TRPA
APC
PACKETS

FEBRUARY
1985
TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on February 27, 28, 1985, commencing at 9:30 a.m. each day, the Governing Body of the Tahoe Regional Planning Agency will conduct its regular meeting at 2155 South Avenue, South Lake Tahoe, California. The agenda for said meeting is attached to and made a part of this notice.

NOTICE IS FURTHER GIVEN that on Thursday, February 28, 1985, commencing at 8:30 a.m. in the same location, the Finance Committee will meet to discuss the following: 1) administration of mitigation fee and security bond funds; 2) acceptance of financial statement; 3) status of FY 1985-86 and 1986-87 budget requests; and 4) reports on transportation funding requests and Wildwood/Bijou erosion control project funding.

Date: February 14, 1985

[Signature]

Gary D. Midkiff
Acting Executive Director
Tahoe Regional Planning Agency

NOTE: Items on the agenda without a time designation may not necessarily be considered in the order in which they appear on the agenda.
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

February 27, 1985  9:30 a.m.
February 28, 1985  9:30 a.m.

PRELIMINARY AGENDA

I  CALL TO ORDER AND DETERMINATION OF QUORUM

II  APPROVAL OF AGENDA

III  DISPOSITION OF MINUTES

IV  CONSENT CALENDAR

V  LITIGATION

A. Consideration of Litigation in the Following:
   1. California Attorney General/League to Save Lake Tahoe v. TRPA
   2. Tahoe Sierra Preservation Council v. TRPA, et al (Eastern District of California and District of Nevada)
   3. City of South Lake Tahoe v. TRPA, et al (Eastern District of California), Unauthorized Expansion of Service at South Tahoe Airport

B. Closed Session to Confer on the Following:
   1. California Attorney General/League to Save Lake Tahoe v. TRPA
   2. Tahoe Sierra Preservation Council v. TRPA, et al (Eastern District of California and District of Nevada)
   3. City of South Lake Tahoe v. TRPA, et al (Eastern District of California), Unauthorized Expansion of Service at South Tahoe Airport

VI  EIS CERTIFICATION

Cove East Subdivision, Dillingham Development Company, City of South Lake Tahoe (Pursuant to Settlement Agreement)

VII  PROJECT REVIEW

A. Cove East Subdivision, Tentative Map for 26 Units, City of South Lake Tahoe (Pursuant to Settlement Agreement)

Caltrans, Tahoe City Left-Turn Channelization and Highway Widening, Highway 89, Placer County, TRPA File #84600
C. City of South Lake Tahoe, Bus Turnouts, Highway 50, TRPA File #84032

VIII ENFORCEMENT

A. Show Cause Hearings

1. City of South Lake Tahoe, Unauthorized Expansion of Service at the South Tahoe Airport

2. Tom Montesano, Violation of Conditions of Approval and Revocation of Permit, 534 Cole Circle, Incline Village, Washoe County APN 122-135-15

Joseph Borselli, Unauthorized Land Coverage, 198 Ray Way, Skyland, Douglas County APN 05-023-01

Raymond Haas, Unauthorized Structure Below High Water Line, 5550 North Lake Boulevard, Placer County APN 89-051-08

B. Reports

1. Manny Reals, Unauthorized Construction and Signs, Douglas County APN 03-141-01 and 03-142-01

2. Other

IX PLANNING MATTERS

A. Plan Area Statement Revisions

B. Resolution Amending the Rules and Regulations of Practice and Procedure to Permit Staff Issuance of Emergency Permits

C. Report of Neighborhood Delivery Center (NDC) Advisory Committee January 10, 1985 Meeting - NDC Site Evaluation Summary

X ORDINANCES

Second Reading of Ordinance Amending Section 2.12 of Ordinance 84-1 to Extend the Effective Date of Plan Area Statements as Interim Policy Guidelines

XI ADMINISTRATIVE MATTERS

A. Appointment of Board Member to Attend March 20 Glenridge Settlement Conference in Fresno, California

B. Finance Committee Report and Recommendations

C. Executive Session to Discuss the Recommendations of the Executive Director Committee
D. Selection of an Executive Director

E. Other

XII REPORTS
A. Acting Executive Director
B. Legal Counsel
C. Executive Session
D. Governing Body Members
E. Public Interest Comments

XIII CORRESPONDENCE

XIV RESOLUTIONS

XV PENDING MATTERS

XVI ADJOURNMENT

CONSENT CALENDAR

<table>
<thead>
<tr>
<th>Item</th>
<th>Recommended Action</th>
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</thead>
<tbody>
<tr>
<td>City of South Lake Tahoe, Wildwood/Bijou Erosion Control Project,</td>
<td>Approval With Findings And Conditions</td>
</tr>
<tr>
<td>Release of Mitigation Funds</td>
<td></td>
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</tbody>
</table>
Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedure shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

- Article III(g) Public Law 96-551
MEMORANDUM

February 20, 1985

To: The TRPA Governing Board

From: The Staff

Subject: City of South Lake Tahoe, Wildwood/Bijou Erosion Control Project, Release of Mitigation Funds

The City of South Lake Tahoe has requested $93,000 of the Water Quality Mitigation Fund for a major erosion control project in the Wildwood drainage. (See request letter and location map attached.) The project, which will begin construction this summer, includes:

- revegetation of 24 acres of eroding slopes and dirt roads
- rock-lining 5,900 feet of eroding drainage ditches
- replacement of 25,400 feet of inadequate pipes and eroding drainage ditches with new drains
- construction of three detention basins designed to reduce the flow rate and take up nutrients
- construction of 48 check dams to reduce the flow rate and improve riparian vegetation
- construction of 62,000 feet of curb and gutter to reduce roadside erosion
- construction of 7,900 feet of retaining walls to stabilize eroding slopes.

The proposed project utilizes standard BMP's, is consistent with the Lake Tahoe Basin Water Quality Management Plan (208 Plan), and is specifically exempt from the Preliminary Injunction.

Excluding improvements to be financed by the Forest Service and Caltrans, the City of South Lake Tahoe must finance $3,559,500 to complete the project. The
Memo to the Governing Board
Wildwood/Bijou Erosion Project
Release of Mitigation Funds
February 20, 1985  page two

breakdown of this cost is as follows:

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<th>Financial Source</th>
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<tr>
<td>State Assistance Grant</td>
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<tr>
<td>Federal Clean Lakes Grant</td>
<td>1,138,000</td>
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<tr>
<td>City of South Lake Tahoe</td>
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<tr>
<td>- Burton-Santini</td>
<td>47,500</td>
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<tr>
<td>- General Funds</td>
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<td>- CTRPA Mitigation Funds</td>
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</tr>
<tr>
<td>Supplemental Grant/Local Match</td>
<td>400,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,559,500</strong></td>
</tr>
</tbody>
</table>

Since the funds requested are presently in the mitigation fund, staff recommends approval of the City's request with the following findings and conditions:

**Findings**

1. The City of South Lake Tahoe, with the assistance and cooperation of the TRPA, has completed a Preliminary Design Report for the Bijou/Wildwood Erosion Control Project (December 18, 1984) and intends to initiate construction in the summer of 1985.

2. The Lahontan Regional Water Quality Control Board has approved the project in concept and has committed over $2.2 million in state and federal matching grants for the project.

3. The project is consistent with the Lake Tahoe Basin Water Quality Management Plan, TRPA, 1980.

4. The TRPA, acting as agent for the CTRPA, has entered into an agreement with the City to transfer $740,000 in CTRPA mitigation funds for the project.

**Conditions**

1. The City agrees to obtain TRPA approval for this project pursuant to all permit requirements and otherwise applicable laws, regulations, and ordinances.

2. The City shall keep complete records of all funds expended on the project and how they were used. Such records shall be made available for review and audit by the TRPA upon written request.

3. The City shall reimburse the mitigation fund if the project is not completed as proposed by the City and approved by the Agency.

2/20/85  CONSENT CALENDAR ITEM
February 20, 1985

EXECUTIVE OFFICER
Tahoe Regional Planning Agency
P.O. Box 8896
South Lake Tahoe, CA 95731
Attention: Mr. Dave Ziegler

Gentlemen:

SUBJECT: TRPA MITIGATION FUNDS – BIJOU/WILDWOOD EROSION CONTROL PROJECT

As you are aware, the City has moved into the final design stage of the Bijou/Wildwood Erosion Control Project. It is anticipated that the first phase of construction will proceed this summer. The current budget for the preferred project is $4.2 million. The funds are a combination of Lahontan SAP and EPA grant funds, CTRPA mitigation funds, Caltrans participation, USFS participation, TRPA mitigation funds, Santini/Burton funds, and City general fund monies.

In order to consolidate all the various funding services, it is requested that $93,000 of TRPA mitigation fees be approved for transfer to the City for this project.

Thank you for your consideration.

Sincerely,

CAROL J. DRAWBAUGH
City Engineer

[Signature]

ERNEST L. JONES
Project Engineer

[Signature]

ELJ:jb
Figure 1 Project Location
MEMORANDUM

February 20, 1985

To: TRPA Governing Board
From: Agency Staff
Subject: EIS Certification, Cove East Subdivision
Dillingham Development Company

The Executive Summary from the Final Environmental Impact Statement (EIS) for the Cove East project is enclosed for your review. The Final EIS includes the Final Environmental Impact Report (EIR) certified by the City of South Lake Tahoe on January 8, 1985, responses to comments made to the TRPA, responses to TRPA staff comments, and information on the economic viability of the project and alternatives to the project.

The Final EIS was found to be technically adequate by the Advisory Planning Commission (APC) on February 13, 1985. The APC also recommended that the EIS be certified by the Governing Board. Agency staff recommends that the EIS be certified.

Enclosed for your information is a copy of a letter received from the Planning and Conservation League (PCL). The letter was received after the 60 day review and comment period on the Draft EIS had ended on December 27, 1984. A copy of the Final EIS was mailed to PCL on February 15, 1985. Their original comments were contained in a letter addressed to the City of South Lake Tahoe, dated November 14, 1984. Responses to these comments were included in the Final EIR which was certified by the City of South Lake Tahoe.
EXECUTIVE SUMMARY

COVE EAST

FINAL ENVIRONMENTAL IMPACT STATEMENT

Introduction to the Executive Summary

A Draft Environmental Impact Statement (EIS) has been prepared for the City of South Lake Tahoe and the TRPA concerning the application submitted by Dillingham Development Company for a proposed development known as Cove East, located at Tahoe Keys. This EIS conforms to the requirements of the California State Environmental Quality Act and the Tahoe Regional Planning Compact. The Final Environmental Impact Report (EIR), based upon this same draft document, was certified by the City of South Lake Tahoe on January 8, 1985.

The Draft EIS is intended to evaluate the significant environmental effects of the Project, to consider alternatives to the Project, and to identify possible methods to mitigate or avoid undesirable impacts. This EIS focuses attention on those primary impact categories defined by TRPA as requiring analysis. The impact categories addressed in the Draft EIS are as follows: Earth, Vegetation, Wildlife, Fisheries, Water Quality, Transportation/Circulation, Air Quality, Noise, Natural Hazards, Scenic Resources, Cultural Resources, Risk of Upset, Public Service and Utilities, Recreation, Population and Employment, and Economy. The Final EIS includes the Final City Environmental Impact Report, responses to comments made to the TRPA, responses to TRPA staff comments, and information on the economic viability of the project and its alternatives.

The purpose of this Executive Summary is to present a brief capsule summary of the following topics:

The principal facts relating to the proposed Project.

The character of the Alternatives selected for comparative evaluation.

A summary of the critical impacts of the Project/Alternatives, and proposed mitigation measures.

This Executive Summary is in no way a substitute for the Draft EIS text as a whole, but is intended to provide an overview of the analyses and conclusions it contains.
The Settlement Agreement

Although subdivisions of land are prohibited by both the State of California and the TRPA, the Cove East project results from a Settlement Agreement between Dillingham and the TRPA dated April 28, 1983, in which prior established rights for development are recognized by the TRPA. The Agreement involves the disposition of five parcels of Dillingham owned land, four of which are now undeveloped. This EIS relates only to the development allowed on Parcels 3 and 4 for which the specific pertinent agreement provision is as follows:

"Parcels 3 and 4 – These parcels may be developed with up to 26 lots for residential units with a total land coverage of 463,000 square feet. A portion may be sold to the marina; however, land coverage available to Dillingham shall be reduced by one unit for each 12,000 square feet of Marina coverage. Parcels 3 and 4 may be sold to the United States Forest Service or any agency which will keep the land in open space."

As proposed by Dillingham, all of the physical improvements comprising the Cove East project are to be located on Parcel 4.

Description of the Site and the Project

Cove East is located at the eastern edge of the Tahoe Keys area and is bordered by the Keys Sailing Lagoon and Marina on the west, a 50 foot wide beach owned by the Tahoe Keys Property Owner’s Association on the north, and the Upper Truckee River and Truckee Marsh on the east. Access to Cove East is provided by Venice Drive which now terminates with a cul-de-sac at the southern entrance to the property (Figure 1). The property encompasses 45.6 acres of which approximately 33.0 acres are land, 6.6 acres are Sailing Lagoon waters, and 6.0 acres are the Upper Truckee River and its stream environment zone near the mouth of the river.

The property is shaped like a pipe wrench, the mouth of which is an extension of the Keys Sailing Lagoon. There are two distinct land forms; the islet fronting on Lake Tahoe, having approximately 16.3 acres of land; and the southern or inland portion, having approximately 22.7 acres of land. They are connected by a 100 foot wide landfill separating the dredged Sailing Lagoon from the Upper Truckee River. The Tahoe Keys
Property Owner's Association owns the beach frontage, a 50 foot wide strip of land from the Lake's high water line. They also have a 20 foot wide relocatable easement along the Sailing Lagoon entrance and exit channel and a 20 foot wide relocatable access easement from Venice Drive to the beach area.

There is an existing 30 foot wide levee along the Upper Truckee River from the end of Venice Drive to the islet. The top of the levee is an access road; however, a fence and gate at the entrance to the property restrict access to bicycles and walking traffic. There is a strip of willows between the levee and the river.

The natural area at the river's mouth is heavily vegetated with willows which encroach onto the higher ground of the islet. The islet is the only area of the property which has trees, a sparse stand of Lodgepole Pines, the largest of which are approximately 50 years old. On the islet next to the Sailing Lagoon extension there is a concrete foundation from a ranch building which was built in the mid-1950's and which area was later used as a construction staging area for the Keys. There is also the remnants of the asphalt paving in the vicinity of the foundation. The only present use of the Lagoon extension is for storage of barges and other heavy, water related equipment. There is an overhead power line which traverses the islet.

The proposed project is shown on Figure 2 and anticipates the creation of a total of 26 large estate type lots, 16 of which are located on the islet and 10 of which are located on the inland fill area. The islet lots average approximately 25,000 square feet in area with the lots fronting on the beach having an average width of 85 feet. The inland lots vary in size from 0.8 to 4.0 acres.

All of the property is envisioned to be individually owned except:

1. A recreation parcel containing four tennis courts and eight parking places.
2. The main road which is an extension of Venice Drive.
3. An auxiliary road serving lots 17 and 18.
4. A commonly owned docking and boat launching facility with four parking places at the islet throat.
5. A commonly owned docking facility in the Lagoon extension, a 30 foot wide easement from that facility, several parking places, and a turn-around area on the islet at the end of the main road extension.

6. A sewage pump station.

Public access to the natural area at the Upper Truckee River mouth and to the beach will be along the existing levee to the islet throat, and thence along public easements. With the exception of easements for walking traffic, there is to be no public access to the Cove East development.

The entrance is to be fenced with a homeowner's security gate. There is to be a landscaped berm separating the levee and open area, and the residences on lots 25 and 26. A new 8 foot high slump stone block wall or landscaped berm is to be constructed by the marina to eliminate access to the property from the marina area.

The main access drive from the end of Venice Drive to the throat is designed similar to Tahoe Keys Boulevard within the Keys area. It is to have concrete curb and gutters, a 14 foot wide landscaped median and a 20 foot wide paved section in each direction. The extension of the main drive onto the islet and the driveway serving lots 17 and 18 is to be 24 feet wide with curb and gutter on each side.

The proposed project land coverage totals 424,000 square feet which is comprised of roads and parking totalling 97,000 square feet, recreation areas totalling 15,000 square feet, and 26 lots allowing an average of 12,000 square feet each.

**Description of the Alternatives to the Project**

As a part of this EIS, four alternatives to the project were defined and analyzed in order to compare their effects to those of the project. These alternatives are intended to serve as examples of the range of development options for the Project site.

The No Project Alternative assumes that no development of the site will occur and that it will remain essentially as it exists today or that a governmental
agency will acquire it and accomplish a major streamzone restoration project.

The Reduction in Size of Project Alternative provides for a total of 22 large lots, eliminating four lots on the islet which encroach on natural areas. The 22 lots are in the same configuration and location as the proposed lots.

The Modification of Site Design Alternative eliminates encroachment on the natural areas of the islet as above, but changes the lot layout to accommodate the 26 lots allowed in the Settlement Agreement.

The Cluster Development Alternative, although still allowing 26 units, changes the basic concept of the project to a condominium or townhouse type development rather than the large estate type lot development proposed.

Man-Modified Areas

Most critical to the development and the alternatives is a determination of the limit of areas of the property that can be built upon. From a development standpoint the islet's location fronting on the Lake, presents the most desirable building sites that command the greatest economic return. However, from an environmental standpoint, much of the islet contains low capability lands which should remain intact.

For the Draft EIS discussion of alternates to the proposed project, assumptions were made for which areas could be found to be man-modified stream environment zones, thereby supporting development and allowing a land coverage of 30 percent. One critical 2.1 acre area on the islet was considered to be man-modified because soil borings indicate two feet of fill having been placed over the original marsh. This same area, however, does contain riparian vegetation, a condition which prohibits a man-modified determination under the strict application of current TRPA ordinances governing such a finding. In addition, in accordance with the TRPA adopted Goals and Policies Plan, a finding must be made that it is infeasible to restore the filled areas to their original condition.

Also, all man-modified areas on the islet are not important if another finding in conflict with the ordinances cannot be made, concerning a buffer zone for the Upper Truckee River.
The Best Management and Practices Manual (and Ordinance 81-5) provides that a third order or greater stream, such as the Upper Truckee River, have a 100' buffer strip from the edge of the stream channel which cannot be built within. This requirement may eliminate access to the islet over the existing levee road which is immediately adjacent to the Upper Truckee River.

**Project Mitigation**

Project mitigation is outlined in the Final EIS; however, the final mitigation package to be submitted by Dillingham includes a Transfer of Sewer Units program similar to the TRPA's Transfer of Development Rights requirements. Once the Transfer program is specified, the mitigation resulting from the transfer program can be quantified and the developer can be credited as appropriate. The mitigation package outlines minimum mitigation requirements only. The conditions of approval are to be developed by the TRPA staff and submitted to the Governing Board at the time of project consideration.

There are three impacts which, in most probability, cannot be mitigated to a less than significant level. In spite of onsite reversion of existing filled land to stream environment zones, any development on the site will further insure that most of the existing fill will remain in place. Any development of the Cove East property will cause an additional encroachment into the important wildlife habitat of the Truckee Marsh. And any development allowed along the shoreline of the islet will degrade the scenic quality of the shoreline unit.
1. Revise the subdivision layout so that no construction or filling of land will occur on areas not designated as man-modified.

2. Provide a landscaping and architectural plan providing for the maintenance and enhancement of natural vegetation on site. This plan shall be incorporated in the development CC&Rs. The plan shall include the enhancement of vegetation along the Upper Truckee River bank, shall limit landscaping, and provide for selected species of native vegetation that are low water usage plants.

3. Provide CC&Rs requiring each residence to be considered a project for TRPA review.

4. Provide a sewer unit transfer program which may be phased over a period of time. Mitigation credits for site restoration and erosion control shall accrue to the developer.

