

**LCB File No. R004-02**

**PROPOSED REGULATION OF THE DIVISION OF STATE LANDS  
OF THE STATE DEPARTMENT OF CONSERVATION  
AND NATURAL RESOURCES**

**NOTICE OF INTENT TO AMEND REGULATIONS**

Notice of Workshop and Hearing for Amending Regulations Regarding Grants for the Control of Erosion and Restoration of Natural Watercourses for Lake Tahoe, State of Nevada, Department of Conservation and Natural Resources, Division of State Lands

The Division of State Lands will hold a workshop and public hearing at 5:30 pm, on February 7, 2002, at the Zephyr Cove Library, 233 Warrior Way, Zephyr Cove, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to the grants for the Control of Erosion and Restoration of Natural Watercourses. (NAC 321.300 –321.365)

The following information is provided pursuant to the requirements of NRS 233B.060

1. Regulations regarding this grant program became effective March 3, 1998 and were amended May 4, 2000. There is a need to amend the existing regulations for the following reasons:

a. Current regulations provide that only the Nevada Department of Transportation and County governments located in the Tahoe Basin are eligible for grant funds. Legislation adopted during the 2001 Legislative Session (Assembly Bill 176) provided authority to award grant funds to state agencies, eligible counties, local governments, non-profit organization or other persons or entities to carry out water quality, erosion control and stream restoration/enhancement projects in the Lake Tahoe basin. The proposed amendments add language to reflect the most recent legislation.

b. Current grant regulations refer only to funds authorized under section 2 of chapter 361, Statutes of Nevada 1995 (Tahoe Bond Act). The proposed amendments add language for grant funds authorized under Section 3 of chapter 514, Statutes of Nevada 1999.

2. The following is a description of the proposed amendments:

- a. Describes grant application process and required contents of applications;
- b. Sets forth grant evaluation and prioritization procedures;
- c. Sets forth evaluation criteria for award of grants;
- d. Sets forth minimum requirements included in grant agreements; and
- e. Sets forth acceptable and unacceptable uses of grant funds.

3. The proposed regulations establish no new fees nor increase any existing fees.

Persons wishing to comment upon the proposed action of the Division of State Lands may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Nevada Division of State Lands, 333 W. Nye Lane, Room 118, Carson City, Nevada 89706. Written submissions must be received by the Division of State Lands on or before the date of the hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division of State Lands may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted will be available at both Division of State Lands offices:

333 W. Nye Lane, Room 118, Carson City, Nevada 89706

333 S. Carson Meadows, Suite 44, Carson City, Nevada 89701

Additional copies of the notice and the regulation will also be available in all counties, at the main public library, for inspections and copying by members of the public during business hours.. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

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|------------------------------------|---|
| 1) State Library and Archives      | 100 N. Stewart St, Carson City, NV 89701          |
| 2) Carson City Library             | 900 N. Roop St., Carson City, NV 89701            |
| 3) Churchill County Library        | 5553 S. Maine St., Fallon, NV 89406               |
| 4) Clark County Library            | 833 Las Vegas Blvd, North, Las Vegas, NV 89101    |
| 5) Douglas County Library          | P.O. Box 337, Minden, NV 89423                    |
| 6) Elko County Library             | 720 Court St., Elko, NV 89801                     |
| 7) Goldfield Public Library        | P.O. Box 430, Goldfield, NV 89013                 |
| 8) Eureka Branch Library           | P.O. Box 293 , Eureka, NV 89316                   |
| 9) Humboldt County Library         | 85 East 5 <sup>th</sup> St., Winnemucca, NV 89445 |
| 10) Battle Mountain Branch Library | P.O. Box 141, Battle Mountain, NV 89820           |
| 11) Lincoln County Library         | 93 Main St., Pioche, NV 89043                     |
| 12) Lyon County Library            | 20 Nevin Way, Yerington, NV 89447                 |
| 13) Mineral County Library         | P.O. Box 1390, Hawthorne, NV 89415                |
| 14) Tonopah Public Library         | 171 Central St., Tonopah, NV 89049                |
| 15) Pershing County Library        | 1125 Central Ave., Lovelock, NV 89419             |
| 16) Storey County Library          | 95 South R St., Virginia City, NV 89440           |
| 17) Washoe County Library          | 301 S. Center St., Reno, NV 89505                 |
| 18) White Pine County Library      | 950 Campton St., Ely, NV 89301                    |
| 19) Division of State Lands        | 333 W. Nye Lane, Rm 118, Carson City NV 89701     |

**PROPOSED REGULATION OF THE DIVISION OF STATE LANDS  
OF THE STATE DEPARTMENT OF CONSERVATION  
AND NATURAL RESOURCES**

**CONTROL OF EROSION AND RESTORATION OF NATURAL  
WATERCOURSES FOR LAKE TAHOE**

**NAC 321.300 Definitions.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) As used in NAC 321.300 to 321.365, inclusive, the words and terms defined in NAC 321.3054 to 321.330, inclusive, have the meanings ascribed to them in those sections.

