Departmental budget in lieu of audited financial statements



SAMPLE BUDGET TEMPLATE

Budget Item Description*	ORIGINAL PROJECT BUDGET				REIMBURSEMENT REPORT	
	TRF \$	Other Funding Name**	Match \$	Total	Expenditures to date TRF	Expenditures to date (other sources)
Design/Engineering	\$xx,xxx	Agency X	-	\$xx,xxx	\$xx,xxx	
Permitting	\$xx,xxx	Agency X	\$x,xxx	\$x,xxx		\$x,xxx
Labor--paid	\$x,xxx	Agency X	\$x,xxx	\$x,xxx	\$x,xxx	
Labor--volunteer (\$20/hr)		Own people	\$xx,xxx	\$xx,xxx	\$x,xxx	
Construction	\$xx,xxx	Agency Y	\$xx,xxx	\$xx,xxx		
Materials	\$xx,xxx	Agency Y	\$xx,xxx	\$xx,xxx		
Other (be specific)	\$xx,xxx	Agency Y	\$xx,xxx	\$xx,xxx		
Overhead (max. 25%)	\$xx,xxx	Own agency	\$xx,xxx	\$xx,xxx		
TOTAL	\$xxx,xxx		\$x,xxx	\$xxx,xxx	\$xx,xxx	\$x,xxx

**Explain status of other funding if not in hand.

*These are sample descriptions.

If project is to be implemented in phases, please separate budget into each phase.

Indirect costs may not be counted as match.



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GRANTEE REQUIREMENTS

To be eligible for funding, grantees must adhere to the following requirements:

- Funds are to be used and/or disbursed exclusively for the charitable uses and purposes.
- The Fund shall be used exclusively for projects that protect and enhance water quality or water resources of the Truckee River, or its watershed.
- The Charitable Beneficiaries may include 501(c)(3) organizations and governmental entities. Any grants to governmental entities must be made exclusively for public benefit purposes.
- All grantees will be required to sign a grant agreement stipulating their agreement with all of the terms, conditions, and reporting requirements.
- Organizations or entities sponsoring proposals are prohibited from ex parte communications regarding such proposals with members of the Truckee River Fund Advisory Committee while such proposals are pending before the Committee, and such communications may be grounds for rejecting a proposal.
- To maintain eligibility to receive grant funds, each Charitable Beneficiary must comply at all times with the following requirements:
 1. Charitable Beneficiaries must be exempt from federal income taxation under Section 501(c)(3) of the Code;
 2. Charitable Beneficiaries shall use all Fund distributions toward projects that are appropriate and legal public expenditures;
 3. Charitable Beneficiaries must provide financial details and/or reports of their organizations upon request;
 4. Charitable Beneficiaries must not use any Fund distributions for political contributions or political advocacy;
 5. Charitable Beneficiaries must either implement the projects, activities, and/or programs for which they received Fund distributions within six months of the date in which such distributions are received or by date(s) as agreed upon in the grant acceptance agreement, or must return all such distributions to the Community Foundation forthwith;
 6. Charitable Beneficiaries must provide the Community Foundation a report detailing the completion of their projects, activities, and/or programs; and
 7. Charitable Beneficiaries must sign an agreement regarding their compliance with the qualifications hereof.

PROJECT EVALUATION

Each proposal will be evaluated on criteria that include but are not limited to:

- Measurable outcomes in accordance with stated grant priorities.
- Readiness of sponsoring organization to undertake and complete project.
- Consistency with established Truckee River operations.
- Impact on other River stakeholders.
- Absence of negative or unintended consequences.
- Solutions to known problems as identified through past research.
- Prior performance on grants from the Truckee River Fund.

The Nature Conservancy and Truckee River Watershed Council have conducted assessments of the Truckee River and the Donner Lake watersheds and have presented their findings to the Truckee River Fund advisory committee. The results of these assessments may influence the advisors' decision-making during proposal review. Copies of the assessments are available at www.truckeerriverfund.org.