The transfer of sewer units program shall be based upon the retirement of existing sewer units to provide for the Cove East development and shall contain an evaluation of the program's effect on the following:

1. Land coverage.
2. Stream Environment Zone restoration.
3. Other high hazard area restoration.
4. Other vegetation restoration.
5. Wildlife.
7. Vehicle miles travelled.
8. Other air quality impacts.
9. Scenic Resources.

5. Transfer the Dillingham owned property comprised of the Upper Truckee Marsh and the natural area of the Cove East site at the Upper Truckee River to the U. S. Forest Service or other appropriate entity as determined by the TRPA.
6. Provide a plan and cost estimates for the reversion of 7.58 acres of existing land filled area to a SEZ with restoration credited to Dillingham.

7. Provide building envelopes for residences restricting all fill, buildings, driveways, patios, sidewalks and other land coverage or disturbance.

8. Provide development improvement plans that will provide additional information for review. The revised maps shall include utility locations, street lighting, sewage pump station locations and details, and snow storage areas.

9. Provide appropriate evidence from all affected utilities, including the South Tahoe Public Utility District, that service will be provided.

10. Provide appropriate evidence from the Tahoe Keys Property Owner's Association showing membership or other appropriate arrangement for participation in matters of mutual interest.

11. Provide a specific signing plan, including development signs, signing for wildlife and vegetation preservation, and prohibiting campfires in natural areas.

12. Satisfy the TRPA 81-5 fee for requirements for land coverage.


14. Only energy efficient certified woodstoves or fireplace inserts with spark arrestors may be used in the development.

15. All surface runoff shall be confined on-site and all construction shall be in conformance with the provisions of the TRPA's "Manual of Best Management Practices."

16. All road surfaces and mail level finished floors of building structures shall be higher in elevation than the 100-year flood plain.

17. The development shall incorporate water conservation devices.

18. Make appropriate contact with the U. S. Corps of Engineers and obtain necessary approvals.
19. Eliminate all structures from the Cove East project encroaching upon the waters of the Upper Truckee River.

20. Adopt the Lahontan Board's requirements, as contained in the CTRPA/TKPOA 1982 Report, for the Tahoe Keys area so that the subject property will meet the same requirements as imposed on other Tahoe Keys properties.

21. Use only equipment meeting the State Standards for noise emissions during the construction period.

22. Provide CC&Rs establishing an Architectural Review Committee and the rules under which the committee must operate.

23. Provide a plan for protecting cultural artifacts if discovered during construction.

24. Provide appropriate arrangements with the South Tahoe Refuse Company for access and disposal.

25. Integrate the existing overhead power line located on the islet, into the development and provide for undergrounding.

26. Make appropriate arrangements for access of emergency vehicles.

27. Provide details of all commonly owned facilities.

28. Water and space heaters shall have low nitrogen oxide emissions.
FINDINGS OF SIGNIFICANT IMPACT THAT CANNOT BE MITIGATED BY THE COVE EAST PROJECT

Although the transfer of sewer units program and mitigation measures to be applied to the project may incorporate remedies offsetting some of the following impacts, it is anticipated that total mitigation cannot be accomplished.

Water Quality
Although onsite and offsite mitigation is designed to offset the impacts new development and the original fill placed on the marsh, any development on the site will further insure that most of the existing fill will remain in place.

Wildlife
The development will increase the encroachment on the important wildlife habitat of the Truckee Marsh.

Scenic Resources
The development will degrade the scenic quality of the shoreline unit.
DILLINGHAM DEVELOPMENT COMPANY
COVE EAST
FINAL ENVIRONMENTAL IMPACT STATEMENT
FOR THE TAHOE REGIONAL PLANNING AGENCY

Introduction

The Draft Environmental Impact Statement for the Cove East Project was published in September, 1984. The City of South Lake Tahoe required that the document meet the standards of the California Environmental Quality Act (CEQA) and the Tahoe Regional Planning Agency required that the document meet the standards of their own adopted rules and regulations. City/CEQA documents are known as Environmental Impact Reports and TRPA documents are known as Environmental Impact Statements. The draft document is intended to meet both of the above requirements for environmental documentation.

The City/CEQA Draft EIR review period was established by the California State Office of Planning and Research, and began on October 4, and ended on November 19. The Tahoe Regional Planning Agency Draft EIS review period was established by that agency and began on October 24, and ended on December 22, 1984. A separate Final EIR was prepared for the City and was certified by the City Council on January 8, 1984. The City's Final EIR included comments received by the City.
during their review period, and the responses to those comments. The Final EIR is a part of this document.

Written comments were received by TRPA during their review period, and the responses are included; however, the major emphasis of this document is the written comments by the agency staff to which responses are made as though the TRPA was a commenting agency rather than the sponsoring agency.

For the comments and responses section of this Final EIS, some editorial liberties may have been taken; however, the entire written statement received from commentators has been included.

A section discussing the Project Economic Feasibility has been included in this Final EIS.

The responsible agency official for this Environmental Impact Statement is:

Greg George  
Chief, Project Review  
Tahoe Regional Planning Agency  
Post Office Box 8896  
South Lake Tahoe, CA  95731  
Telephone: (916) 541-0246
February 7, 1985

Tahoe Regional Planning Agency
P.O. Box 8896
South Lake Tahoe, CA 95731

Re: Dillingham EIS

By letter dated November 14, 1984, the Planning and Conservation League (PCL) submitted detailed comments on the draft environmental impact statement (EIS) of the Dillingham Development Company's proposed Cove East sub-division. PCL intends to submit additional comments when the final EIS is available, and requests that PCL be provided with a copy of the final EIS with adequate time to review and comment on the document before it is acted upon by TRPA. PCL is writing at this time to express its concern that the final environmental impact report (EIR) prepared for the City of South Lake Tahoe is inadequate, and cannot be used by TRPA as the basis of its final EIS.

We have reviewed the sections of the final EIR responding to comments from PCL and others who submitted comments. While some minor changes have been made, our major concerns have been completely ignored.

For example, PCL commented that the draft EIR failed to follow the TRPA and Lahontan Regional Water Quality Control Board standards for determining what areas are man-modified. This point is also made by comments submitted by the Lahontan Regional Board and TRPA. The final EIR brushes aside these comments, and continues to follow its own, unsupported definition of "man-modified."

An area may be classified as man-modified only if it no longer meets the definition of stream environment zone. Areas which are still within the 100-year floodplain, or within 100 feet of the Truckee River, for example, still meet the definition of stream environment zone. The EIR fails to delineate these areas.

Areas with riparian or wetland vegetation also come within the definition of stream environment zones. In response to a comment from PCL, the final EIR concedes that certain areas it calls "man-modified" still have riparian or wetland vegetation, and concedes that these areas do not meet the TRPA and
“The Planning and Conservation League has been instrumental in the passage of every major piece of environmental legislation in California.” — resolution of the California Legislature.

The Planning and Conservation League was founded in 1965 by a group of citizens concerned about the loss of environmental quality in California. PCL has played a major role in the passage of such important legislation as the California Environmental Quality Act, the State Wild and Scenic Rivers Act, the Coastal Protection Act, and many other laws devoted to protecting and enhancing the environment of California. PCL is dedicated to a governmental process that will result in carefully planned decisions about the use, protection and development of California’s resource base. PCL believes that resources should be managed to produce a sustained economy, and to enhance the urban and natural environment that makes California such a wonderful place to live and work.

The following organizations are members of the Planning and Conservation League. Like the organizational members of the Board of Directors listed on the other side of this letterhead, they have joined to support our goals and ideals, but do not necessarily concur in every PCL legislative action. They support PCL to preserve the environment of California, and to let the Legislature and the Administrative branch of government know that they are interested in what State government does to enhance the quality of life in California.

Amigos De Boise Chica  
ARC Recycling Center  
(Sacramento)  
Better Transportation Coalition  
(Santa Ana)  
Billboards Limited  
BSA Explorer Post #87  
(Reseda)  
California Agrarian Action Project  
California Alpine Club  
California Native Plant Society — Lone Pine  
California Native Plant Society, Monterey Chapter  
California Native Plant Society, San Diego Chapter  
Citizens Coordinated for Century 3  
(San Diego)  
Citizens Planning Association  
(Santa Barbara)  
Committee for Green Foothills  
Conservation Call  
Delta Drinking Water Defense Fund  
Desmont Club  
Diablo Hiking Club  
Diablo Valley Fly Fishermen  
Dr. Seuss Foundation  
Ecology Action Educational Institute (Modesto)  
Ecology Center of Southern California  
Ecology Switchboard  
(San Francisco)  
Educational Futures Project  
Environmental Action Committee of West Marin  
Environmental Forum (Larkspur)  
Friends of the River  
Friends of the Sea Otter  
The Fund for Animals Inc.  
Garden Study Club of the Peninsula  
Hayward Area Planning Association  
Hillside Gardeners of Montclair  
Institute for the Human Environment  
La Canada Valley Beautiful  
Lake Tahoe Audubon Society  
Land Trust of Santa Cruz County  
Let’s Improve Santa Ana  
Los Angeles Audubon Society  
Marin Garden Club  
Natural Resources Defense Council  
The Nature Conservancy  
Northern California Recycling Association  
No Oil Inc.  
Northcoast Flyfishers  
Oceanic Society, San Francisco Chapter  
Ojai Valley Garden Club  
Orinda Garden Club  
Pacific Palisades Residents Association, Inc.  
Pelican Alliance for Safe Energy  
Peninsula Open Space Trust  
People for Open Space  
Planet Drum Foundation  
Point Reyes Bird Observatory  
Redwood Chapter North Group, Sierra Club  
Redwood Chapter, Sierra Club  
Save San Francisco Bay Association  
Santa Clara Valley Audubon Society  
Sempervirens Fund  
Small Wilderness Area Preservation  
Smith River Alliance  
Solana Beach Women’s Civic Club  
Sonoma County Tomorrow  
Southern California Botanists  
Dept. of Bio Sci.  
Tamalpais Conservation Club  
Temescal Canyon Association  
Tri-City Ecology Center (Fremont)  
Willits Garden Club
Lahontan Regional Board criteria for reclassification. Despite these facts, the EIR persists in calling these areas "man-modified."

Even if an area no longer meets the definition of stream environment zone, it cannot be reclassified if restoration is feasible. But the final EIR persist in calling areas "man-modified", even where the final EIR recommends restoration. Obviously, the EIR would not recommend restoration in areas where restoration is infeasible.

In response to comments from the Lahontan Regional Board, the final EIR states that stream environment zone restoration could be achieved for virtually the entire parcel. But the response goes on to argue that restoration would require the active support of the developer, and that restoration of the entire parcel would be "unfair" to the developer because it would make it impossible to build on the parcel. This argument amounts to no less than a refusal to follow the TRPA and Lahontan standards for reclassification. Stream environment zone reclassification, like any land capability determination, is based on the physical characteristics of the area. As the comments of the State Water Resources Control Board point out, the presence or absence of a development proposal is irrelevant to the issue of land classification. If feasibility of restoration depended on the willingness of the developer to cooperate in restoration proposals, the requirement for finding that restoration is infeasible before an area could be reclassified would be meaningless; the mere fact that reclassification has been requested would make restoration "infeasible." If "fairness" were an issue which could override the facts concerning the characteristics of the land, the fact that this developer has already filled, subdivided and sold off a large area of the Truckee Marsh, at an enormous environmental cost, would have to be considered. Fairness does not require that any more destruction be tolerated.

Failure to follow the TRPA and Lahontan Regional Board standards for reclassification of stream environment zones is not the only problem with the final EIR. Perhaps the most serious defect is in the consideration of alternatives. Alternatives must be proposed which avoid the significant adverse impacts of the project, and which comply with TRPA's regional plan and environmental thresholds.

The final EIR concludes that development of the islet portion of the property would cause degradation of the scenic quality of the shoreline unit. This would be a violation of TRPA's environmental threshold for the unit, which requires maintenance or improvement. The proposed development would also violate the environmental thresholds for impervious cover and for stream environment zones by allowing development in areas which are not man-modified according to TRPA and Lahontan Regional Board standards for reclassification. The proposed development would also violate TRPA ordinance 81-5.

In comments on the draft EIR/EIS, PCL observed that alternatives must be proposed which comply with all applicable standards, plans,
and ordinances, including the environmental thresholds and TRPA Ordinance 81-5. But the final EIR does not set forth any additional alternatives, suggesting instead that the definition of the proposed project and alternatives is controlled by the project applicant. This response is clearly at odds with the law governing preparation of EIRs and EISs.

In contrast, the provisions of the settlement agreement between TRPA and Dillingham state: the "EIS shall include alternatives to the project in conformance with applicable provisions of Agency plans and ordinances...and shall be consistent with environmental threshold standards." The settlement agreement goes on to state: "TRPA shall review Dillingham's application and the EIS pursuant to its subdivision map review procedures effective after the amendments to the Regional Plan...and shall have the right to require modification of the project..."

Even if the settlement agreement did not so provide, the EIS would have to present alternatives consistent with environmental thresholds and the regional plan, and TRPA would have the right, indeed the duty, to modify the project as necessary to conform to the thresholds and plan. The law does not permit the applicant and the reviewing agency to agree in advance what the proposed project and alternatives in the final EIS will be, and refuse to alter the project or alternatives in the face of public comments suggesting revisions.

This point is made clear by a recent case interpreting the California Environmental Quality Act (CEQA), the law on which the EIS requirements of the Tahoe Regional Planning Compact are based. As part of a proposed settlement of longstanding litigation, the parties in the case proposed a stipulation which included specification of the proposed project and no project alternative in a forthcoming EIR. The Third District Court of Appeal flatly rejected this proposal to predetermine before completion of the public review process what alternatives would be included in the final EIR:

"CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process."

County of Inyo v. City of Los Angeles, 207 Cal. Rptr. 425 (1984)

Contrary to this requirement for "responsive project modification" and "flexibility," the final EIR suggests that the proposed project, and proposed alternatives, are set in concrete, with the proposed project being determined by the contents of the application. But as the court stated in County of Inyo: "The project as amplified by the project uses and mitigation measures must be open for public discussion and agency modification during the CEQA process." 207 Cal. Rptr. at 430.

The final EIR is permeated by the idea that TRPA has already agreed to approve the project, and that no major modifications may be proposed. As PCL pointed out in its comments on the draft EIR/EIS,
the terms of the settlement agreement require nothing of the sort. TRPA is free to modify or reject the project.

The idea that an agency may enter a settlement which requires it to approve a project, notwithstanding violation of its plans and ordinances and other issues which may be raised during EIS review, is counter to County of Inyo, discussed above, and Scanlon v. Pennsylvania, 467 A.2d 1108 (1983). In Scanlon the Pennsylvania Supreme Court enjoined a state agency from performing the terms and conditions of a consent decree because state law as interpreted by the court did not permit the agency to take the actions to which it agreed in the consent decree. While the Pennsylvania court's interpretation of state law and the remedy imposed may be questioned (the actions agreed to by the state agency were required by federal law), the basic principle is sound: an agency cannot enter a settlement agreement by which it agrees to take actions not permitted by its governing law.

TRPA's governing law requires TRPA to make findings before approving any project that the project is consistent with the regional plan and that it is consistent with environmental thresholds. The proposed project and alternatives must be modified to conform to all environmental thresholds, the new regional plan, and TRPA ordinance 81-5 (which continues in effect as part of the ordinance adopting the regional plan).

Once it is recognized that TRPA's review of the project must be in accordance with the regional plan, it is also clear that project review is inappropriate until the regional plan is complete. At its January meeting, TRPA agreed to a tentative settlement of a lawsuit filed by the California Attorney General and the League to Save Lake Tahoe. The tentative settlement provides a framework for revisions to the regional plan designed to assure that the regional plan meets the requirements of the Tahoe Regional Planning Compact. To meet the requirements for an adequate disclosure document, the EIS must discuss the proposed plan revisions. To meet the requirement for findings of consistency with the regional plan, TRPA must wait until the revisions are circulated and adopted before approving the project. Only after the public review process has been completed and the revisions are adopted will the agency have a basis for determining if the project is consistent with the regional plan.

An EIS is intended to serve two major purposes. It is an "environmental full disclosure" document, designed to fully inform public officials and the public of the environmental impacts of proposed projects, and it is an "action-forcing" document, designed to cause public officials to take actions to avoid or reduce the significant adverse impacts of proposed projects. As a disclosure document, the final EIR is inadequate. As an action-forcing document, the final EIR is a dismal failure. The EIS must be completely rewritten to comply with the standards for preparation of EIS and to ensure compliance with the regional plan and environmental thresholds.

Sincerely,

Corey Brown
General Counsel

cc: Lahontan Regional Board
    Attorney General Van de Kamp
    The Honorable John Garamendi
MEMORANDUM

February 20, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Cove East Subdivision, Tentative Map for 26 Units City of South Lake Tahoe

The staff summary on this item will be mailed to the Governing Board members in a supplemental mailing prior to the meeting.

jf
2/20/85

AGENDA ITEM VII A.
Cove East Subdivision
Tentative Map for 26 Lots
City of South Lake Tahoe

Applicant: Dillingham Development Company
Applicant's Representative: Bernard E. Frizzie

Project Description: The Executive Summary from the Final EIS prepared for the project is attached to and made part of this summary. The Executive Summary contains descriptions of the project and of the alternatives to the project assessed in the EIS, an overview of the analyses and conclusions contained in the EIS, the special mitigation measures proposed by the applicant and the significant impacts that cannot be mitigated.

Revised Tentative Map: In response to the environmental impact analyses and conclusions contained in the Final EIS, the applicant has submitted a revised tentative map (Attachment A). This revised map was designed to achieve two basic objectives. First, to reduce development in areas of the project site identified in the Final EIS as not being man-modified; and second, to maintain the economic viability of the project.

In recognition of the settlement agreements affecting the project site, Agency staff worked in conjunction with the applicant in an attempt to prepare a revised tentative map proposing no development in the areas of the site identified in the EIS as not man-modified lands. However, the applicant contends that lots must be developed along the shoreline to make the project economically viable. Therefore, the revised tentative map proposed by the applicant includes lots 1 thru 6 along the shoreline, although they are located in an area that does not qualify for recognition as man-modified.

The revised tentative map is within the scope of the EIS since it proposes generally the same lot configuration as the modified site design alternative assessed in the EIS.

Man-Modified Areas: Most critical to the development is a determination of the areas of the project site that are man-modified in accordance with current TRPA criteria. The Final EIS contains a detailed analysis of the project site with respect to current TRPA criteria for man-modified lands. This section of the Final EIS is made part of this staff summary as Attachment B.

In summary, the Final EIS concludes that Area A on Figure 3 is natural, undisturbed stream environment zone which is subject to seasonal flooding. Area A is definitely not man-modified lands and should not be built upon.

GG:mlm
2/21/85
Areas designated as Area B on Figure 3 are areas that have been substantially modified to the extent that they no longer have the characteristics of a stream environment zone. The Final EIS states that restoration of the original stream environment zone is technically possible; however, its feasibility depends upon active support and cooperation between Dillingham and various government agencies. The Final EIS concludes that Area B meets TRPA's current criteria for recognition as man-modified lands if the Governing Board finds that restoration of these areas is infeasible.

The Final EIS concludes that Area C on Figure 3 "are natural areas on the islet that have riparian vegetation and have not been modified". Area D is defined in the Final EIS as "an area on the islet that has riparian vegetation on fill land". The EIS further states that "Area D on the islet does not meet the definition of man-modified from a vegetation standpoint; however, a soil boring in the area shows that as much as two feet of fill has been placed over the marsh". Areas C and D do not satisfy TRPA's current criteria for recognition as man-modified lands and are, therefore, capability 1b lands.

However, the EIS does conclude that Areas C and D are not subject to seasonal flooding and, therefore, "are not contributing to the trapping of sediments and are probably only to a very small degree participating in the denitrification process".