**NAC 321.305 “Committee” defined.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) “Committee” means the technical advisory committee established pursuant to section 7 of the “Cooperative Agreement” entered into by the division and the district on September 25, 1997.

**NAC 321.310 “District” defined.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) “District” means the Nevada-Tahoe Conservation District.

**NAC 321.315 “Division” defined.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) “Division” means the division of state lands of the department of conservation and natural resources.

**NAC 321.320 “Eligible County” defined.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) “Eligible County” includes only:

1. Carson City;
2. Douglas County; and
3. Washoe County.

**NAC 321.325 “Matching contribution” defined.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) “Matching contribution” means money or anything of value, including, without limitation, the use of personnel, materials or equipment of the applicant.

**NAC 321.330 “Project” defined.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) “Project” means a project for the control of erosion, *water quality treatment*, or the restoration *or enhancement* of natural watercourses or *stream environment zones* in the Lake Tahoe Basin.

**NAC 321.335 “Cooperative Agreement” adopted by reference.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*)

1. The “Cooperative Agreement” entered into by the division and the district on September 25, 1997, is hereby adopted by reference.

2. A copy of the “Cooperative Agreement” may be obtained without charge:
  - (a) In person, from the Division of State Lands, 333 West Nye Lane, Suite 118, Carson City, Nevada.
  - (b) By telephone, at (775) 687-4363 or (775) 687-4735
  - (c) By mail, from the State Land Registrar, Division of State Lands, Capitol Complex, Carson City, Nevada 89710

*“State Agency” defined. ( sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.) “State Agency” means any agency, department or division of the executive branch of the state, including the university and college system of Nevada.*

*“Local Government” defined. (sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.) “Local Government” means any political subdivision of Nevada, including without limitation, counties, incorporated cities and towns including Carson City, unincorporated towns, general improvement districts and other districts.*

*“Non-profit organization” defined. (sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.) “Non-profit organization” means an entity or organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code.*

*“Stream Environment Zone” defined. (sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.) “Stream Environment Zone (SEZ)” means an area which owes its biological and physical characteristics to the presence of surface or ground water. The precise definition is an area determined to be a stream environment zone using the criteria set forth in the Tahoe Regional Planning Agency’s Water Quality Management Plan for the Lake Tahoe Region, Volume III, SEZ Protection and Restoration Program, dated November, 1988.*

**NAC 321.340 Grants of money: Award; distribution; match contributions. (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.)**

1. The state land registrar will award grants of money from the sale of general obligation bonds of this state issued pursuant to section 1 of chapter 361, Statutes of Nevada 1995, to the department of transportation, eligible counties *and local governments* pursuant to NAC 321.340 to 321.365, inclusive. ~~[2.]~~ Such money must be distributed as follows:

(a) Not more than one-third of the money may be allocated to projects of the department of transportation.

(b) At least two-thirds of the money must be allocated projects of eligible counties and *local governments*.

2. *The state land registrar will award grants of money, or enter into contracts or agreements, from the sale of general obligation bonds of this state issued pursuant to sections 2 and 3 of chapter 514, Statutes of Nevada 1999 to state agencies, eligible counties, local governments, non-profit organizations or other persons or entities to carry out water quality, erosion control and stream restoration/enhancement projects in the Lake Tahoe Basin.*

3. An applicant for ~~[a grant]~~ *monies granted* pursuant to NAC 321.340 to 321.365 shall provide a matching contribution to the project of not less than 25 percent of the total ~~[projected]~~

cost of the project. ~~[for which the grant is being requested by the applicant.]~~ *State agencies are not required to provide matching funds.*

~~[4. The state land registrar will not award a grant pursuant to NAC 321.340 to 321.365, inclusive, in an amount which exceeds 75 percent of the projected cost of the project.]~~

**NAC 3321.345 Solicitation of applications; contents of applications.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.)

1. The state land registrar will periodically solicit applications from ~~[eligible counties and the department of transportation]~~ *state agencies, eligible counties, local governments, non-profit organizations and other persons or entities* for grants of money from the sale of general obligation bonds issued pursuant to section 1 of chapter 361, Statutes of Nevada 1995 *and sections 2 and 3 of chapter 514, Statutes of Nevada 1999*, and establish deadlines for the submission of those applications.