Land Coverage: The Settlement Agreement allows up to 463,000 sq. ft. of land coverage on the project site. The original tentative map proposed 424,000 sq. ft. of land coverage. The revised tentative map proposes 400,000 sq. ft. of land coverage. The land coverage proposed on the revised tentative map is as follows:

- Roads = 114,000 sq. ft.
- Recreation Facilities (including parking) = 12,200 sq. ft.
- 26 Lots @ 10,500 sq. ft. each = 273,000 sq. ft.
- Walks and Pathways = 800 sq. ft.
- Total = 400,000 sq. ft

The revised tentative map proposes approximately 11,000 sq. ft. of land coverage in Area C and approximately 57,750 sq. ft. of land coverage in Area D.

Impact Analyses: The EIS concludes that the Cove East project will result in adverse impacts on water quality, wildlife and scenic resources that cannot be mitigated to a less than significant level.

Water Quality Impacts - The Final EIS concludes that any development on the site will result in significant water quality impacts since development of the site will assure that most of the existing fill will remain in the marsh indefinitely.
The revised tentative map results in additional significant impacts on water quality due primarily to the creation of land coverage in Areas C and D, which are capability 1b lands.

Water Quality Mitigation - Agency staff has compared the estimated costs of the proposed stream zone restoration project, which is $500,000, to the TRPA water quality mitigation fee that would otherwise be applicable. The mitigation fee for the land coverage proposed in Areas C and D, considering these areas as capability 1b lands, would be approximately $207,000. For the land coverage proposed on the remainder of the site the mitigation fee would be approximately $96,000, for a total mitigation fee of approximately $303,000.

Based on this evidence, it may be concluded that the proposed restoration of 7.5 acres of existing land fill on the project site to totally functioning stream environment zone is adequate mitigation to offset the water quality impacts resulting from the 400,000 sq. ft. of land coverage proposed by the project. The stream zone restoration may also be the basis to determine that the project complies with the TRPA policy that stream zone lands be restored in the amount of 1.5 times the area of stream zone lands disturbed or developed by a project.

The proposed TDR program may provide additional water quality mitigation if stream environment zone properties are purchased and restored.

The California Water Quality Control Board, Lahontan Region may require the applicant to mitigate the impacts resulting from the original fill being placed in the marsh through the payment of a mitigation fee and/or additional stream zone restoration. Under Lahontan regulations the extent of mitigation must be equivalent to restoration of disturbed stream zone lands in the amount of 1.5 times the area of the project site recognized by Lahontan as man-modified. Once Lahontan takes an action with respect to the project, the final mitigation package relative to water quality impacts may have to be reconsidered by the TRPA Governing Board.

Wildlife Impacts - The revised tentative map will have unavoidable impacts on wildlife since the Final EIS concludes that any development on the project site will increase encroachment on the important wildlife habitat of the Upper Truckee Marsh.

Wildlife Mitigation - Recommended condition #13 requires that a signing plan and all public access improvements be designed to discourage public access to the sensitive wildlife areas on, and adjacent to, the project site. This condition will help to reduce the adverse impacts on wildlife.
Scenic Resources Impacts - The EIS concludes that development along the shoreline will degrade the scenic quality of the shoreline unit.

Scenic Resources Mitigation - Recommended condition #10 requires that the native vegetation on the site be maintained and enhanced and that a vegetative screen be created between the building sites located along the shoreline and the beach. This condition will help to reduce the adverse impacts on scenic resources.

Project Alternatives: The EIS assesses the impacts of three (3) alternative projects and a no project alternative. A brief description of the alternatives is included in the Executive Summary. The impacts resulting from the three (3) project alternatives are generally the same on wildlife and scenic resources as those of the revised tentative map. However, the impacts on water quality resulting from the cluster alternative are substantially less than the other two (2) other project alternatives and the revised tentative map. Whereas the other project alternatives and the revised tentative map propose land coverage in areas of the project site identified in the EIS as not man-modified, stream environment lands, the cluster alternative proposes no land coverage in these areas. All the land coverage proposed under the cluster alternative is located in areas identified in the EIS as man-modified lands.

Article V(g) Findings: Agency staff has reviewed the revised tentative map with respect to the Article V(g) findings set forth in Section 3.00 of TRPA Ordinance 84-1 and has made the following determinations relative to each applicable finding. This review is based on the language contained in the Settlement Agreement which establishes that the project is not a new subdivision.

1. The project is inconsistent with Section 3.00 of TRPA Ordinance 81-5 inasmuch as the project proposes approximately 68,750 sq. ft. of land coverage in areas of the project site identified in the Final EIS as not eligible for recognition as man-modified, and therefore capability 1b lands. The no project or cluster alternatives are consistent with TRPA Ordinance 81-5. The revised tentative map is also inconsistent with Section 5.23 of the Subdivision Ordinance, which requires that all grading, filling and excavating done in connection with any subdivision be in accordance with the TRPA Grading Ordinance. The Grading Ordinance prohibits development in stream environment zones where it cannot be demonstrated that such development will not have detrimental effects on water quality.

2. The project has been processed in accordance with the Agency's Rules and Regulations of Practice and Procedure.
3. The Governing Board could find, based on the provisions of the Settlement Agreement, that with respect to the impacts on water quality, wildlife and scenic resources, specific considerations make infeasible the mitigation measures or project alternatives discussed in the EIS for the project. As stated in the Compact, special considerations such as economic, social or technical may be considered.

4. Not applicable.

5. There is no evidence to indicate that the project will be detrimental to the health, safety, peace, comfort or general welfare of the Lake Tahoe Region.

6. Approval of a project that results in land coverage in the areas of the project site that are not recognized as man-modified will adversely affect implementation of the Regional Plan.

7. The revised tentative map is consistent with the Water Quality Element of the Regional Plan, provided approval of the project is subject to the conditions recommended by Agency staff, including the proposed stream zone restoration.

8. The revised tentative map is consistent with Transportation and Air Quality Elements of the Regional Plan, provided approval of the project is subject to the conditions recommended by Agency staff, including the proposed transfer of development rights program.

9. The revised tentative map is inconsistent with the goals and policies of the Conservation Element of the Regional Plan. The project is inconsistent with this element of the Regional Plan due primarily to its proximity to the significant wildlife habitat of the Upper Truckee Marsh and the shoreline, and the proposal to create land coverage in areas on the project site that are not man-modified.

10. The revised tentative map is consistent with the Recreation Element of the Regional Plan. Restrictions on public access to the beach on the project site are appropriate due to the sensitive nature of the beach and adjacent marsh areas.

11. The revised tentative map is consistent with the Public Services and Facilities Element of the Regional Plan.

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* 12. The revised tentative map will be inconsistent with the Implementation Element of the Regional Plan if the TDR program allows the transfer of development rights to lots located in areas of the project site that are not recognized as man-modified.

13. Provided the TDR program is implemented in compliance with recommended condition #16, it has been demonstrated that the suppliers of all utilities have the physical and legal capacity to supply the necessary services to the project.

14. Not applicable.

15. The Final EIS prepared for the project and this staff summary provide substantial evidence for the record supporting the foregoing findings.

* Indicates Article V(g) findings that cannot be made with respect to the proposed revised tentative map.

Staff Recommendation: Based on evaluation of the project and EIS, staff feels that the findings required to approve the project cannot be supported by evidence in the record and therefore, cannot be made. Agency staff recommends that the applicant be directed to work with Agency staff and other appropriate agencies to modify the proposed tentative map so that no land coverage or grading is proposed within Areas C and D as shown on Figure 3 of the Final EIS.

Required Actions and Findings: To approve the revised tentative map as proposed by the applicant for Cove East, Agency staff recommends the following findings and motion. Additional findings required to approve the project will be provided by legal counsel at the Board meeting.

1. Based on the provisions of the settlement agreements entered into between the Dillingham Development Company, the City of South Lake Tahoe, the California Tahoe Regional Planning Agency, the State of California, and the Tahoe Regional Planning Agency affecting the subject project site, that with respect to the impacts identified in the EIS on water quality, wildlife and scenic resources, specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the EIS for the project.

2. With respect to those portions of the project site identified as Area B on Figure 3 of the Final EIS, the stream environment zone lands have been so substantially modified as to alter the land capability, soil characteristics, hydrology, geomorphic characteristics and vegetation prior to February 10, 1972, and further that:

2/21/85 AGENDA ITEM VII.A
Cove East Subdivision, Tentative Map for 26 Units

Page 7

a) these areas no longer exhibit the characteristics of a stream environment zone;

b) further development will not exacerbate the problems caused by development in stream environment zones;

c) restoration of these areas is infeasible; and

d) mitigation is provided to at least partially offset the losses which were caused by modification of the stream environment zone.

3. The stream zone restoration that is to be completed as part of the project adequately mitigates the water quality impacts resulting from the land coverage created by the project, and that due to said restoration, the project complies with the Agency policy that stream zone lands be restored in the amount of 1.5 times the area of stream zone lands disturbed or developed by the project.

4. A motion to approve the revised tentative map for Cove East based on the foregoing findings and subject to the conditions of approval recommended by Agency staff and listed on Attachment C of this staff summary.

2/21/85

AGENDA ITEM VII.A
Response - Page III-2 of the BMP defines "Stream Environment Zone" as follows:

"That region: 1) which surrounds a stream, including major streams, minor streams and drainageways, which owes its biological and physical characteristics to the presence of water; 2) which may be inundated by a stream; or 3) in which actions of man or nature may directly or indirectly affect the stream. A stream includes small lakes, ponds, and marshy areas through which the stream flows."

A summary map shown as Figure 3 has been included herein and identifies five areas used as the basis for the alternatives in the Draft EIS which all restrict construction in areas not determined to be man-modified.

Applicable portions of Section 3.00 of the TRPA Ordinance 81-5 are repeated herein as follows:

"Section 3.00 Amendment Prohibiting Development In Stream Environment Zone.

Section 13.00 of Ordinance No. 79-10 of the Tahoe Regional Planning Agency is hereby amended to read as follows:

13.10 Prohibition.

Notwithstanding any other provision of this ordinance or of any other ordinance of the Agency, no person shall perform any grading, clearing, removal of vegetation, filling or creation of land coverage, within or upon a stream environment zone ("SEZ"), as described or depicted upon maps contained in the Plan.
POOR
QUALITY
ORIGINAL (S)
TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980
DESCRIPTION OF AREAS

A. NATURAL AREAS AT RIVER'S MOUTH AND BEACH
B. MAN MODIFIED AREAS
C. NATURAL UNDISTURBED AREAS ON ISLET
D. ISLET AREA HAVING RIPARIAN VEGETATION ON FILLED LAND
E. SEASONALLY WET AREAS ON FILLED LAND

CITY OF SOUTH LAKE TAHOE PROPERTY

REVERT TO S.E.Z.

SUPTER STRIPS

TKPOA PROPERTY
13.20 Development on Lots or Parcels Containing Stream Environment Zones.

Notwithstanding any other provision of the ordinance or of any other ordinance of the Agency, no person shall perform any construction, work, use or activity upon a lot or parcel containing an SEZ without first obtaining a permit from the Agency, the application for which permit should be reviewed and approved unless it is found by the Agency that it proposes no grading, clearing, removal of vegetation, filling or creation of land coverage within the SEZ, and that it is in accordance with the Handbook of Best Management Practices, the Plan and all other applicable plans, ordinances, rules, regulations and policies of the Agency."

And,

"13.32 Man-Modified Areas.

SEZ lands, which the Agency finds have been so substantially modified as to alter the land capability, soil characteristics, hydrology, geomorphic characteristics and vegetation prior to February 10, 1972, as determined pursuant to section 3.29 of the Land Use Ordinance."

In addition, the TRPA adopted Goals and Policies Plan provides:

"New development may be permitted in man-modified stream environment zones where: (1) the area no longer exhibits the characteristics of a stream environment zone; (2) further development will not exacerbate the problems caused by development in stream environment zones; (3) restoration is infeasible; and (4) mitigation is provided to at least partially offset the losses which were caused by modification of the stream environment zones."

The later adopted Goals and Policies adds the requirement contained in the California "Water Quality Plan" permitting a man-modified determination if "restoration is infeasible."
The restoration of the original SEZ is technically possible; however, its feasibility depends upon the active support and cooperation between Dillingham and the various interested Lake Tahoe Agencies.

Area "A" on Figure 3 identifies areas at the Upper Truckee River mouth and along the beach that are undisturbed lands subject to flooding that should not be built upon. Areas "B" are areas that have been substantially modified to the extent that they no longer have the characteristics of a SEZ. Areas "C" are natural areas on the islet that have riparian vegetation and have not been modified. Area "D" is an area on the islet that has riparian vegetation on filled land. Areas "E" are seasonally wet areas on filled land of the inland portion.

The Areas "E" on the inland portion of Cove East owe their vegetation to the seasonally wet characteristics of local depressions in the fill area and are within the area designated to be reverted to SEZ. Their only significance relates to the discussion of allowable land coverage in accordance with the TRPA adopted threshold. The land coverage for Cove East is set forth in the Settlement Agreement. Area "D" on the islet does not meet the definitions of man-modified from a vegetation standpoint; however, a soil boring in the area shows that as much as two feet of fill has been placed over the old marsh.
Other findings relating to the soils investigation were considered as follows:

1. Only in Area A on the lakefront beach and the River's mouth natural area were clean, well-sorted sands associated with water action found. At least on the surface of all but this area, the surficial soil was found to be sand in texture, badly sorted and clearly not water washed. Surface soil on all areas of Cove East other than Area A are much the same as anywhere else on the Tahoe Keys.

2. A well-defined top-soil was not found in any of the test pits. That is, there is an absence of a genetic profile, and in now-discarded terminology there is an absence of "true" soil on the property. The absence of a genetic profile at the rest of the Keys is why the property is shown on the soil maps simply as "Filled Land," there being no ability to classify the fill soil in any given Association, Series or Type.

3. Although there is vegetation classed as "Undisturbed Riparian," soil borings indicate a substantial fill has been applied over the original marsh on Area D. Area "D" does not exhibit the substantial growth characteristics of the adjacent marsh lands east of Cove East. It is sparse, and certainly not performing the function of the a marsh area, through and over which the spring melt passes, trapping sediments and nutrients in the process.
The earth impacts can be broadly classified into three subject areas: erosion, denitrification, and sediment trapping (which also involves trapping of certain nutrients). Since it is universally agreed that the erosion potential of the Keys land is very low, and it is evident that flood flows from higher lands do not pass over the Keys lands, then one may concentrate on the question of denitrification.

It is only the presence of an upper few inches of topsoil that permits the denitrification process to be effective. For example, Coats, Leonard and Goldman (1976) in "Nitrogen Uptake and Release in a Forested Watershed, Lake Tahoe Basin, California", state that "Where the nitrate-nitrogen is high in the A horizon (what we term "topsoil), it is likely to be high in the C horizon (the deeper weathered parent material). Where there is effective uptake of nitrate-nitrogen from snowmelt water, the top 5 cm of humus and soil accomplishes most of the uptake". It can be concluded that little uptake of nitrogen is accomplished by the present condition of the islet except for the river's mouth (Area A). Areas C and D on Cove East Islet are currently not contributing to the trapping of sediments and are probably only to a very small degree participating in the denitrification process. By comparison, the proposed reversion to SEZ of a major portion of the inland area will provide a much better mechanism for
nitrate removal.

The Draft EIS recommends allowing the developer to construct on the Islet Area "D" based upon the recommended mitigation measures and the provision of the Settlement Agreement that allows the development with "reasonable" conditions.

Comment -

2. A possible mitigation measure that could be discussed in the document is the dechannelization of the Upper Truckee River channel that runs along the easterly boundary of the project site. It may be possible to accomplish this measure by removing portions of the existing fill on the west side of the levee down to the elevation of the marsh to the east. The levee could then be breached in certain points to allow flood waters to flow into the reclaims area. Agency staff would like to have the feasibility and benefits of such a mitigation measure discussed in the subject document.

Response - The Draft EIS recommends a reversion to SEH of 7.53 acres. That reversion anticipated the removal of fill material creating low areas on the property which will be at least seasonably wet and will promote plant growth. Implied but not specifically stated in the Draft EIS is that the land so treated will remain in private ownership and will not be allowed to be filled and constructed upon at a later date through the development of CC&Rs.

The reversion concept could be expanded by removing fill material to the original marsh land attempting to recreate the natural marsh area. Ponds and interconnecting channels could be constructed, the existing river levee could be
RECOMMENDED CONDITIONS OF APPROVAL
COVE EAST SUBDIVISION

1. For purposes of these conditions the applicant shall be the Dillingham Development Company.

2. The final subdivision map shall not be recorded until TRPA staff has found, and so indicated in writing, that said map substantially conforms to the Cove East Tentative Map approved by the TRPA. The final map shall contain a certificate for signature by the Chief of the Project Review Division, TRPA, that reads "This final subdivision map substantially conforms to the tentative map approved by the TRPA Governing Board on [Date]."

3. In accordance with Section 4.31 of the TRPA Subdivision Ordinance, this approval shall lapse unless a final subdivision map is recorded in accordance with all conditions of approval listed herein within eighteen (18) months from the date of Governing Board approval of the tentative subdivision map. In computing this eighteen (18) month period, any period of time shall not be counted during which the tentative map is the subject of a legal action which delays or renders impossible the recordation of the final map.

4. Approval by the TRPA of this tentative map shall expire three (3) years from the date of Governing Board approval of said tentative map in accordance with the provisions of Article VI(p) of the TRPA Compact.

5. A TRPA permit shall be obtained prior to the commencement of construction of the project. Prior to issuance of the TRPA permit the final construction drawings for all subdivision improvements shall be approved by Agency staff. The final construction drawings shall clearly depict:

   a) slope stabilization methods to stabilize all existing and proposed cut and fill slopes and areas denuded of vegetation;
   b) areas to be revegetated and/or landscaped, including complete specifications for same;
   c) fencing for vegetation protection;
   d) temporary and permanent erosion control devices;
   e) measures to be taken for dust control;
   f) all drainage facilities;
   g) the location of all utility trenches;
   h) all fences and barriers;
   i) all signs;
   j) all community piers, docks, boat ramps, tennis courts and other recreation facilities;
   k) complete plans for the stream zone restoration work required under condition #12;
   l) a final grading plan showing final contours at one (1) foot intervals; and
   m) other information determined by Agency staff to be necessary to assure compliance with Agency standards.

ATTACHMENT C
6. Each residence to be constructed within the subdivision shall be reviewed by the TRPA as a project, requiring issuance of a TRPA permit and compliance with all applicable TRPA ordinances, agreements and policies, including any special mitigation fees applicable to properties located in Tahoe Keys. A TRPA permit shall not be issued unless Agency staff finds that said project is in compliance with the transfer of development rights program, required under condition #17.

7. Total land coverage for the project, including land coverage allocated to the twenty-six (26) lots, shall not exceed 400,000 square feet.

8. Calculations prepared by a qualified civil engineer, demonstrating that all drainage facilities are capable of retaining on site the storm water flows from a twenty (20) year, one (1) hour storm, shall be submitted to and approved by Agency staff.

9. All drainage facilities for roadways, parking lots and tennis courts shall include silt traps prior to infiltration. In addition, drainage facilities for all parking lots shall be designed to remove greases and oils prior to infiltration.

10. The applicant shall submit a revegetation and landscaping plan for review and approval by Agency staff. This plan shall provide for the maintenance and enhancement of the natural vegetation on the project site. This plan shall include landscaping to create a visual screen between the building sites located along the shoreline and the beach, and the enhancement of vegetation along the Upper Truckee River bank. This plan shall prohibit lawns and shall establish a specific list of plant species to be used for landscaping and revegetation. This list of plant species shall include only species of native vegetation that do not require long term irrigation or use of fertilizer. This list shall be subject to review and approval by Agency staff. This plan shall be incorporated into the subdivision CC & R's.

11. The applicant shall submit a detailed plan providing for the restoration to a stream environment zone of approximately 7.5 acres of existing land fill within the project site. The acreage to be restored shall be generally in the location shown on the approved tentative map. Fill material shall be removed from the area to be restored down to an elevation necessary to allow the area to be inundated during periods of spring melt. This plan shall be subject to review and approval by Agency staff and shall be part of the final construction drawings for all site improvements. Prior to approval of this plan by Agency staff, the applicant shall obtain approval for the restoration work from the U.S. Army Corps of Engineers, if necessary.
12. A building envelope shall be established for each lot and shown on the final map. Except as may be shown on the final construction drawings for the subdivision as approved by Agency staff, any removal of vegetation, grading, filling or creation of land coverage shall be prohibited outside of the building envelopes. Building envelopes shall not be located in Areas "A" or "C" as designated on Figure 3 of the Final EIS. Revegetation in accordance with condition #10 may be permitted outside of the building envelopes.

13. Provide a specific signing plan, as part of the final construction drawings, including development signs, signing for wildlife and vegetation preservation and prohibiting campfires in natural areas. The signing plan and public access improvements shall be designed to discourage public access into Area "A", as designated on Figure 3 of the Final EIS, and into the marsh area of Parcel 5, as identified in the settlement agreements affecting land owned by the applicant.

14. Prior to recordation of the final subdivision map, Parcel 5, as identified in settlement agreements affecting land owned by the applicant, shall be deeded to the U.S. Forest Service or other appropriate entity as determined by the TRPA and the City of South Lake Tahoe.

15. Prior to recordation of the final subdivision map, covenants, conditions and restrictions (CC & R's) respecting all of the real property of the subdivision, shall be subject to Agency staff review and approval. Said document shall include:

a) a prohibition of the use of chemicals for deicing in all vehicular areas;

b) a prohibition of vehicles in all nonvehicular open spaces;

c) the revegetation and landscaping plan required under condition #11, including the prohibition on lawns and list of plant species;

d) provisions to insure the permanent maintenance of all open space and common areas;

e) provisions to insure continued maintenance of all drainage and erosion control facilities, including the stream zone restoration area(s);

f) a requirement that each resident shall be reviewed by the TRPA as a project, requiring issuance of a TRPA permit and compliance with all applicable TRPA ordinances; and

g) a provision making TRPA an express beneficiary of said document with the right to pursue such judicial remedies as it wishes arising out of or relating to such document.
16. The applicant shall submit a transfer of development rights program for review and approval by Agency staff. This program shall require the transfer of an equivalent member of existing sewer units for each residence in the Cove East project. Prior to approval of the transfer of development rights program by Agency staff, the transfer of sewer units proposed by said program shall be approved by the South Tahoe Public Utility District. This program shall also contain an evaluation of the effects of the transfer on land coverage, stream zone restoration, other high hazard restoration, water quality, and mitigation of vehicle trips and vehicle miles traveled. The program shall require that all structures be removed from sites from which development rights, including sewer units, are transferred and the sites be restored to their natural state, to the greatest extent feasible. The applicant shall accrue mitigation credits for site restoration and erosion control work completed on the sites from which development rights are transferred. Sites from which development rights are transferred must be deed restricted to permanent open space or their title transferred to an appropriate public entity for maintenance as permanent open space. The transfer of development rights program approved by Agency staff shall be implemented prior to recordation of the final subdivision map.

17. This project shall comply with all requirements and conditions of the permit-issuing authority. None of said requirements and conditions shall be waived or modified without the concurrence of TRPA.

18. Prior to issuance of the TRPA permit, adequate security shall be posted with the TRPA, in accordance with the TRPA Security Procedures, to insure proper installation of all slope stabilization and drainage improvements, implementation of the revegetation and landscaping plan and completion of the stream zone restoration plan as shown on the final construction drawings approved by Agency staff. The amount of security shall be equal to 150% of the estimated costs of completing the work identified above.

19. Whenever possible, utilities shall occupy common trenches to minimize site disturbance.

20. There shall be no grading or land disturbance performed with respect to the project between October 15 and May 1, unless proper approvals are obtained from the TRPA.

21. There shall be no grading, filling, clearing of vegetation (which disturbs soil) or other disturbance of the soil during inclement weather and for the resulting period of time when the site is covered with snow or is in a saturated, muddy or unstable condition. This prohibition extends to snow removal on unpaved construction sites.
22. All material obtained from any excavation work that is not contained within foundations, retaining walls or by other approved methods shall be removed from the project site and disposed of at a site approved by Agency staff.

23. Replanting of all exposed surfaces, as per the revegetation and slope stabilization plan, shall be accomplished within the first growing season following disturbance, unless the approved construction/inspection schedule established otherwise.

24. All trees and natural vegetation to remain on the site shall be fenced for protection. Scarifying of trees shall be avoided and, if scarred, damaged areas shall be repaired with tree seal.

25. Soil and construction material shall not be tracked off the construction site. Grading operations shall cease in the event that a danger of violating this condition exists. The site shall be cleaned up and road right-of-way swept clean when necessary.

26. During construction, environmental protection devices such as adequate erosion control devices, dust control and vegetation protection barriers shall be maintained.

27. Rehabilitation and cleanup of the site following construction must include removal of all construction waste and debris.

28. All other permits regarding the development shall comply with these conditions.

29. This approval becomes invalid if a local government permit for this project expires or will-serve letters are cancelled.

30. All erosion control, drainage improvements, revegetation and temporary erosion control shall be in compliance with the guidelines set forth in the TRPA 208 Handbook of Best Management Practices.

31. Agency staff shall be notified at least 48 hours prior to the commencement of construction. This notification shall include:

   a) who will be doing the work;
   b) when the work will commence; and
   c) when the completion of work is expected.

32. All construction shall be accomplished in strict compliance with the final construction drawings approved by TRPA.
33. The TRPA permit and the final construction drawings bearing the TRPA stamp of approval shall be present on the construction site from the time construction commences to final TRPA site inspection. The permit and plans shall be available for inspection upon request by any TRPA employee. Failure to present the TRPA permit and approved plans may result in the issuance of a Stop Work Order by the TRPA.

34. Construction of all subdivision improvements, in accordance with the final construction drawings approved by the Agency, shall be completed within twenty-four (24) months from the date that construction commences on the site, unless an extension is granted by the Agency. If construction is not completed within said time or an extension is not granted by the Agency, the TRPA tentative map approval and permit are revoked and the applicant or his successor in interest shall immediately remove all partially completed work and return the site to a suitable condition as determined by Agency staff. If the applicant or his successor in interest fail to do so, the Agency may have the work performed at the applicant's or his successor in interest's expense, costs to constitute a lien against all the real property which is the subject of the approval. Notwithstanding the above, said tentative map approval or permit will not be revoked within the three (3) year period in which the TRPA approval is valid as set forth in condition #4.

35. This approval is conditioned upon the consent of the applicant, or his successor in interest, as indicated by his signature upon the permit issued pursuant to this approval, that the TRPA, though its duly authorized representatives or independent contractors, may enter upon the land of the applicant upon which the construction, use or activity authorized by such permit is to occur for the purposes of inspection, the construction or maintenance of those facilities necessary to comply with the TRPA 208 Plan, or as is required by these conditions of approval, and subsequent to such construction or maintenance shall be reimbursed by the applicant for the cost thereof.

36. A construction/inspection schedule shall be submitted to, and approved by, Agency staff prior to issuance of the TRPA permit. Noncompliance with the approved schedule may result in the issuance of a Stop Work Order by the TRPA. Agency staff may require that this schedule identify dates for the following:

a) when installation of a temporary erosion control, and vegetation protection and construction site boundary fencing will occur;
b) when construction will start;
c) when all disturbed areas will be stabilized;
d) when initial grading will be completed;
EXECUTIVE SUMMARY

COVE EAST

FINAL ENVIRONMENTAL IMPACT STATEMENT

Introduction to the Executive Summary

A Draft Environmental Impact Statement (EIS) has been prepared for the City of South Lake Tahoe and the TRPA concerning the application submitted by Dillingham Development Company for a proposed development known as Cove East, located at Tahoe Keys. This EIS conforms to the requirements of the California State Environmental Quality Act and the Tahoe Regional Planning Compact. The Final Environmental Impact Report (EIR), based upon this same draft document, was certified by the City of South Lake Tahoe on January 8, 1985.

The Draft EIS is intended to evaluate the significant environmental effects of the Project, to consider alternatives to the Project, and to identify possible methods to mitigate or avoid undesirable impacts. This EIS focuses attention on those primary impact categories defined by TRPA as requiring analysis. The impact categories addressed in the Draft EIS are as follows: Earth, Vegetation, Wildlife, Fisheries, Water Quality, Transportation/Circulation, Air Quality, Noise, Natural Hazards, Scenic Resources, Cultural Resources, Risk of Upset, Public Service and Utilities, Recreation, Population and Employment, and Economy. The Final EIS includes the Final City Environmental Impact Report, responses to comments made to the TRPA, responses to TRPA staff comments, and information on the economic viability of the project and its alternatives.

The purpose of this Executive Summary is to present a brief capsule summary of the following topics:

The principal facts relating to the proposed Project.

The character of the Alternatives selected for comparative evaluation.

A summary of the critical impacts of the Project/Alternatives, and proposed mitigation measures.

This Executive Summary is in no way a substitute for the Draft EIS text as a whole, but is intended to provide an overview of the analyses and conclusions it contains.
The Settlement Agreement

Although subdivisions of land are prohibited by both the State of California and the TRPA, the Cove East project results from a Settlement Agreement between Dillingham and the TRPA dated April 28, 1983, in which prior established rights for development are recognized by the TRPA. The Agreement involves the disposition of five parcels of Dillingham owned land, four of which are now undeveloped. This EIS relates only to the development allowed on Parcels 3 and 4 for which the specific pertinent agreement provision is as follows:

"Parcels 3 and 4 - These parcels may be developed with up to 26 lots for residential units with a total land coverage of 463,000 square feet. A portion may be sold to the marina; however, land coverage available to Dillingham shall be reduced by one unit for each 12,000 square feet of Marina coverage. Parcels 3 and 4 may be sold to the United States Forest Service or any agency which will keep the land in open space."

As proposed by Dillingham, all of the physical improvements comprising the Cove East project are to be located on Parcel 4.

Description of the Site and the Project

Cove East is located at the eastern edge of the Tahoe Keys area and is bordered by the Keys Sailing Lagoon and Marina on the west, a 50 foot wide beach owned by the Tahoe Keys Property Owner's Association on the north, and the Upper Truckee River and Truckee Marsh on the east. Access to Cove East is provided by Venice Drive which now terminates with a cul-de-sac at the southern entrance to the property (Figure 1). The property encompasses 45.6 acres of which approximately 33.0 acres are land, 6.6 acres are Sailing Lagoon waters, and 6.0 acres are the Upper Truckee River and its stream environment zone near the mouth of the river.

The property is shaped like a pipe wrench, the mouth of which is an extension of the Keys Sailing Lagoon. There are two distinct land forms; the islet fronting on Lake Tahoe, having approximately 16.3 acres of land; and the southern or inland portion, having approximately 22.7 acres of land. They are connected by a 100 foot wide landfill separating the dredged Sailing Lagoon from the Upper Truckee River. The Tahoe Keys
Property Owner's Association owns the beach frontage, a 50 foot wide strip of land from the Lake's high water line. They also have a 20 foot wide relocatable easement along the Sailing Lagoon entrance and exit channel and a 20 foot wide relocatable access easement from Venice Drive to the beach area.

There is an existing 30 foot wide levee along the Upper Truckee River from the end of Venice Drive to the islet. The top of the levee is an access road; however, a fence and gate at the entrance to the property restrict access to bicycles and walking traffic. There is a strip of willows between the levee and the river.

The natural area at the river's mouth is heavily vegetated with willows which encroach onto the higher ground of the islet. The islet is the only area of the property which has trees, a sparse stand of Lodgepole Pines, the largest of which are approximately 50 years old. On the islet next to the Sailing Lagoon extension there is a concrete foundation from a ranch building which was built in the mid-1950's and which area was later used as a construction staging area for the Keys. There is also the remnants of the asphalt paving in the vicinity of the foundation. The only present use of the Lagoon extension is for storage of barges and other heavy, water related equipment. There is an overhead power line which traverses the islet.

The proposed project is shown on Figure 2 and anticipates the creation of a total of 26 large estate type lots, 16 of which are located on the islet and 10 of which are located on the inland fill area. The islet lots average approximately 25,000 square feet in area with the lots fronting on the beach having an average width of 85 feet. The inland lots vary in size from 0.8 to 4.0 acres.

All of the property is envisioned to be individually owned except:

1. A recreation parcel containing four tennis courts and eight parking places.

2. The main road which is an extension of Venice Drive.

3. An auxiliary road serving lots 17 and 18.

4. A commonly owned docking and boat launching facility with four parking places at the islet throat.
5. A commonly owned docking facility in the Lagoon extension, a 30 foot wide easement from that facility, several parking places, and a turn-around area on the islet at the end of the main road extension.

6. A sewage pump station.

Public access to the natural area at the Upper Truckee River mouth and to the beach will be along the existing levee to the islet throat, and thence along public easements. With the exception of easements for walking traffic, there is to be no public access to the Cove East development.

The entrance is to be fenced with a homeowner's security gate. There is to be a landscaped berm separating the levee and open area, and the residences on lots 25 and 26. A new 3 foot high slump stone block wall or landscaped berm is to be constructed by the marina to eliminate access to the property from the marina area.

The main access drive from the end of Venice Drive to the throat is designed similar to Tahoe Keys Boulevard within the Keys area. It is to have concrete curb and gutters, a 14 foot wide landscaped median and a 20 foot wide paved section in each direction. The extension of the main drive onto the islet and the driveway serving lots 17 and 18 is to be 24 feet wide with curb and gutter on each side.

The proposed project land coverage totals 424,000 square feet which is comprised of roads and parking totalling 97,000 square feet, recreation areas totalling 15,000 square feet, and 26 lots allowing an average of 12,000 square feet each.

**Description of the Alternatives to the Project**

As a part of this EIS, four alternatives to the project were defined and analyzed in order to compare their effects to those of the project. These alternatives are intended to serve as examples of the range of development options for the Project site.

The No Project Alternative assumes that no development of the site will occur and that it will remain essentially as it exists today or that a governmental
agency will acquire it and accomplish a major stream zone restoration project.

The Reduction in Size of Project Alternative provides for a total of 22 large lots, eliminating four lots on the islet which encroach on natural areas. The 22 lots are in the same configuration and location as the proposed lots.

The Modification of Site Design Alternative eliminates encroachment on the natural areas of the islet as above, but changes the lot layout to accommodate the 26 lots allowed in the Settlement Agreement.

The Cluster Development Alternative, although still allowing 26 units, changes the basic concept of the project to a condominium or townhouse type development rather than the large estate type lot development proposed.

**Man-Modified Areas**

Most critical to the development and the alternatives is a determination of the limit of areas of the property that can be built upon. From a development standpoint the islet's location fronting on the Lake, presents the most desirable building sites that command the greatest economic return. However, from an environmental standpoint, much of the islet contains low capability lands which should remain intact.

For the Draft EIS discussion of alternates to the proposed project, assumptions were made for which areas could be found to be man-modified stream environment zones, thereby supporting development and allowing a land coverage of 30 percent. One critical 2.1 acre area on the islet was considered to be man-modified because soil borings indicate two feet of fill having been placed over the original marsh. This same area, however, does contain riparian vegetation, a condition which prohibits a man-modified determination under the strict application of current TRPA ordinances governing such a finding. In addition, in accordance with the TRPA adopted Goals and Policies Plan, a finding must be made that it is infeasible to restore the filled areas to their original condition.

Also, all man-modified areas on the islet are not important if another finding in conflict with the ordinances cannot be made, concerning a buffer zone for the Upper Truckee River.
The Best Management and Practices Manual (and Ordinance 81-5) provides that a third order or greater stream, such as the Upper Truckee River, have a 100' buffer strip from the edge of the stream channel which cannot be built within. This requirement may eliminate access to the islet over the existing levee road which is immediately adjacent to the Upper Truckee River.

**Project Mitigation**

Project mitigation is outlined in the Final EIS; however, the final mitigation package to be submitted by Dillingham includes a Transfer of Sewer Units program similar to the TRPA's Transfer of Development Rights requirements. Once the Transfer program is specified, the mitigation resulting from the transfer program can be quantified and the developer can be credited as appropriate. The mitigation package outlines minimum mitigation requirements only. The conditions of approval are to be developed by the TRPA staff and submitted to the Governing Board at the time of project consideration.

There are three impacts which, in most probability, cannot be mitigated to a less than significant level. In spite of onsite reversion of existing filled land to stream environment zones, any development on the site will further insure that most of the existing fill will remain in place. Any development of the Cove East property will cause an additional encroachment into the important wildlife habitat of the Truckee Marsh. And any development allowed along the shoreline of the islet will degrade the scenic quality of the shoreline unit.
1. Revise the subdivision layout so that no construction or filling of land will occur on areas not designated as man-modified.

2. Provide a landscaping and architectural plan providing for the maintenance and enhancement of natural vegetation on site. This plan shall be incorporated in the development CC&Rs. The plan shall include the enhancement of vegetation along the Upper Truckee River bank, shall limit landscaping, and provide for selected species of native vegetation that are low water usage plants.

3. Provide CC&Rs requiring each residence to be considered a project for TRPA review.

4. Provide a sewer unit transfer program which may be phased over a period of time. Mitigation credits for site restoration and erosion control shall accrue to the developer.

The transfer of sewer units program shall be based upon the retirement of existing sewer units to provide for the Cove East development and shall contain an evaluation of the program's effect on the following:

1. Land coverage.
2. Stream Environment Zone restoration.
3. Other high hazard area restoration.
4. Other vegetation restoration.
5. Wildlife.
7. Vehicle miles travelled.
8. Other air quality impacts.
9. Scenic Resources.

5. Transfer the Dillingham owned property comprised of the Upper Truckee Marsh and the natural area of the Cove East site at the Upper Truckee River to the U. S. Forest Service or other appropriate entity as determined by the TRPA.
6. Provide a plan and cost estimates for the reversion of 7.58 acres of existing land filled area to a SEZ with restoration credited to Dillingham.

7. Provide building envelopes for residences restricting all fill, buildings, driveways, patios, sidewalks and other land coverage or disturbance.

8. Provide development improvement plans that will provide additional information for review. The revised maps shall include utility locations, street lighting, sewage pump station locations and details, and snow storage areas.

9. Provide appropriate evidence from all affected utilities, including the South Tahoe Public Utility District, that service will be provided.

10. Provide appropriate evidence from the Tahoe Keys Property Owner's Association showing membership or other appropriate arrangement for participation in matters of mutual interest.

11. Provide a specific signing plan, including development signs, signing for wildlife and vegetation preservation, and prohibiting campfires in natural areas.

12. Satisfy the TRPA 81-5 fee for requirements for land coverage.


14. Only energy efficient certified woodstoves or fireplace inserts with spark arrestors may be used in the development.

15. All surface runoff shall be confined on-site and all construction shall be in conformance with the provisions of the TRPA's "Manual of Best Management Practices."

16. All road surfaces and main level finished floors of building structures shall be higher in elevation than the 100-year flood plain.

17. The development shall incorporate water conservation devices.

18. Make appropriate contact with the U. S. Corps of Engineers and obtain necessary approvals.
19. Eliminate all structures from the Cove East project encroaching upon the waters of the Upper Truckee River.

20. Adopt the Lahontan Board's requirements, as contained in the CTRPA/TKPOA 1982 Report, for the Tahoe Keys area so that the subject property will meet the same requirements as imposed on other Tahoe Keys properties.

21. Use only equipment meeting the State Standards for noise emissions during the construction period.

22. Provide CC&Rs establishing an Architectural Review Committee and the rules under which the committee must operate.

23. Provide a plan for protecting cultural artifacts if discovered during construction.

24. Provide appropriate arrangements with the South Tahoe Refuse Company for access and disposal.

25. Integrate the existing overhead power line located on the islet, into the development and provide for undergrounding.

26. Make appropriate arrangements for access of emergency vehicles.

27. Provide details of all commonly owned facilities.

28. Water and space heaters shall have low nitrogen oxide emissions.
FINDINGS OF SIGNIFICANT IMPACT THAT CANNOT BE MITIGATED BY THE COVE EAST PROJECT

Although the transfer of sewer units program and mitigation measures to be applied to the project may incorporate remedies offsetting some of the following impacts, it is anticipated that total mitigation cannot be accomplished.