*2. A pre-application shall be submitted to determine initial eligibility of the proposed project to qualify for a grant. Criteria to determine initial eligibility shall include, but not be limited to:*

*(a) That the proposed project is listed in the Environmental Improvement Program as set forth by the Tahoe Regional Planning Agency; and*

*(b) That the proposed project is a benefit to the general public as determined by the state land registrar.*

~~[2]~~ *3. Upon determination by the state land registrar that a project is eligible to qualify for a grant, an application may be submitted for the proposed project.*

4. An application for such a grant *from eligible counties, local governments, non-profit organizations or other person or entities* must be submitted to the district and include, without limitation:

(a) A completed application *package* on ~~[a]~~ forms provided by the district *and approved by the division;*

(b) The amount of money requested for the project;

(c) The total projected cost of the project *that includes, without limitation, estimated costs for planning, design, acquisition, and construction;*

(d) A detailed description of the project;

(e) Proof of any title to land, lease or easement that is required for the carrying out of the project;

(g) A statement regarding the conformity of the project to all applicable local and regional land use plans;

(h) *Evidence that the proposed project is included in the Environmental Improvement Program as set forth by the Tahoe Regional Planning Agency.*

~~[(h)]~~ *i.* A plan for the operation and maintenance of the project for a period of not less than 20 years, including, without limitation, the identity of the person who will operate the project and provide the maintenance;

~~[(h)]~~ *(j)* An itemized list of the costs of the project in accordance with the description of work and unit prices set forth in the ~~["Question 12"]~~ "Project Cost Estimator" which is hereby adopted by reference. A copy of the ~~["Question 12"]~~ "Project Cost Estimator" may be obtained without charge:

(1) In person, at the ~~[United State Department of Agriculture, Natural Resources Conservation Service Tahoe Field Office]~~ *Nevada Tahoe Conservation District office*, 870

Emerald Bay Road, ~~[Suite 108]~~, South Lake Tahoe, California *or the Division of State Lands, 333 West Nye Lane, Suite 118, Carson City, Nevada.*

(2) By telephone, at (530) 573-~~[2761]~~ 2757 or (775) 687-4363.

(3) By mail, at the ~~[United States Department of Agriculture, Natural Resources Conservation Service Field Office, P.O. Box 10529]~~ Nevada Tahoe Conservation District office, P.O. Box 10529, South Lake Tahoe, California 96158.

*(k) A detailed description of how the project conforms to the guidelines and objectives described in the application package; and*

*(l) A detailed description of the environmental and public benefits of the project.*

*5. An application for such a grant from a state agency must be submitted to the division and include, without limitation:*

*(a) A completed application package on a form provided by the division;*

*(b) The amount of money requested for the project;*

*(c) The total projected cost of the project that includes, without limitation, estimated costs for planning, design, acquisition, and construction;*

*(d) A detailed description of the project;*

*(e) Proof of any title to land, lease or easement that is required for the carrying out of the project;*

*(g) A statement regarding the conformity of the project to all applicable local and regional land use plans;*

*(h) Evidence that the proposed project is included in the Environmental Improvement Program as set forth by the Tahoe Regional Planning Agency.*

*(i) A plan for the operation and maintenance of the project for a period of not less than 20 years, including, without limitation, the identity of the person who will operate the project and provide the maintenance;*

*(j) A detailed description of how the project conforms to the guidelines and objectives described in the application package; and*

*(k) A detailed description of the environmental and public benefits of the project.*

**NAC 321.350 Evaluation and prioritization of projects. (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; and sec. 3 of ch. 514, Stats. of Nevada 1999.)** The district shall:

1. Evaluate the feasibility of each project *for which it has received and application* and *evaluate* its estimated costs and benefits pursuant to the criteria set forth in NAC 321.355. In its review of each project, the district shall use the technical advice of the committee.

2. Develop a preliminary list which ranks projects for which applications have been submitted in order of priority. ~~[for each of the following categories:]~~

~~[(a) Projects of the department of transportation.]~~

~~[(b) Projects of eligible counties for the control of erosion.]~~

~~[(c) Projects of eligible counties for the restoration of natural watercourses.]~~

3. Make the preliminary list of prioritized projects available for public review.

4. Conduct at least one public hearing regarding each preliminary list of prioritized projects. The district may revise each preliminary list after the public hearing.

5. Submit a final list of prioritized projects ~~[for each category of projects]~~ to the state land registrar with a written evaluation of each project which addresses the criteria set forth in NAC 321.355.