Water Quality
Although onsite and offsite mitigation is designed to offset the impacts new development and the original fill placed on the marsh, any development on the site will further insure that most of the existing fill will remain in place.

Wildlife
The development will increase the encroachment on the important wildlife habitat of the Truckee Marsh.

Scenic Resources
The development will degrade the scenic quality of the shore-line unit.
Introduction

The Draft Environmental Impact Statement for the Cove East Project was published in September, 1984. The City of South Lake Tahoe required that the document meet the standards of the California Environmental Quality Act (CEQA) and the Tahoe Regional Planning Agency required that the document meet the standards of their own adopted rules and regulations. City/CEQA documents are known as Environmental Impact Reports and TRPA documents are known as Environmental Impact Statements. The draft document is intended to meet both of the above requirements for environmental documentation.

The City/CEQA Draft EIR review period was established by the California State Office of Planning and Research, and began on October 4, and ended on November 19. The Tahoe Regional Planning Agency Draft EIS review period was established by that agency and began on October 24, and ended on December 22, 1984. A separate Final EIR was prepared for the City and was certified by the City Council on January 8, 1984. The City’s Final EIR included comments received by the City.
during their review period, and the responses to those comments. The Final EIR is a part of this document.

Written comments were received by TRPA during their review period, and the responses are included; however, the major emphasis of this document is the written comments by the agency staff to which responses are made as though the TRPA was a commenting agency rather than the sponsoring agency.

For the comments and responses section of this Final EIS, some editorial liberties may have been taken; however, the entire written statement received from commentators has been included.

A section discussing the Project Economic Feasibility has been included in this Final EIS.

The responsible agency official for this Environmental Impact Statement is:

Greg George  
Chief, Project Review  
Tahoe Regional Planning Agency  
Post Office Box 8896  
South Lake Tahoe, CA  95731  
Telephone: (916) 541-0246
MEMORANDUM

Date: February 19, 1985

To: TRPA Governing Board

From: Agency Staff

Subject: Caltrans, Tahoe City Left-Turn Channelization and Highway Widening, Highway 89, Placer County, TRPA File #84600

This item has been continued for 30 days with the consent of the applicant. The additional time will allow staff to review recent modifications to the proposed project.
TAHOE REGIONAL PLANNING AGENCY  
STAFF SUMMARY

Project Name: City of South Lake Tahoe, Bus Turnouts, Highway 50, TRPA File #84032

Application Type: Public Works

Applicant: City of South Lake Tahoe

Location: Five (5) Locations - See Exhibit A

1. Outdoorsman - Post Mile 76.7
2. Presbyterian Church - Post Mile 77.2
3. Lyons Avenue - Post Mile 77.8
4. Rufus Allen Blvd. - Post Mile 78.4
5. Pioneer Trail - Post Mile 80.0

Review Per Section:

1. Subparagraph G(5), Preliminary Injunction (specific project exemption)
2. Section 3.00, Ordinance 84-1 (Article V(g) findings)
3. Section 4.30(2), Ordinance 84-1 (Review of Other Pending and New Projects)
4. Section 4.12(d) California Side Land Use Ordinance (Public Works Projects)
5. Section 4.31(1) and (2), Ordinance 84-1 (Review Criteria)
6. Section 14.24, Ordinance 81-5 (Exemption to Land Capability Standards)

Project Description: The applicant is requesting approval to construct five (5) bus turnouts along Highway 50 in the City of South Lake Tahoe. The proposed bus turnouts will be funded through SB807 transportation funds. The project is intended to provide areas for public transit buses to turnout from the heavy Highway 50 traffic to safely pick up passengers in an on-going program to encourage public transit use and deemphasize use of the private auto.

Staff Analysis:

**Land Capability District/Land Coverage:** The applicant is proposing to create approximately 4,504 square feet of additional land coverage with construction of the subject bus turnouts. The amount of land coverage associated with each of the proposed turnouts and the land capability district of the subject sites is as follows:

<table>
<thead>
<tr>
<th>Site #</th>
<th>Land Capability District</th>
<th>Proposed Additional Land Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>7b</td>
<td>1,040 square feet</td>
</tr>
<tr>
<td>2.</td>
<td>7</td>
<td>748 square feet</td>
</tr>
<tr>
<td>3.</td>
<td>7</td>
<td>1,341 square feet</td>
</tr>
<tr>
<td>4.</td>
<td>7</td>
<td>450 square feet</td>
</tr>
<tr>
<td>5.</td>
<td>7</td>
<td>925 square feet</td>
</tr>
</tbody>
</table>

**TOTAL** 4,504 square feet

RA:bl  
2/19/85

AGENDA ITEM VII C.
City of South Lake Tahoe, Bus Turnouts, Highway 50, TRPA File #64032
February 19, 1985
Page Two

Under the provisions of the existing Agency ordinances, an administrative permit
for land coverage in excess of the land capability system would be required
pursuant to Ordinance 81-5. Ordinance 81-5 provides that the Governing Body may
permit land coverage in excess of the land capability system upon making the
following findings:

1. The work is necessary for implementation of the Nonattainment Air
Quality Plan or the Transportation Element of the Regional Plan, or is
necessary for public recreation or the protection of the public
health, safety or general welfare.

2. All other feasible alternatives not involving creation of land cover-
age in excess of that permitted by the pertinent land capability
districts have been exhausted.

Creation of public transportation facilities, such as bus turnouts, are of such
a nature that the facility can only be located directly adjacent to the existing
highway. As such, there are no feasible alternatives to creation of land
coverage in excess of the land capability standards. Further, Goal #4, Policy
#1 of the Transportation System Management Subelement of the Amended Regional
Plan provides that the Agency shall improve transit system attractiveness
through an aggressive bus pullout/bus shelter construction program.

In light of the above, staff believes there is substantial evidence in the
record for the Governing Board to make the findings required under Section 14.24
of Ordinance 81-5.

Water Quality Mitigation Fee: As provided for under Section 12.62 of Ordinance
81-5, a water quality mitigation fee is required for creation of new land
coverage. Based upon the existing water quality mitigation fee schedule, the
mitigation fee required for the proposed 4,504 square feet of new land coverage
would be $876.00.

Transportation and Circulation: Agency transportation staff have completed
field evaluations on all of the proposed bus turnouts. Staff is in agreement
with the location of all proposed turnouts with the exception of location number
4 (Highway 50 and Rufus Allen Blvd.). Below is a list of consideration for this
site which warrant further evaluation:

1. The width of the bus turnout is 5 feet. Any bus using the turnout
would remain approximately 4 feet in right hand, west bound lane of
traffic. Traffic delays may result during the loading and unloading
of passengers.

2. Presently the location of the turnout is a narrow dirt path which is
used primarily as a pedestrian walkway. This walkway does not appear
to provide adequate circulation for the usual foot traffic in conjunc-
tion with the loading and unloading of bus patrons.

2/19/85

AGENDA ITEM VII C.
3. This site is one of the few open areas in South Lake Tahoe which affords motorists and pedestrians a view of Lake Tahoe from Highway 50. This creates two potential conflicts: 1) If a shelter was ever determined to be needed, it would create an obstruction to the view of the lake; and 2) This location, without proper control measures, may invite motorists to utilize the turnout for the purposes of picture taking.

For these reasons, staff feels that alternative sites for location #4 should be evaluated. One possible site is adjacent to El Dorado Beach, west of Rufus Allen Blvd. This site could provide for a turnout wide enough for an entire bus. Also there is sufficient open space to provide for construction of a shelter in the future. In light of the above, staff recommends that approval be granted for sites 1, 2, 3, and 5 only, and that the Governing Board direct staff to further evaluate alternate sites for location #4.

Article V(g) Findings (Section 3.00, Ordinance 84-1): The following is a list of the V(g) findings as set forth under Section 3.00 of Ordinance 84-1. Following each finding, Agency staff has briefly summarized the evidence on which the required finding may be made.

1. The project is consistent and complies with the CTRPA and Agency ordinances, maps, rules, regulations and policies in effect on August 25, 1983 where said ordinances, maps, rules, regulations and policies are not inconsistent or in conflict with the amendments to the regional plan adopted by this ordinance. In the event said ordinances, maps, rules, regulations or policies are inconsistent or in conflict with said amendments to the regional plan, the Agency shall find that the project is consistent and complies with said amendments to the regional plan.

The project is being reviewed under Section 4.12(d) California Side Land Use Ordinance and, as set forth previously, is consistent and complies with the amendments to the Regional Plan.

2. The project has been processed in accordance with the Agency's Rules and Regulations of Practice and Procedure.

The project is properly before the Governing Board for consideration. Proper application and fees have been submitted.

3. With respect to projects for which an environmental impact statement has not been prepared, the project, including compliance with the conditions of approval, will not have an adverse significant, individual or cumulative impact on the environment.

An environmental checklist has been completed for the project and said checklist concludes that the project will not have an adverse, significant or cumulative impact on the environment.

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AGENDA ITEM VII C.
4. The establishment, maintenance and operation of the project will not be detrimental to the health, safety, peace, comfort or general welfare of the Lake Tahoe Region.

There is no evidence suggesting that the project will be detrimental to the health, safety, peace, comfort or general welfare of the Lake Tahoe Region.

5. The project is consistent with the goals and policies of the Water Quality, Transportation and Air Quality, Conservation, Recreation, Public Services and Facilities and Implementation Elements of the Regional Plan, as amended.

   a. Water Quality - The project includes mitigation measures to ensure compliance with the TRPA 208 Water Quality Plan.

   b. Transportation and Air Quality - The project proposes work which will potentially decrease vehicles miles traveled (VMT) and improve both air quality and circulation within the region.

   c. Conservation - The project does not propose any work which will be in conflict with the Conservation Element of the amended Regional Plan.

   d. Public Services and Facilities - The project is consistent with the goals and policies of the Public Services and Facilities Element of the amended Regional Plan.

   e. Implementation - The project is consistent with the development and implementation priorities set forth in the Implementation Element of the amended Regional Plan.

Required Actions and Findings: To approve the project, the Governing Board must take the following actions and make the following findings:

I A motion for a finding of no significant effect with direction to staff to prepare the necessary certification document to be included with the permit.

II A motion to approve the project subject to the following findings and conditions:

A. Findings:

   1. The V(g) findings listed on Attachment K.

   2. The project, as proposed, is consistent with the transportation element of the amended Regional Plan.

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AGENDA ITEM VII C.
3. All other feasible alternatives not involving the creation of land coverage in excess of that permitted by the pertinent land capability district, have been exhausted.

B. Conditions:

1. The standard condition slisted on Attachment D with the following modifications:

   Delete:

   20. Water Conservation Devices
   21. Water Heater Standards
   22. Space Heater Standards
   23. Wood Stove Standards

   Add:

   37. Prior to issuance of a TRPA permit for construction of the subject project, a water quality mitigation fee of $876.00 shall be deposited with the TRPA.

   38. This approval is for sites 1, 2, 3, and 5 only.

   39. This approval does not become effective until such time as evidence of approval of the Lahontan Regional Water Quality Control Board is submitted to the TRPA.
Show Cause Hearing: City of South Lake Tahoe, Unauthorized Expansion of Service at the South Tahoe Airport

Property Owner: City of South Lake Tahoe

Violation Description: In early May of 1982, TRPA staff approved an El Dorado County request for 15 scheduled Air California flights per week to the Lake Tahoe Airport. These flights were limited to 3 per day Wednesday thru Sunday.

The City of South Lake Tahoe has since the May, 1982 approval become the owners and operators of the Lake Tahoe Airport. They took over the operation in October of 1983. The City contends that they have prior approval from TRPA for 19 flights per week. However, the last approval staff can locate is for 15 flights per week.

In early April, 1984, the City circulated a negative declaration to increase Air Cal operations from 19 - 29 flights per week. TRPA staff responded to the negative declaration and contacted the city staff. It was the position of the Agency, that any increase in flights would have impacts upon traffic, VMT, changes in CNEL levels and potentially increase the chance of toxic spills. For these reasons, TRPA felt that this constituted a project and needed review of the Agency.

The CTRPA Indirect Source Review Ordinance became the effective TRPA Ordinance on July 1, 1980. Section 4.20 of this Ordinance states that, "All proposed new airport construction or modifications of an existing airport allowing an increase in capacity of aircraft, passengers or automobiles shall be subject to review. This shall include review of decisions allowing increases in the number of flights per day."

On May 1, 1984, Air California increased their operations to 29 flights per week as stated in their contract with the City of South Lake Tahoe.

On May 17, 1984, staff's Chief of Project Review sent a certified letter to the City Manager requesting the City to rescind any unauthorized increase in Air California flights. The letter cited Article VI(1) of the TRPA Compact which states that any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed $5,000 per day for each day on which such a violation persists.

On May 26, 1984, TRPA posted a Cease and Desist Operations Order at the Lake Tahoe Airport against the City of South Lake Tahoe. However, Air California's additional operations were not rescinded.

Air Cal flights have been cut back to the previous level of service (19 flights per week) as of September 4, 1984.

AGENDA ITEM VIII A. 1.
Violation Analysis: TRPA staff has been working with the City of South Lake Tahoe and the California Attorney General’s office since early April to resolve the above-mentioned violation and any future increases in air service at the Tahoe Airport. There was a considerable amount of discussion regarding whether or not the approved number of flights are based on an annual average or a specified number of flights per day. However, staff maintains that the CNEL standard is a 24 hour standard and cannot be averaged on an annual basis.

Staff has tried to be flexible with the City to increase flight service. We acknowledge that the Transportation Element of the Regional Plan calls for encouraging the use of aviation facilities as a strategy to reduce VMT in the Basin. However, for this to be effective, air services need to be coordinated with transit services.

The City of South Lake Tahoe was committed to a contract with Air California and chose not to violate that agreement.

In July of 1984, the matter of the Airport was brought before Judge Garcia in the drafting of the Preliminary Injunction, and he specifically turned down an exemption for review of increased air travel at the Airport, such that TRPA can not review increased flights without a specific exemption.

On February 8, 1985, the issue of whether or not TRPA has jurisdiction governing the number of flights into the Tahoe Basin was decided in favor of TRPA (transcript of proceedings follows). Judge Garcia clearly indicated that the Bi-state Compact authorizes the TRFA to review commercial air service into the basin.

Staff Recommendation:

1. Finding of violation has occurred.

2. In recognition of violation that in lieu of cash fine, the City of South Lake Tahoe shall be individually liable for cost of design implementation and continued operation of a noise monitoring system. Such noise monitoring system shall be subject to approval of TRPA and shall be installed by July 1, 1985.

3. The noise monitoring system and any other efforts necessary to comply with this enforcement action shall not be creditable against other mitigation requirements identified by the AirCal EIR or the Airport Master Plan.
4. Furthermore, the City individually shall pay within 30 days a fine in an amount to be determined by the Governing Board. Factors the Governing Board may wish to consider in setting an appropriate penalty should include costs of the diversion of staff and legal counsel time from the crucial issues involving the Regional Plan. These costs are estimated to be approximately $5,000.
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE EDWARD J. GARCIA, U.S. DISTRICT JUDGE

CITY OF SOUTH LAKE TAHOE, a municipal corporation, Plaintiff,

vs.

TAHOE REGIONAL PLANNING AGENCY, and Does I-X, Defendants.

AIR CALIFORNIA, INC.
Amicus Curiae.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS
FRIDAY, FEBRUARY 8, 1985

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JAMES G. VINE, CSR, License No. 1515
APPEARANCES

For the Plaintiff
City of South Lake Tahoe:

Catzke, Lodge & Mispagel
By: Michael Scott Catzke
2890 Pico Pico Drive, Suite E
P.O. Box 1636
Carlsbad, California 92008

J. Dennis Crabb
City Attorney
City of South Lake Tahoe
P.O. Box 1210
South Lake Tahoe, California

For the Defendants
Tahoe Regional Planning Agency:

Shaw, Heaton, Doescher & Owen
By: Susan E. Scholley
304 South Minnesota Street
P.O. Box 605
Carson City, Nevada 89702

For Amicus Curiae
Air California, Inc.: 

Irell & Manella
By: Richard M. Sherman
840 Newport Center Drive
Suite 500
Newport Beach, CA 92660

For the Intervenor
State of California:

John K. Van deKamp
Attorney General of the State of California
By: Kenneth R. Williams
Deputy Attorney General
1515 K Street, Suite 511
Sacramento, California 95814

---000---

James G. Vine
Official Reporter
U.S. District Court
Sacramento
Sacramento, California
Friday, February 8, 1985

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THE COURT: I'm going to grant the motion for partial summary judgment as to the first cause of action. The reason I ask you that question that we're really talking about deregulation statute with a preemption clause rather than a regulation statute is that I agree with you, that it appears to me that the federal government wanted, among other things, an open sky policy of the United States. However, because they later approved this compact, which they must have realized would require some airline regulations into the Tahoe Basin, they created an exception, where it believed that for other good reason, here environmental reason, that open sky policy would be limited in a narrow geographical area, that's why I asked that question. Frankly, I agree with you, although I recognize that there are other reasons for this gradual deregulation over the years, but I think that was one of them and I think it's important to keep in mind, that the exemption clause in that act is a deregulation statute.

Let me tell you some other reasons why I'm granting the motion. Without a doubt, the airport activities, including the number and frequency of flights by Air California, are subject to review and approval by TRPA under the compact which created it. And that even though the Airline Deregulation Act contains
a preemption clause prohibiting states and interstate agencies from in any way regulating airlines, the clause does not affect TRPA because its powers are derived from a federal compact ratified by the Congress. This compact in my view, is itself, federal legislation in that the Airline Deregulation Act preemption clause simply does not apply to a federal compact such as this passed by the United States Congress. And even though the compact and the Airline Deregulation Act do overlap, they do so only in the Tahoe Basin and the statutory scheme regulating airlines is nationwide, and the reason for that national scheme, appears to me, to be economic in nature and the federal compact regulates air flights only in the Tahoe Basin and only for environmental purposes and that's why I believe the two federal schemes can't operate concurrently without harming the effectiveness of the other.

To the extent that it is argued that there may be some conflict between the two bodies of law, it seems to me that the compact should be honored in any event in this narrow geographical area. It's a congressional enactment passed later in time and I believe it's more specific being limited geographically in scope while the Airline Deregulation Act is national in scope.

Also I believe that your first cause of action in the Complaint attacks an integral part of the statutory scheme of the compact, that is, the achievement of the environmental
threshold set forth in the compact and that these overlapping
statutes, in my view, should be interpreted so that both will
work.

I think that a reading of the compact giving TRPA its
regulatory powers over airlines in the Basin shows congressional
recognition of the need for federal enforcement of strict
environmental standards for the Tahoe Basin and thus the compact
is actually a part of the federal regulatory scheme for noise
and air pollution control.

I believe that the compact specifically requires TRPA
to adopt and enforce air and water quality standards that are
stricter than the federal government's general standards. And
that the legislative history shows that Article 10, Section 5,
was a general reservation designed to protect the jurisdiction
of the Department of Interior, the Forest Service and the
Department of Agriculture, and was not designed to exempt or
protect the owner of the airport from the requirements of the
contract.

I want to repeat, that it seems to me, that as pointed
out in the DeVeau case, it would not be reasonable to conclude
that the Congress would create a bi-state agency such as TRPA
to establish and maintain strict environmental standards,
including noise and air pollution and transportation standards;
and not intend to give it power to regulate commercial airline
flights into such an environmentally sensitive area as the Lake
These are the reasons why I'm granting summary judgment on the first cause of action for declaratory relief.

Judgment in favor of the defendant.

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TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Show Cause Hearing: Tom Montesano, violation of conditions of approval and revocation of permit, Washoe County, APN 122-135-15

Property Owner: Tom Montesano

Project Description: Single Family Dwelling, TRPA approved November 10, 1981

Site Location: 534 Cole Circle, Incline Village

Site Description: Approximately 1/3 acre parcel, upslope lot from the street

Land Capability Classification: Originally mapped as a class 4 parcel, this district has since been redelineated as a class 2 (JwF very stony, sandy loam) 30 - 50% slope. As per past Governing Board direction, staff was required to process this application as it was originally mapped.

Violation Description: On July 12, 1984, Agency staff made and approved a pre-grading inspection on this site. At that time, adequate erosion control measures were installed in the form of hay bales placed along the street frontage and down slope portion of the lot.

Grading activities did not commence on this site until a few days prior to the October 15th grading deadline. (Had construction not started, the permit would have expired on November 10, 1984.) Considerable soil disturbance was created in the process of excavating a driveway on this upslope lot, with a slope greater than 30%.

During the start of construction, the hay bales had been moved across the street. The contractor was then told to properly restore the hay bales, and to remove spoil material from the county right-of-way. Reinspection was made after an October 16th snow storm, which had covered the site. It could not be determined if the hay bales were in place at that time.

From that point to this date, properly installed erosion control measures have not been restored on the subject site, even after the owner and contractor had been contacted and directed to replace the required erosion measures. Permit conditions require that temporary erosion control measures be properly installed during the entire period of construction activity.

Staff Action To Date: Agency staff has contacted the owner (after several changes in address and phone numbers) by certified mail and by telephone, and has notified him to properly stabilize the site as per the required conditions of approval. Mr. Montesano was also notified that his TRPA project permit was being suspended as a result of his failure to comply with permit conditions, after repeated requests to do so.

RP: mlm
2/19/85

AGENDA ITEM VIII A.2
Tom Montesano, Violation of Conditions of Approval and Revocation of Permit, Washoe County, APN 122-135-15

Mr. Reid Badgley, the excavation contractor representing the owner, was contacted on at least three (3) occasions concerning replacement of the erosion control measures. He stated that he would contact the owner in that regard.

Staff Recommendation: Agency staff recommends action on one of the two following courses of action:

1. That the Governing Board find that a violation exists;

2. That Mr. Montesano's TRPA permit be revoked, based upon Section 5.17 of the TRPA Rules and Regulations of Practice and Procedure; and

3. That the subject parcel be restored to its previously existing condition within fifteen (15) days from May 1, 1985.

Alternative Action: If the Governing Board is not prepared to take the above actions staff recommends at a minimum the following courses of action:

1. That the Governing Board finds that a violation exists;

2. That the owner be required to construct an engineered retaining wall to permanently stabilize the driveway excavation with such plans submitted to this Agency for approval;

3. That such retaining wall shall be built within ten (10) days of May 1, 1985;

4. That the owner shall increase his existing $2000.00 security to $7500.00 within the next fifteen (15) days;

5. That the owner shall make payment of a civil penalty of $5000.00, in lieu of civil litigation; and

6. That noncompliance with any of the Board approved actions result in the case being forwarded to Agency legal counsel for action towards civil judicial proceedings.
January 18, 1985

T. A. Montesano
928 Evans Avenue
Reno, NV  89512

Subject: Violation of Condition of Approval, Montesano Construction Project, 534 Cole Circle, Incline Village, TRPA File #81-1372

Dear Mr. Montesano:

Site inspection of your above-noted property has shown that the required temporary erosion controls for your construction site are not in place. Tahoe Regional Planning Agency approval of your project requires that effective methods of controlling site erosion be installed prior to and during the full length of the construction project.

Therefore, as the recorded owner of the subject property, you have five (5) days from the date of this notice to install the required temporary erosion control methods as per the Handbook of Best Management Practices. Noncompliance in this matter will result in this Agency securing your $2500.00 deposit for the purpose of buying and installing temporary erosion control materials to stabilize the excavated soil material on site. In addition, this Agency will commence action to revoke your TRPA permit.

If you should have any questions regarding this matter, please give me a call.

Sincerely,

Robert Pavich
Field Representative

RP:bl
If you should have any questions on this matter, please feel free to give me a call. You will be further notified of the scheduled TRPA Governing Board meeting and show cause hearing and will receive a copy of the staff report prepared for that hearing.

Sincerely,

[Signature]

Steve Chilton
Chief, Enforcement Division

[Signature]

Gary D. Midkiff
Acting Executive Director

SC:mlm
Enclosure

cc: Reid Badgley
February 5, 1985

Thomas Montesano
1845 Citron
Reno, NV 89512

Subject: Show Cause Hearing and TRPA Permit Suspension
534 Cole Circle, Incline Village
APN 122-135-15, TRPA File #81-1372

Dear Mr. Montesano:

This letter serves as notification that the Tahoe Regional Planning Agency is suspending your Agency issued permit, effective immediately. This is a result of your failure to comply with this Agency's required conditions of approval on your above-noted single family dwelling construction project, concerning the installation and maintenance of temporary erosion control.

This matter has been scheduled for a show cause hearing at the February 27 and 28, 1985 TRPA Governing Board meeting with direction towards revoking your TRPA permit. As per Article V, Section 5.17 of the Rules and Regulations of Practice and Procedure, "the chairman, executive officer, or Governing Body of the Agency may initiate proceedings by the Governing Body to revoke a permit issued by the Agency when any of them determines that a violation of the permit approval or a condition thereof has occurred. The operation of the permit may be suspended upon any such determination, pending hearing by the Governing Body." At the hearing, "the permittee shall show cause why the permit should not be revoked..."

As per my certified letter to you (copy enclosed) and our telephone conversation on February 1, 1985, you were directed to properly install the required temporary erosion control measures on your construction site. As of this date, the site remains unprotected, with considerable soil disturbance. This is in violation of a condition of your permit approval. If the Governing Board finds a violation exists you may be subject to a civil penalty of $5,000.00 for each day of violation as per Article VI (L) of the Revised TRPA Compact.
January 29, 1985

MR. RODNEY H. PAYNE
BOX 8706 • INCLINE VILLAGE, NEVADA 89450

RE: Illegal excavation at 534 Cole Circle, Incline Village, NV, Parcel #122-135-12, lot 8, block 6, sub. Ponderosa #5

Dear Governor Bryan,

My wife and I settled in the lovely Tahoe Basin several years ago. We have always respected its environmentally sensitive beauty. Indeed, when we built our home in Incline Village two years ago, the issue of environmental preservation added over $10,000 to our building costs. We gladly paid the price and obeyed all codes and restrictions, primarily because it was the proper thing to do. Besides, we assumed such regulations were strictly enforced in an area renowned for its environmental protections. These laws, we thought, had teeth.

However, sir, we have reason to doubt.

Right now, the land adjacent to our home looks like a strip mine. The owner of the land has performed a wholesale excavation in complete defiance of the law. Soil and debris line our street, filtering on to our property and down toward the lake. The sight and site have become a travesty.

This destruction of land and flouting of regulations has been almost unbelievable. It has been made all the more appalling by the official indifference that has greeted our numerous protests.

Obviously, this case has considerable background. I will outline the salient features.

The lot in question is next door to us at 534 Cole Circle, Incline Village. In March, 1982, the owner of the lot obtained a building permit. When his permit was reviewed in June, 1984, he was advised to make numerous corrections prior to beginning excavation, one of which would accurately illustrate a retaining wall encompassing a 90 foot driveway. Such a revision would have required the advice of a structural engineer. Amazingly, the Washoe County Building Department did not issue a stop work order, and no such revision was ever made.
In August, an engineer from the Highway department came to inspect the lot prior to excavation. At that time, he told me a permit to build should never have been issued with the skeletal information submitted. He cited the owner's misrepresentation of property lines and elevations, and stated our dead-end street had been shown on the plans as a cul-de-sac (The latter misrepresentation affects street access.) Still, no stop work order was issued. I also advised the local Incline Village building inspector of the alleged violations—to no avail.

Abruptly on October 7, 1984, 8 days before the end of the building season, excavation began. A quiet Sunday morning, Monday the 8th, the following day, a Nevada holiday — intently ominous. You can imagine, sir, how much disturbance can be inflicted in two days. The owner had told the contractor, despite certain irregularities, "everything was in order". The contractor proceeded according to the owner's instructions. These irregularities included:

*No formal property survey had been made.
*Pathetic property boundary/building site markers were in place.
*No current approved plans were available on the job site.
*No protective wrap was (or is) in place.
*A 100 foot culvert deemed absolutely necessary by all agencies was never installed prior to excavation (status quo).
*Two trees were unnecessarily removed.
*Our landscape was damaged during and after excavation.

Over 200 cubic yards of dirt were indiscriminately removed. The land is disturbed to an extent unimaginable for a single family home. The abandoned caverns are now visible eroding.

Furthermore, we fear the owner has no intention of completing the project. the contractor, for example, has apparently yet to be paid in full. No further work — or any cleanup by the owner — has taken place. The director of TRPA, Mr. Gary Midkiff and the highway department have tried for months to reach the owner but to no avail. The highway department finally cleaned the street and cleared the ditches — correcting the negligence of the property owner's obligation. The building
department and TRPA are now furious — but still a
stop work order has not been issued by any agency.
My wife and I have lodged repeated complaints
with the following agencies since excavation began:
* Tahoe regional Planning Agency (TRPA)
* Incline Village Building Department
* Reno Building Department for Washoe County
* Incline Village and Reno Highway Departments
* The District Attorney, State of Nevada
* Attorney General, State of Nevada
* Commissioner King (This individual feigned
  uncertainty to Washoe County building codes,
  more specifically the delicate needs of the
  Tahoe Basin, which is quite distressing,
  considering this is one of his current job
  descriptions as a public official. We still
  await the courtesy of his returned phone call.).
* Your Office.
Nothing has been done. No one has helped. One agency
merely refers us to another.
Meanwhile, with excavation partially begun and
abandoned, the erosion and eyesore continue. We are
disillusioned to think that this kind of destruction
can occur under official noses in one of the most
environmentally sensitive — and "protected" —
areas on earth.
Won’t you intercede? All we ask is that the owner
of this property be held accountable to the same
laws and building codes that apply to the rest of us.

Respectfully Submitted,

[Signature]

Rodney H. Payne   Christine L. Kage
cc: Mr. Brian McKay, Attorney General, State of Nevada
               Heroes Memorial Building
               Capitol Complex
               Carson City, Nevada 89710

               Mr. John Vandecamp
               Attorney General, State of California
               1515 K Street, Suite 511
               Sacramento, California 95814

               Mr. Richard Skinner
               Deputy Attorney General, State of California
               1515 K Street
               Sacramento, California 95814

               Mr. James King
               County Commissioner, Washoe County, Nevada
               P.O. Box 6063
               Incline Village, Nevada 89450

               Mr. Gary Midkiff
               Director, Tahoe Regional Planning Agency
               P.O. Box 8896
               South Lake Tahoe, California 95731

               Mr. Oris Corbridge
               Director, Washoe County Building Department
               P.O. Box 11130
               Reno, Nevada 89520

               Mr. Douglas Hopkins
               Director, Engineering, Washoe County Bldg Dept.
               P.O. Box 11130
               Reno, Nevada 89520

               Mr. Robert Mays
               Road Superintendent, Washoe County
               P.O. Box 11130
               Reno, Nevada 89520

               Mr. David Peterson
               Superintendent of Roads, Incline Village, Nevada
               P.O. Box 6288
               Incline Village, Nevada 89450

               Mr. Richard Groark
               Building, Safety Division
               P.O. Box 3940
               Incline Village, Nevada 89450
cc: Mr. Tom Mattens
League to Save Lake Tahoe
P.O. Box 10110
South Lake Tahoe, California 95731

Mr. Mark Pfotenhauer
Attorney at Law
P.O. Box B/F
Incline Village, Nevada 89450

Ms. Barbara Henry
Executive Director, Reno Gazette-Journal
P.O. Box 22000
Reno, Nevada 89520

Mr. Chris Potharingham
Managing Editor, North Lake Tahoe Bonanza
P.O. Box 4028
Incline Village, Nevada 89450
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Show Cause Hearing: Joseph Borselli, Unauthorized Land Coverage, Douglas County, APN 05-023-01

Property Owner: Joseph Borselli

Violation Location: 198 Ray Way, Skyland, Douglas County

Site Description: Approximately 1/4 acre parcel containing an existing single family dwelling.

Land Capability Classification: A class 7 lot that is nearly flat.

Violation Description: In October, 1984, Agency staff received a complaint concerning unauthorized construction of a wood deck and hot tub, consisting of approximately 115 square feet of coverage. The deck and hot tub were not approved and did not receive a permit from this Agency.

Agency staff has been working with the Douglas County Building Department on this matter, and has notified them that TRPA could potentially approve this unauthorized project. Staff advised the building department to first resolve the problem that the deck and hot tub are located in the required side yard, before TRPA makes a decision on this matter. There was no point in Agency approval on this matter, if the county was to later require its removal (see attachment).

Staff Action to Date: Mr. Borselli was notified on October 26, 1984 to make application to TRPA, upon which staff would either make the determination that the unauthorized construction could be legalized, or require that it be removed. However, the owner has not submitted the required site plan indicating all existing land coverage, along with the new construction. As of this date, staff has still not received any acceptable site plan, resulting in the scheduling of a show cause hearing.

Staff Recommendation: Agency staff recommends the following:

1. That the Governing Board find that a violation exists;

2. That the unauthorized wood deck and hot tub be removed within 30 days;

3. That a civil penalty of $500.00 be paid to this Agency in lieu of civil litigation; and

4. That in the event of noncompliance of the Board approved action, this matter shall be forwarded to Agency legal counsel for action towards civil judicial proceedings.

RP:b1
2/19/85

AGENDA ITEM VIII A. 3.
October 18, 1984

Jerry Schwartz
Douglas County Community Development
P. O. Box 218
Minden, Nevada 89423

Subject: Douglas County Enforcement Matters

Dear Jerry:

It seems that between my field work and your meetings, it's difficult to contact one another. Regarding your letter dated October 9, 1984, the status of the subject enforcement matters are as follows:

1. Neighbor dispute between Borselli and Speccio re: placement of hot tub and surrounding deck - the new land coverage can be rectified by removing an equal amount of coverage, plus an additional 10% penalty (approximate total 200 sq. ft.'). They would also pay a double TRPA filing fee. Douglas County must deal with the fact that the spa is in the required side yard. As I understand it, the portable spa is now no longer portable due to the surrounding deck. If the owner is not willing to relocate the spa, or retrofit back to a portable spa, then there is no reason for TRPA to approve this project. The county would likely require its removal. I will contact the owner (Borselli) this date to see what they are willing to do.

2. Stuart garage conversion in Elk Point - TRPA zoning for that area does not permit a detached living quarters. Owner has been notified to restore structure to its previous use and dimensions, and to remove the new land coverage.

3. Kjer gazebo in Glenbrook - I had an appointment set up in mid-September but had to cancel. Then I went on my honeymoon. Then Mr. Kjer went on vacation. He is to return on October 28th, after which I will arrange another meeting.

4. John Thomas (APN 05-172-15 Zephyr Heights) excavating footing for a retaining wall - Since this wall is not in conjunction with a structure and involves only minor grading, TRPA does not consider this to be a project.
I will keep you posted as to any further action on these items. I also ask for your patience, since I am the only field representative for TRPA on the Nevada side of the Tahoe Basin. With the October 15th grading deadline at hand, I have been rather busy over the past three weeks.

Sincerely,

Bob

Robert Pavich
Field Representative

RP:mlm
October 26, 1984

Joseph Borselli
P. O. Box 1939
Zephyr Cove, NV 89448

Subject: Unauthorized Land Coverage, 198 Ray Way, Douglas County APN 05-023-01

Dear Mr. Borselli:

Site inspection of your above-noted property has shown that a hot tub and surrounding deck have been constructed on your property without benefit of a permit from the Tahoe Regional Planning Agency. These items constitute land coverage and require the review and approval of this Agency.

Therefore, within fourteen (14) days from the date of this notice, you shall submit an application to the TRPA, along with a site plan of your property indicating all existing land coverage (house, driveway, walkways, decks). This Agency will then determine if the new land coverage (hot tub and deck) can be legalized through a reduction of existing land coverage. In addition, you should be aware of Douglas County zoning requirements concerning structures in the required side yard.

If this Agency is not in receipt of your project application within the time period setforth, you will be scheduled for a show cause hearing at the November meeting of the TRPA Governing Board, with direction toward civil judicial proceedings. If you have any questions concerning this notice, please give me a call.

Sincerely,

Robert Pavich
Field Representative

RP:bl

cc: Jerry Schwartz, Douglas County Building Department
Show Cause Hearing: Raymond Haas, Unauthorized Structure Below High Water Line, 5550 North Lake Boulevard, Placer County, APN 89-051-08

Property Owner: Raymond P. Haas, Contractor Unidentified

Violation Description: During early January 1985, staff received a complaint from a neighboring property owner that a fence was being constructed into Lake Tahoe, limiting his access to the beach and affecting his view. On January 16, 1985, an inspection of the site was made and revealed a wooden fence with concrete foundation 95% complete constructed from the backshore into the lake, a distance of approximately 12 feet. With no one at the site to consult with, staff photographed the site and a notice to stop work was posted.

Staff also noticed that a tree had been recently removed without California Department of Forestry markings. Upon leaving the work site staff was approached by two construction workers who failed to identify themselves upon staff identification and statement of purpose. Staff was ordered to leave the premises under threat of hostile actions by the two construction workers.

On January 18, 1985 staff returned to the work site with representatives from the Army Corps of Engineers (ACOE) Regulatory Section, and State of California Fish and Game Department to verify the site address and allow the Army Corps of Engineers to post a stop work order. It was found that further work on the structure had occurred and the stop work notice had been removed from the fence.

Violations:

1. Section 4.11(11) of Shorezone Ordinance; repair of unauthorized structure without permit.
2. Section 11.10 of the Shorezone Ordinance; an administrative permit must be obtained before dredging within the shorezone.
3. Ordinance 81-1, and Section 6.32 of CTRPA Vegetation and Soil Protection Ordinance; tree removal without permit.
4. Work after posted stop work order, removing posted stop work order.

Violation Location: 5550 North Lake Blvd., Placer County, APN 89-051-08

Site Description: Backshore - Douglas Fir stand; Nearshore - Weathered volcanic and moranic debris, five (5) to fifteen (15) percent slope.
Land Use District: Low Density Residential

Land Capability Classification: Jorge-Tahoma very stony sandy loam, two (2) to fifteen (15) percent slope, land capability 6. Shorezone Tolerance District 6.

Violation Analysis: Mr. Haas received notification from Army Corps of Engineers on August 13, 1982 that the structure was in violation of Federal Law and to remove all sections below the ordinary high water line elevation (6293.1 Lake Datum). Mr. Haas felt he had a vested right to the fence since it was there when he purchased the property in 1979. He furthermore informed the Army Corps of Engineers he intended to modify and make repairs to the fence although he knew he needed an ACODE permit to do so (Haas letters dated 8/31/82 and 8/2/83). Had Mr. Haas complied with ACODE procedures TRPA would have been informed of the project.

Mr. Haas contends he was not aware of the necessity to obtain TRPA permits for repairing the nonconforming structure or removing the tree from his property, although he did seek, and was granted, Agency approval for a tennis court addition five (5) years earlier.

Additionally, Mr. Haas refuses to identify his project contractor although he admits the contractor has previously done considerable work in the area, which leads staff to believe the contractor is aware of the TRPA ordinances, and the necessity to stop work when posted.

Staff Recommendations:

1. Agency staff recommends that the Governing Board find that a violation exists and direct Raymond Haas to completely remove the unauthorized structure lakeward of the ordinary high water line (6,229.1, Lake Datum). This elevation shall be verified by a licensed surveyor and a report forwarded to this office;

2. That the Board direct Raymond Haas to obtain a permit from the State of California Department of Forestry for the tree removal on his property, and if the Department of Forestry cannot determine the tree was dead when cut, the Board shall require Raymond Haas to pay a penalty of $500.00 to the TRPA in lieu of civil litigation;

3. That the Board require a $2500.00 security within thirty (30) days to insure that the above occurs;

4. That Raymond Haas and his contractor be jointly and severally liable for a penalty of $2500.00 to the TRPA in lieu of civil litigation for repairing an unauthorized structure in the shorezone without a permit.
5. That Raymond Haas and his contractor be jointly and severally liable for a penalty of $2500.00 to the TRPA in lieu of civil litigation for work beyond a posted stop work order and removing a posted stop work order; and

6. That the Board direct Agency legal counsel to pursue civil litigation and seek the maximum allowable penalty under Article VI(1) of the Compact for willful violations of Agency ordinances if the above are not complied with during the time specified or by March 30, 1985.
February 13, 1985

Raymond P. Haas
Three Embarcadero Center
Seventh Floor
San Francisco, CA 94111

Subject: Construction in Shorezone and Tree Removal Without Permits
APN 89-051-08

Dear Mr. Haas:

Enclosed please find the information you requested, along with the necessary application forms and fee schedule.