**NAC 321.355 Criteria for evaluating projects for award of grants.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) The district shall evaluate each project pursuant to the following criteria:

1. The benefit to the water quality of Lake Tahoe, including, without limitation, whether the project:

(a) Will address a significant problem relating to soil erosion or water quality or both soil erosion and water quality;

(b) Will result in a ~~[quantifiable]~~ *demonstrated* improvement in water quality;

(c) Is listed ~~[as a priority project in the “Water Quality Management Plan for the Lake Tahoe Region” or]~~ *in* the Environmental Improvement Program of the Tahoe Regional Planning Agency; and

(d) Will reduce significantly the amount of untreated runoff that is currently being deposited in Lake Tahoe.

2. The adequacy of the design of the project, including, without limitation, whether the proposed project:

(a) Uses proven, effective and cost effective techniques to address the control of soil erosion and *water quality treatment* ~~[untreated runoff]~~;

(b) Restores, ~~[and]~~ preserves and *enhances* vegetation and stream environmental zones to the maximum extent possible;

(c) Uses improvements that reflect aesthetic considerations; and

(d) Uses bioengineering.

3. The comprehensive approach of the project, including, without limitation, whether all identifiable aspects of the problem of soil erosion *and water quality treatment of runoff* in the project area or the watershed are covered in the project.

4. The long-term viability of the project, *including, without limitation, the applicant’s ability to operate and maintain the project.*

5. The cost effectiveness of the project, including, without limitation, the potential of the project to attract financing in addition to the grant.

6. The ability of the applicant to carry out the project in a timely manner.

7. The ability of the portion of the project that will be paid for with money from the grant to achieve benefits to water quality independently of the other components of the project.

8. The ability of the project to be used as a model for future projects, including, without limitation, whether the project:

(a) Uses biotechnology; ~~[and]~~

(b) Combines proven and innovative approaches; *and*

*(c) Includes a monitoring program measuring the effectiveness of the project.*

9. The amount of cooperation and support for the project from persons other than the applicant, including, without limitation:

(a) Federal, state and local governmental agencies; and

(b) Private landowners.

10. The amount of a matching contribution to the project that will be provided by the applicant which must equal at least 25 percent of the cost of the project *for non-state agencies.*

11. The adequacy of the plan for maintenance of the project.

*12. The benefit to the public.*

*13. The extent that the project meets the objectives and guidelines as set forth in the application package provided by the District.*

**NAC 321.360 Agreement between state land registrar and recipient of grant.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*) The state land registrar and the recipient of a grant shall enter into an agreement, which must require that the recipient shall:

1. Provide a matching contribution to the proposed project of not less than 25 percent of the project, *if the recipient is a not a state agency*;
2. Operate and provide maintenance for the project for not less than 20 years after the project is completed; ~~and~~
3. Obtain such easements for conservation, *or other interests in land*, as are necessary to carry out the project. The easements must be approved by the state land registrar. As used in this subsection, “easement for conservation” has the meaning ascribed to it in NRS 111.410. *The state land registrar may require that the conservation easement, or other interests in land, be held by the state; and*
4. *Agree to additional conditions deemed necessary by the state lands registrar, including the posting of a performance bond by the applicant, to advance the purposes of this chapter.*

**NAC 321.365 Acceptable and unacceptable uses of grant.** (NRS 548.360; sec. 2 of ch. 361, Stats. of Nevada 1995; *and sec. 3 of ch. 514, Stats. of Nevada 1999.*)

1. Except as otherwise provided in subsection 2, the recipient of a grant pursuant to NAC 321.340 to 321.365, inclusive, may use the money from the grant to pay for:
  - (a) All expenses related directly to the project, including, without limitation, expenses related to the design and construction of the project;
  - (b) *Monitoring of the effectiveness of projects funded pursuant to sec. 3 of chapter 514, Statutes of Nevada 1999 (if deemed necessary by the state land registrar).*
  - ~~(b)~~ (c) The administrative costs of the project, not to exceed 3 percent of the total cost of the project.
2. The recipient of a grant pursuant to NAC 321.340 to 321.365, inclusive, may not use the money from the grant to pay for, *including but not limited to, the following*:
  - (a) Any planning activities which are not directly related to the design and engineering of the project;
  - (b) The purchase of new equipment, *unless determined by the state land registrar to be required for monitoring the effectiveness of the project*;
  - (c) ~~The~~ paving ~~of curbs or gutters~~, unless the paving ~~of curbs or gutters~~ is recommended by the committee to remedy erosion;
  - (d) The acquisition of land, unless such an acquisition is deemed by the state land registrar to be an integral component of the project;
  - (e) Any work required by a public agency as mitigation or as a condition of the approval of any project; ~~and~~
  - (f) Any component of the project that is deemed by the state land registrar to not benefit the public; *and*
  - (g) *Installation of best management practices on private property as required by the Tahoe Regional Planning Agency.*