In response to your question of the need for a permit for fence work, a permit is required for any repairs of a nonconforming structure in the shorezone which includes the backshore and nearshore.

Please be advised that all the conditions and deadlines of my letter of February 6, 1985 are still in effect. If the security deposit for the removal of the nonconforming structure is not received by February 21, 1985 you will be scheduled for a Show Cause Hearing at the Tahoe Regional Planning Agency Governing Board meeting of February 27 and 28, 1985.

If you have any questions concerning the above, please do not hesitate to contact me.

Sincerely,

Paul Kaleta
Environmental Investigator

cc: Tony Pingitore, Army Corps of Engineers
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8896
South Lake Tahoe, California 95731

CERTIFIED MAIL #P 537 890 167
RETURN RECEIPT REQUESTED

February 6, 1985

Raymond P. Haas
Three Embarcadero Center
Seventh Floor
San Francisco, Ca. 94111

Subject: Construction in Shorezone and Tree Removal Without Permits
APN 89-051-08

Dear Mr. Haas:

An inspection of your property on January 16, 1985 found you in violation of the Tahoe Regional Planning Agency (TRPA) Shorezone Ordinance by constructing a fence lakeward of the ordinary high water line elevation (6,229.1 feet, Lake Datum).

Furthermore, you have removed a tree from your property without obtaining a California Division of Forestry permit, in violation of the TRPA Tree Conservation Ordinance.

In order to resolve these violations, the following actions must be taken.

1. All fence material, including associated concrete retaining walls and pier blocks, shall be permanently removed lakeward of the ordinary high water line (6.229.1, Lake Datum) this elevation shall be verified by a licensed surveyor and a report forwarded to this office.

2. A permit for the fence work will be applied for and a $125.00 penalty will be assessed for not obtaining the permit prior to constructing the fence.

3. A condition of the project permit is to identify the project contractor.

4. A permit shall be obtained from the State of California Department of Forestry for the tree removal on your property. The C.D.F. office in Auburn, CA, can be reached at (916) 885-4517, a copy of the permit will be forwarded to TRPA.

5. Within fifteen (15) days from the date of this letter, you are required to post a $2,500.00 security deposit with this office (see Attachment J, examples of acceptable securities). This security is refundable upon satisfactory compliance with all the conditions of this letter and subsequent permits mentioned in this letter.
Failure to perform any of the above mentioned conditions will result in a show cause hearing before the TRPA Governing Board, and the possibility of monetary penalties. Please be advised that Article VI, Section L of the Tahoe Regional Planning Compact (PL 96-551, December 19, 1980) states:

Penalties. (1) Any person who violates any provision of this compact or of any ordinance or regulation of the Agency or of any condition of approval imposed by the Agency is subject to a civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

If you have any questions concerning the above, please do not hesitate to contact me.

Sincerely,

Paul Kaleta
Environmental Investigator

PK:mlm
Enclosure

cc: Tony Pingitore, Army Corps of Engineers
    Dan Scatena, California Department of Forestry
Mr. Raymond Haas  
18 Jordan Ave  
San Francisco, CA 94118

Dear Mr. Haas:

As discussed on the telephone with personnel of our Regulatory Section, your wooden fence which extends into Lake Tahoe at the north boundary of your property, Placer County Assessor's Parcel No. 89-051-08, is in violation of Federal Law.

Lake Tahoe is a navigable water of the United States. Section 10 of the River and Harbor Act requires a Department of the Army permit for all structures in Lake Tahoe lakeward of the ordinary high water line elevation (6229.1, Lake Datum). We have inclosed an extract of this Federal Law for your information.

Our regulations for evaluating structures in navigable waters of the United States state, "A riparian landowner's general right of access to navigable water of the United States is subject to the similar rights of access held by nearby riparian landowners and to the general public's right of navigation on the water surface. In the case of proposals which create undue interference with access to, or use of, navigable waters, the authorization will generally be denied." Since your fence impedes access to the waters of Lake Tahoe by extending into the lake beyond the high water elevation, we feel that allowing the fence to remain would not be in the public interest. Therefore, we request you remove the 3 sections of fence (approximately 24'), which extend lakeward from your concrete retaining wall, by no later than 15 September 1982.

If you have any questions or if you wish to discuss this matter further, please contact our Regulatory Section at the above address, or telephone (916) 440-2580.

Sincerely,

[Signature]

D. A. DENNIS  
Chief, Construction-Operations Division

1 Incl  
As stated
MEMORANDUM

Date: February 19, 1985

To: TRPA Governing Board

From: Agency Staff

Subject: Manny Beals, Unauthorized Construction and Signs, Douglas County, APN's 03-141-01, 03-142-01 and 03-145-01

On February 1, 1985, the Tahoe Regional Planning Agency staff arranged a meeting with representatives of the Nevada State Health Division, Department of Human Resources, the Nevada Department of Transportation and the Douglas County Community Development Department. The meeting was very productive and several possible means of resolving the violations of local, state, and Agency regulations on Mr. Beals' property were discussed.

The Health Division felt that they were bound by prior decisions made by the Division in regard to the restrooms issue. (The Health Division had agreed to not pursue the issue until such time that the Bedell Avenue lawsuit was decided. Las Vegas District Judge Bruce Thompson decided in Mr. Beals' favor and the Douglas County District Attorney's Office has appealed the decision).

The Nevada Department of Transportation has succeeded in posting no parking signs on their right-of-way in front of Mr. Beals' businesses fronting Highway 50. The vehicles parked there had projected into the roadway causing danger to passing motorists.

The Douglas County Community Development Department has been actively enforcing their sign ordinance (the Douglas County Sign Ordinance is more specific and restrictive than the existing Agency sign ordinance) on Mr. Beals' properties at Cave Rock. To date, compliance with the County's directives have been marginal.

The Agency has sent Mr. Beals a certified letter (see attached letter) notifying him that unless a resolution to the following violations of Agency Ordinances is reached within thirty (30) days, a show cause hearing will be scheduled for the March, 1985 Governing Board meeting. The violations are as follows:

1. Construction of two wood frame storage sheds on APN 03-141-01 (gas station).

AGENDA ITEM VIII B. 1.
2. Expansion of deck, roof, and commercial floor space on APN 03-145-01 (Cave Inn).

3. Direct discharge of waste water and materials from APN 03-142-01 (Manny's Burgers).

4. Placement of new, unauthorized signs on the parcels.

Due to the Agency's past attempts at resolving violations on Mr. Beals' properties and his continuing desire to circumvent and ignore these attempts, (the deck, roof, and commercial floor space expansion occurred in June, 1984, while the Agency was attempting to secure an exemption to the current court injunction allowing the Agency to process the restroom facilities so that Mr. Beals could comply with Health Division directives), Agency staff is now building a case which, if it results in court action, cannot be faulted on procedural grounds. We are also continuing to investigate further possible violations on the properties. Agency staff, if a March show cause hearing is warranted, will at that time, recommend the maximum penalties allowable under Article VI, Section I of the Tahoe Regional Planning Compact in addition to prompt removal of all violations.
February 13, 1985

Manford Beals
General Delivery
Glenbrook, NV 89413

Subject: TRPA Ordinance Violations

Dear Mr. Beals:

The Tahoe Regional Planning Agency is currently investigating violations of Agency ordinances occurring on your properties at Glenbrook, Nevada. The Governing Board of the Agency has shown a sincere interest in resolving this matter and Agency staff will make every effort to assist you in clearing up these violations.

Following is a list of violations the Agency is aware of to date:

1. Construction of two wood frame storage sheds on assessor's parcel number 03-141-01.

2. Expansion of deck, roof and commercial floor space on assessor's parcel number 03-145-01.

3. Direct discharge of waste water and materials from assessor's parcel number 03-142-01 during restaurant cleanup operations.

4. Placement of new, unauthorized signs on the parcels.

Resolution of these matters must follow existing Agency ordinances, including the Goals and Policies of the Regional Plan for the Lake Tahoe Basin.

The Preliminary Injunction ordered by the United States District Court for the Eastern District of California and the nature of the violations dictates that creative solutions be found. I have attempted to summarize the situation and the means of resolution as I see them.
Manford Beals  
February 13, 1985  
Page 2

The two unauthorized wood frame storage buildings on assessor's parcel number 03-141-01 were built over existing coverage. The argument that they are portable merely allows them to be removed in a more efficient fashion. Application for a permit or removal are the alternatives available in this instance. The incomplete application we have on file refers only to the proposed restrooms. An approval of the two structures is subject to the Agency regulations for nonconforming structures and uses. Specifically, a reduction of nonconforming land coverage on a one for one basis, plus a ten percent reduction of the remaining nonconforming land coverage, and installation of Section 208, Federal Water Pollution Control Act improvements.

The deck, roof and commercial floor space expansion on assessor's parcel number 03-145-01 is a more complicated situation. The deck was expanded beyond its original dimensions, clearly evidenced by the previous rock-cobble foundation under the deck. The new roof over the deck, and the deck itself are structural modifications to the building and due to its nonconforming nature, this is prohibited under the existing ordinances. The deck is being used as new commercial floor space due to the addition of tables and chairs for outside service. Until the Regional Plan lawsuit is settled and a commercial floor space allocation system is in place, no new commercial floor space is allowed in the Lake Tahoe Basin. The only alternative available in this situation is restoration of the deck structure to its dimensions prior to the unauthorized work taking place and removal of any outside facilities capable of serving patrons.

The Agency has received numerous reports of employees of the restaurant on assessor's parcel number 03-142-01 cleaning restaurant equipment in the area between it and assessor's parcel number 03-145-01. The reports represent that the material cleaned from grills and other equipment is flushed to Highway 50 where it enters a shallow roadside swale and then flows into a drop inlet and across the highway. The waste water and material then enters a channel and one hundred and fifty feet later, Lake Tahoe. Such a direct discharge of waste materials is prohibited by Section 7.31 of the Agency Grading Ordinance. Agency staff members have not witnessed said discharge and are at this time making you aware that our investigation is continuing into this matter.

Douglas County is continuing to review the signs on your parcels and their conformance with the County sign ordinance. New signs, not replacements of existing signs, have been placed on the property without Agency authorization. All new signs require permits from this Agency. The Federal Court injunction at this time prohibits the Agency from issuing such permits. We will continue to work with Douglas County on resolving the sign issue and will support them in any formal actions they take regarding the signs on your properties.

This letter will serve as thirty days notice that unless a resolution of these matters is reached during that time, that a show cause hearing will be scheduled for the March 1985 TRPA Governing Board meeting. At that time you will be given the opportunity to show cause why you should not be held liable for these violations under the provisions of Article VI, Section L of the Tahoe Regional Planning Compact (PL 96-551, December 19, 1980) which states:
Penalties. (1) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

Contact this office if you require further information on this matter.

Sincerely,

Steve Chilton
Chief, Enforcement Division

cc: Robert Loveberg, Douglas County Planning Dept.
    Jerry Schwartz, Douglas County Building Dept.
    Brent Kolvet, Douglas County District Attorney
    Joseph L. Nebe, Nevada State Health Division
    William C. Schneider, State of Nevada Bureau of Regulatory Health Service
    John A. Shorter Jr., State of Nevada Department of Transportation
    Bob Oswald, Douglas County Commissioner
    Bob Pruett, Douglas County Commissioner
    Richard Skinner, Deputy Attorney General
MEMORANDUM

Date: February 15, 1985

To: TRPA Governing Board

From: Agency Staff

Subject: Plan Area Statement Revisions

As was previously indicated, when the need for Plan Area Statement revisions arises, the TRPA staff will submit these revisions to the APC for consideration. If approved by the APC and the Governing Board, these revisions will be included with Draft Plan Area Statements now approved for drafting purposes. Attached are proposed revisions for plan areas 86, 87, 92, 110 and 116. The changes are summarized as follows:

- Plan Area 86 - Heavenly Valley Nevada
  Revised boundary to match permit boundary

- Plan Area 87 - Heavenly Valley California
  Revised boundary to match permit boundary

- Plan Area 116 - Airport
  Revised boundary to include adjacent property

- Plan Area 92 - Pioneer/Ski Run
  Revise statement to include redevelopment designation and eliminate affordable housing restriction

- Plan Area 110 - South "Y"
  Revise statement plan consideration for garbage company to include the word "occasional"

The APC recommended approval of the above proposed revisions.

GWB:bl
2/15/85
PLAN DESIGNATION:

Land Use Classification - RESIDENTIAL
Management Strategy - REDIRECTION
* Special Designation - ELIGIBLE FOR REDEVELOPMENT PROJECTS
TDR RECEIVING AREA FOR:
1. Existing Developments
2. Multi-Residential Units
3. Land Coverage
4. Allocations
PREFERRED AFFORDABLE HOUSING AREA
SCENIC RESTORATION

DESCRIPTION:

Location: This is the residential area enclosed by Highway 50, Ski Run Boulevard and the Caltrans right-of-way for the by-pass (runs parallel to Pioneer Drive). This area is located on TRPA map H-17.

Existing Uses: This area contains a mixture of old and new residential uses, from summer cabins to condominiums. This area has some motel and commercial uses. Portions of this area are 80% built out.

Existing Environment: This area is 30% SEZ and the rest is classified low hazard. The land coverage is 40% with an additional 20% disturbed.

PLANNING CONSIDERATIONS:

1. This area is characterized by poor subdivision design with small lot grid design.

2. Traffic congestion is a recognized problem on Pioneer Trail. This traffic impacts adjacent residential areas.

3. Local flooding is a frequent problem in this area, especially in those areas near Highway 50.

4. Alignment of a Highway 50 by-pass road is proposed to pass through this area.

5. The neighborhood areas are in a declining state and Pioneer Trail is nonattainment in scenic thresholds.

6. This area has CO violations.

7. Residents of the area are frequent transit users.

8. The overcrowding of residential units is a recognized problem.
PLANNING STATEMENT: This area should continue to be a residential area with improvements made to upgrade that character.

SPECIAL POLICIES:

1. Redevelopment of this area should be consistent with all adopted redevelopment plans.

2. Evaluation of SEZ's in this area and encouragement of restoration and/or reclassification should be a high priority.

3. Consolidation of Plan Area Statements 90 and 92 may be required for effective redevelopment.

4. Uses within the by-pass corridor are limited to residential units without permanent foundation pending resolve over the future use of the by-pass corridor.

SPECIAL REGULATIONS: All ordinance standards, Design Review Criteria, or other regulations of the Agency shall apply to this Plan Area unless otherwise stated below.

Table of Uses: The uses listed under Residential/Redirection in Subset 2.01.03.4 of the TRPA Code of Ordinances shall apply to this Plan Area except as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>Domestic animal raising, mobile home developments, mobile home dwellings, organizational houses, summer homes and temporary dwellings are prohibited.</td>
</tr>
<tr>
<td>Commercial</td>
<td>Outdoor retail sales and service stations are prohibited.</td>
</tr>
<tr>
<td>Public Service</td>
<td>All public service uses are prohibited except for churches, transit stations and terminals, post office facilities, public safety facilities, schools, social service organizations, and transportation routes.</td>
</tr>
</tbody>
</table>

Ordinance Standards: The standards as set forth in the TRPA Code of Ordinances shall apply in this Plan Area except as follows:

Noise                  | The maximum cumulative noise level for this Plan area is 55 CNEL.

Design Criteria: The criteria of the TRPA Design Review Guidelines shall apply in this Plan Area except as follows:

Scenic Restoration     | There will be strict adherence to the TRPA Design Review Guidelines until preparation of the scenic restoration plan.
NEW DEVELOPMENT LIMITATIONS: The following limits represent the maximum new or additional development that may be permitted in this Plan Area. Transfer of existing development or construction of vested development is not considered new for purposes of this section.

* Residential: One unit per lot or parcel plus 225 additional units.

Tourist: None.

Commercial: 1,000 square feet of gross floor area.

Recreation: None.

IMPROVEMENT PROGRAMS: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include, but are not limited to, the following:

1. Improvements required by the Surface Water Management Plan as shown on Figure VIII-2 of Volume I of the 208 Water Quality Plan.

2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.

3. Stream zone restoration as indicated in the Stream Environment Zone Restoration Program. (To be completed.)

4. The scenic restoration and landscaping improvements indicated in the restoration plan for Pioneer Trail. (To be completed.)
PLAN DESIGNATION:

Land Use Classification - COMMERCIAL-PUBLIC SERVICE

Management Strategy - REDIRECTION

Special Designation - SCENIC RESTORATION
ELIGIBLE FOR REDEVELOPMENT PROJECTS
TDR RECEIVING AREA FOR:
1. Existing Development
2. Land Coverage
3. Allocations
4. Multi-Residential Units
PREFERRED AFFORDABLE HOUSING AREA

DESCRIPTION:

Location: The area is the commercial area around the Highway 50 - Highway 89 intersection in South Lake Tahoe. This area is located on TRPA maps G-18, G-19, F-18, and F-19.

Existing Uses: The area is a mixture of commercial, tourist, residential and public service uses. The area is 80% built out.

Existing Environment: The area is classified as 65% low hazard, 10% moderate hazard and 50% SEZ. The land coverage is 55% with an additional 20% disturbed.

PLANNING CONSIDERATIONS:

1. The area experiences traffic congestion and air quality problems during peak periods.

2. There are identified scenic problems and the Highway 50/89 corridor is identified as nonattainment under the scenic thresholds.

3. There are access and parking problems along Highways 50 and 89.

4. There are flooding and SEZ encroachment problems.

5. There are occasional noise and odor complaints directed at the refuse company.

6. Barton Hospital operates a waste incinerator and gas-fired boiler.

7. The northern portion of this area is in need of additional fire hydrants and water mains.

PLANNING STATEMENT: This area should continue to be a regional commercial area but should be redeveloped for more efficient use of the area.
SPECIAL POLICIES:

1. A redevelopment plan is the preferred method of guiding new development.

2. Redevelopment should emphasize commercial activity centers, transit-oriented services, multi-family housing, and SEZ restoration.

3. Uses incompatible with the scenic restoration plan should be encouraged to relocate off of Highways 50 and 89.

4. Properties fronting Ruth, James, and Eloise Avenues should be considered a preferred area for industrial type uses.

5. Properties fronting Barton, Helen, Jean, South, Fourth, and Second Streets should be considered a preferred area for multi-residential, professional offices and hospital related uses.

SPECIAL REGULATIONS: All ordinance standards, Design Review Criteria, or other regulations of the Agency shall apply to this Plan Area unless otherwise stated below.

Table of Uses: The uses listed under Commercial/Public Service/Redirection in Subset 2.01.03.4 of the TRPA Code of Ordinances shall apply to this Plan Area.

Ordinance Standards: The standards as set forth in the TRPA Code of Ordinances shall apply in this Plan Area except as follows:

- **Noise**
  - The maximum cumulative noise level for this Plan Area is 65 CNEL. The maximum cumulative noise level for the portion of the Plan Area southeast of the Highway 50 corridor is 55 CNEL. The maximum cumulative noise level for Highways 50 and 89 is 65 CNEL.

Design Criteria: The criteria of the TRPA Design Review Guidelines shall apply in this Plan Area except as follows:

- **Scenic Restoration**
  - There will be strict adherence to the TRPA Design Review Guidelines until preparation of the scenic restoration plan.

ESTIMATE OF NEW DEVELOPMENT: The following limits represent the maximum new or additional development that may be permitted in this Plan Area. Transfer of existing development or construction of vested development is not considered new for purposes of this section.
Residential: One unit per lot or parcel plus 250 additional multi-residential units, including affordable housing.

Tourist: None.

Commercial: 182,000 square feet of gross floor area.

Recreation: None.

IMPROVEMENT PROGRAMS: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include, but are not limited to, the following:

1. Improvements required by the Surface Water Management Plan as shown on Figure VIII-2 of Volume I of the 208 Water Quality Plan.

2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.

3. Stream zone restoration as indicated in the Stream Environment Zone Restoration Program. (To be completed.)

4. The scenic restoration and landscaping improvements indicated in the restoration plan for the Highway 50 corridor. (To be completed.)
PLAN DESIGNATION:

Land Use Classification - COMMERCIAL-PUBLIC SERVICE
Management Strategy - REDIRECTION
Special Designation - SCENIC RESTORATION AREA
ELIGIBLE FOR REDEVELOPMENT PROJECTS
TDR RECEIVING AREA FOR:
1. Existing Development
2. Land Coverage

DESCRIPTION:

Location: This area includes the airport area and surrounding area along Highway 50. This area is located on TRPA maps G-19 and G-20.

Existing Uses: This area includes the airport, a concrete batch plant, old borrow areas, and miscellaneous commercial uses. The area is approximately 40% built out if the airport runways are excluded.

Existing Environment: The lands are classified 70% SEZ, 20% low hazard and 10% high hazard. The area is 20% covered with an additional 60% disturbed.

PLANNING CONSIDERATIONS:

1. There is extensive disturbed areas (Px) classified as high hazard.
2. There are scenic problems associated with the existing commercial area.
3. Service levels are not yet established for the airport.
4. A noise corridor is not yet established for the airport area.
5. Plans are proposed for a privately sponsored airport related hotel and office development.

PLANNING STATEMENT: This area should be rehabilitated to provide appropriate commercial services. The airport should continue to provide services within the environmental constraints.

SPECIAL POLICIES:

1. New development will be subject to a rehabilitation plan and mitigation measures emphasizing scenic and disturbed land restoration. To facilitate this process, the area west of Highway 50 should be evaluated for a man-modified determination.
2. Redevelopment, including development of tourist/office/and commercial facilities on areas which do not meet scenic threshold criteria, shall be encouraged.

3. Review and adopt those portions of the Lake Tahoe Airport Master Plan that are consistent with Environmental Thresholds and the Regional Plan.

4. This area should be considered as a multi-modal transportation node.

SPECIAL REGULATIONS: All ordinance standards, Design Review Criteria, or other regulations of the Agency shall apply to this Plan Area unless otherwise stated below.

Table of Uses: The uses listed under Commercial/Public Service/Redirection in Subset 2.01.03.4 of the TRPA Code of Ordinances shall apply to this Plan Area except as follows:

<table>
<thead>
<tr>
<th>Residential</th>
<th>All uses are prohibited except caretaker residences.</th>
</tr>
</thead>
</table>

Ordinance Standards: The standards as set forth in the TRPA Code of Ordinances shall apply in this Plan Area except as follows:

<table>
<thead>
<tr>
<th>Noise</th>
<th>The maximum CNEL for this Plan Area is 65 CNEL.</th>
</tr>
</thead>
</table>

Design Criteria: The criteria of the TRPA Design Review Guidelines shall apply in this Plan Area except as follows:

<table>
<thead>
<tr>
<th>Scenic Restoration</th>
<th>There will be strict adherence to the TRPA Design Review Guidelines until preparation of the scenic restoration plan.</th>
</tr>
</thead>
</table>

NEW DEVELOPMENT LIMITATIONS: The following limits represent the maximum new or additional development that may be permitted in this Plan Area. Transfer of existing development or construction of vested development is not considered new for purposes of this section.

<table>
<thead>
<tr>
<th>Residential</th>
<th>None.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tourist</td>
<td>None.</td>
</tr>
<tr>
<td>Commercial</td>
<td>60,000 square feet of gross floor area.</td>
</tr>
<tr>
<td>Recreation</td>
<td>None.</td>
</tr>
</tbody>
</table>

IMPROVEMENT PROGRAMS: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include, but are not limited to, the following:
1. Improvements required by the Surface Water Management Plan as shown on Figure VIII-3 of Volume I of the 208 Water Quality Plan.

2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.

3. Stream zone restoration as indicated in the Stream Environment Zone Restoration Program. (To be completed.)

4. The scenic restoration and landscaping improvements indicated in the restoration plan for the Highway 50 corridor. (To be completed.)
MEMORANDUM

February 19, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Staff Issuance of Emergency Permits

Attached is a resolution amending the Rules and Regulations of Practice and Procedure to permit staff issuance of emergency permits. The Advisory Planning Commission reviewed this resolution on February 13 and recommended it for adoption by the Governing Board.
TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 85-

AMENDING ARTICLE V OF TAHOE REGIONAL PLANNING AGENCY
RULES AND REGULATIONS OF PRACTICE AND PROCEDURE

WHEREAS, the proposed amendment to the Rules and Regulations of the Tahoe Regional Planning Agency is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Tahoe Basin;

WHEREAS, the proposed amendment complies in all respects, procedural and substantive, with the Tahoe Regional Planning Compact, the regional plan, ordinances, rules, regulations and policies of the Agency, and is necessary to effectuate and implement same; and

WHEREAS, the proposed amendment was the subject of a public hearing, duly noticed in accordance with Article III of the Rules and Regulations of Practice and Procedure of the Agency, at which hearing all interested persons were given an opportunity to present testimony; and

WHEREAS, this amendment does not have a significant effect on the environment of the region and does not require preparation of an environmental impact statement;

NOW, THEREFORE, BE IT RESOLVED that Article V of the Rules and Regulations of Practice and Procedure of the Tahoe Regional Planning Agency be, and hereby is, amended to include the following section numbered 5.21:

"Section 5.21 Issuance of Emergency Permits by Executive Director:

(a) Definition and Determination of Emergency - An emergency is defined as a project or activity which presents a situation or circumstance demanding immediate action to comply with the Compact, the regional plan, ordinances, rules, regulations or policies of the Agency, or to preserve and protect the public peace, health, safety or general welfare of the region. Upon notification of the executive director by letter if time allows, and by telephone or in person if time does not so allow, an applicant for an emergency permit shall provide the following information: the nature of the emergency, the location, and the work proposed to be performed. In the event an oral application and information are made, said application and information shall be set forth in writing to the TRPA no later than the next working day. Based upon said application and information, the executive director shall determine whether in fact an emergency exists.

(b) Procedures for Emergency Permits - Upon receipt of the request and information required in subsection (a) above, and the determination by the executive director that an emergency does exist, the executive director may issue an emergency permit, which permit shall be consistent with the Compact, regional plan, ordinances, rules and regulations of the Agency. Subsequent to
the issuance of said emergency permit and consistent with the requirements of Section 5.20 of Ordinance 81-1, as applicable, the applicant must file with the Agency a complete permit application and all required fees within 15 days after the issuance of said emergency permit. The application shall become part of the record of the emergency permit. At each regular monthly meeting of the Governing Body, the executive director shall report each and every emergency permit issued during the period immediately preceding said Governing Body meeting."

PASSED and ADOPTED this _____________ day of February, nineteen hundred and eighty-five by the following vote:

Ayes:

Nays:

Abstain:

Absent:

____________________________________
Stanley G. Hansen, Chairman
Tahoe Regional Planning Agency
TAHOE REGIONAL PLANNING AGENCY
P.O. Box 8896
South Lake Tahoe, California 95731
(916) 541-0246

MEMORANDUM

Date: February 19, 1985

To: TRPA Governing Board

From: Agency Staff

Subject: Report of Neighborhood Delivery Center (NDC) Advisory Committee
January 10, 1985 Meeting - NDC Site Evaluation Summary

Background: On July 25, 1979, the Tahoe Regional Planning Agency Governing
Board approved construction of a main post office facility on Al Tahoe Blvd. in
South Lake Tahoe. The Governing Board, in granting approval, expressed a strong
concern regarding the implementation of home mail delivery within the Tahoe
basin. In response to the Board's concern, the U. S. Postal Service (U.S.P.S.)
developed the U.S.P.S. Action Plan. The Action Plan was adopted by the Governing
Board on February 24, 1983 as an implementing element of the Lake Tahoe
basin Air Quality Plan. The Action Plan set forth the development of Neighbor-
hood Delivery Centers (NDC's) as the preferred alternative to implement a change
in the mode of mail delivery in the Tahoe basin.

The Action Plan further provided that, initially, three NDC's would be developed
and an evaluation would be made as to the effectiveness of the program based
upon the first three NDC's.

Present Status: Attached for your review are the Advisory Committee site
evaluation information packet and meeting minutes of the January 10, 1985
U.S.P.S. Advisory Committee. A presentation will be made at the Governing Board
meeting by Dena Schwarte, agent for the U.S.P.S., on the results of the January
10, 1985 meeting.

AGENDA ITEM IX C.

RA:bl
2/19/85
TO: U.S. Postal Service Advisory Committee
FROM: Dena L. Schwarte
DATE: November 29, 1984
RE: Advisory Committee Meeting – January 10, 1985

This is to advise you that we have scheduled an Advisory Committee meeting on January 10, 1985, beginning at 10:00 a.m., at the City Council Chambers located on Tata Lane and Lake Tahoe Boulevard in South Lake Tahoe.

The purpose of the meeting is to bring the committee up-to-date on the preferred and alternative sites for the location of the first three Neighborhood Delivery Centers (NDCs) as set forth in the U.S. Postal Service Action Plan, and to obtain your input and comments as to the selection of those sites. The enclosed information are excerpts from the report that was prepared by our firm for the U.S. Postal Service. As explained in the report, the first step was to section the El Dorado County portion of the South Shore area into 54 "postal zones" which relate to established traffic patterns for access to these areas. In each postal zone, information relating to existing development, permanent population, potential development, projected population, and other information was quantified from various data bases (i.e. TRPA data base, traffic zone maps, planning area statements, etc.) In addition to this, each zone was evaluated as to traffic patterns, proximity to existing postal service facilities, VMT generated for the utilization of existing services, and other pertinent factors.

As you know, there were some sites that had been previously identified as possible sites for the location of the NDCs. These sites were identified merely from the standpoint of observation. When it came to the actual substantiation of these sites, it became evident that a complete analysis should be prepared on the entire area which would contain as much objective information as possible. With the assistance of the TRPA data, it was possible to gather the information that was pertinent for the purpose of this study.
Please be sure to mark your calendar for January 10th. If you have any questions at this time, please do not hesitate to contact me.

Sincerely,

Dena L. Schwarte

DLS: jg
Enclosure
NDC SITE EVALUATION SUMMARY

The three preferred sites are:

✓ 1. Tahoe Keys Boulevard and Eloise (Radius #2).
✓ 2. Lake Tahoe Boulevard/Sawmill Road vicinity.
✓ 3. Pioneer Trail and Black Bart (Radius #2).

This recommendation is based on:

1. Number of customers served.
2. Traffic circulation/traffic patterns.
3. VMT reduction.

Other sites considered and listed by priority for a single site:

1. Pioneer Trail and Ski Run Boulevard.
2. Tahoe Keys Convenience Center.

Other considerations for the second stage of the NDC program include
Al Tahoe (3 sites), Tahoe Sierra (2 sites), and Elks Club Drive (1 site).
METHODOLOGY FOR NDC SITE EVALUATION

The following rationale was used to establish the methodology used for the site evaluation process of this report:

1. The majority of trips associated with the residential postal customer are in conjunction with another trip.

2. The most consistent trip and traffic pattern is associated with employment.

3. The majority of residential postal customers prefer to pick up their mail on the return trip from employment.

The following information was established:

1. The percentage of employment along Highway 50 between major intersections.

2. Established traffic patterns.

Fifty-four residential postal zones were identified based on the following rationale:

1. Identification of main traffic arteries to residential neighborhoods.

2. Consideration of traffic patterns.

In each residential postal zone, the following data was accumulated:

1. Number of subdivided parcels.
2. Number of existing developed parcels.

3. Number of undeveloped parcels that have a potential to be developed in the future (low hazard lots classified 4 through 7).

4. Number and percentage of permanent population.

5. Percentage of trip distribution to employment.

6. Other factors such as high density development and condominiums, etc.

7. The amount of traffic that could potentially use an existing postal facility within the same criteria of the "Action Plan".

From this information, a priority list was established based on the following rationale:

1. Residential postal zones that are currently served within the context of the "Action Plan" by an existing facility were given lowest priority.

2. Postal zones where 80%+ of the traffic was directed on one traffic artery were given a priority rating.

These zones were further prioritized by the following considerations:

1. Number of potential households to be served.

2. Density of development.

3. Proximity of existing postal facilities.
From this analysis, potential sites were identified in priority zones. These sites were evaluated using the following methodology:

1. Site specific data:
   a. location.
   b. ownership (private/public).
   c. snow removal route.
   d. topographic evaluation.
   e. site area and allowable land coverage.
   f. traffic circulation.
   g. other considerations.

2. Identification of the radius of service specifying postal zones.

3. Identification of the total number of existing developed parcels.

4. Computation of the total number of permanent residency households that could potentially use the proposed facility.

5. Computation of 70% of the existing households that will (from U.S. Postal Service's experience) utilize the service.

6. Computation of the number of potential users, based on established traffic patterns, which correspond with the proposed site.

7. The growth factor, which is based on the number of undeveloped lots that could potentially be developed. This number was then processed by the same methodology used above.
8. The current service need and a projected service need, using the above information and incorporating other subjective considerations.

9. A second, larger radius of service, if applicable, may be identified and evaluated using the same methodology.

10. Conclusions and recommendations.
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<tr>
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<th>Area</th>
<th>Existing Parcels</th>
<th>Developed Parcels</th>
<th>High Capability</th>
<th># Lots in High Capability</th>
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<td># Lots in High Capability</td>
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<tr>
<td>51</td>
<td>No. Upper Truckee to Zuni/Tehema</td>
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<td>6. 397</td>
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<td>Pioneer to Stateline</td>
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<td>7. 393</td>
<td>2*</td>
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<td>8. 391</td>
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<td>Glenwood</td>
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<td>14. 307</td>
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<td>Glenwood</td>
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<td>15. 273</td>
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<td>Upper Keller/Heavenly Valley</td>
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*Low priority.*
NDC SITE EVALUATION

LOCATION: Eloise and Tahoe Keys Blvd. AP# 23-221-20, Lot 36, Tamarack Subdivision.

EXISTING STATUS: Vacant undeveloped parcel.

SNOW REMOVAL ROUTE: Tahoe Keys Blvd.

OWNER: Unknown private individual

TRAFFIC CIRCULATION: U.S. Highway 50 to Tahoe Keys Blvd. Right turn to site, right turn to exit site and proceed north on Tahoe Keys Blvd.

SITE-

LAND AREA: 209' x 209' = 43,681 square feet

LAND COVERAGE: 30% or 13,104 square feet

TOPOGRAPHY: Flat, wooded lot with a small cut along Tahoe Keys Blvd.

SURROUNDING DEVELOPMENT: Medium density residential, some commercial near Highway 50, industrial development along Eloise across Tahoe Keys Blvd.

OTHER CONSIDERATIONS: There is a small private school located on the corner of James and Tahoe Keys Blvd. which is approximately 144 feet from this site. There is a planned
unit development contiguous to this parcel facing north. The development should be laid out for minimal conflict with these two considerations. There are 28 multi-family units within walking distance of this site plus some single family residential that could easily have walking access.

RADIUS OF SERVICE - #1

POSTAL ZONE(S): 40

NUMBER OF EXISTING DEVELOPED PARCELS: 1,169 (excluding commercial developed parcels.)

GROWTH FACTOR: 111 boxes (58%)

PERMANENT RESIDENCY FACTOR: 70% (818)

SERVICE FACTOR: 70% (573)

PERCENTAGE OF TRIPS FACTOR: 90% (515)

COMMENTS: There is excess land coverage available to accommodate an adjustment on parking requirements and to also allow for two driveways to the site. For traffic flow during peak seasons, the Eloise entrance would be preferable; during the winter, Tahoe Keys Blvd. has better plow service.

RADIUS OF SERVICE - #2

POSTAL ZONE(S): 40 and 41

NUMBER OF EXISTING DEVELOPED PARCELS: 2,262
GROWTH FACTOR: 881 boxes

PERMANENT RESIDENCY FACTOR: 65%

SERVICE FACTOR: 70% (1031)

PERCENTAGE OF TRIPS FACTOR: 90% (928)

COMMENTS: This site has an excess of land coverage available to make the necessary adjustments to these ratios if it is determined to be necessary. It would be advantageous to have two driveways to the facility as mentioned above.

CONCLUSIONS AND RECOMMENDATIONS: This site has the type of flexibility that is preferred for the first three NDC facilities. The most ideal situation would be to build one of the first three NDC units on this site for radius #1. If the program is successful, proceed with locating an NDC at the Tahoe Keys Convenience Center. If the program is marginally successful, expand the radius service to include #2 and the facility could be enlarged in the future to accommodate the required service.
The two alternative sites presented below service the same areas as described in the evaluation of the preferred site located at Eloise and Tahoe Keys Blvd. The information presented in the preferred site evaluation should be used in conjunction with these two sites plus the following information:

ALTERNATE SITE A:

LOCATION: Eloise and Tahoe Keys Blvd., AP# 23-221-17, Lot 12 Tamarack Subdivision

SITE: 21,840.5 square feet of area, 30% coverage or 6,552 square feet allowable coverage.

NDC DESCRIPTION: Land coverage requirements for radius #1 is approximately 3,000 square feet. This site could easily accommodate this. The site could not be used for service radius #2.

CONCLUSIONS AND RECOMMENDATIONS: This site is very comparable to the preferred site across the street; however, this site is located very close to the existing school and the traffic associated with the turning movements in and out may create an unsafe situation. The construction of a fence barrier between the two parcels would probably eliminate this objection. The flexibility of this site is limited for future expansion if it is determined that the Tahoe Keys service radius should be incorporated into this location.
ALTERNATE SITE B:

LOCATION: Oregon and Tahoe Keys Blvd. AP# 23-732-45 and 44, Lots 78 and 77 Tahoe Island Park Addition No. 4.

SITE: Approximately 10,911 square feet of area, 30% coverage equals 3,273 square feet of allowed land coverage. This site could not be used for service Radius #2.

CONCLUSIONS AND RECOMMENDATIONS: This site is the least preferred of all three sites under consideration due to the close proximity of the site to existing residential development. All other considerations are the same as stated above concerning the limited flexibility etc., plus this site would eliminate part of the service area along James Ave, Eloise, California, Sky Meadows PUD, and some traffic that bypasses this section of Tahoe Keys Blvd. by using Council Rock. This is not a significant percentage but it is less effective than the preferred site.
LOCATION: Tahoe Keys Blvd. and Venice Drive

EXISTING STATUS: Convenience Center currently under construction which should be ready for occupancy in 1985 - leasing space available.

SNOW REMOVAL ROUTE: Tahoe Keys Blvd.

OWNER: Private/lesor

TRAFFIC CIRCULATION: Intersection improvements and visual clearance are excellent.

OTHER CONSIDERATIONS: An EIR/EIS has been certified on this location for a postal service facility. 15th Street to Highway 89 is an alternate route to the "Wye" employment zone which is the most convenient route for 21% of the development.

RADIUS OF SERVICE-

POSTAL ZONE(S): 41

NUMBER OF EXISTING DEVELOPED PARCELS: 1093 (includes 100 for 1983 unbuilt permits and transfers).

GROWTH FACTOR: 626 boxes (100%)

PERMANENT RESIDENCY FACTOR: 60% (655)

SERVICE FACTOR: 70% (459)
PERCENTAGE OF TRIPS FACTOR: 95% (436)

CURRENT SERVICE REQUIREMENTS: 550 boxes (436). Due to the commercial development located on the site, it is anticipated that above normal use will occur at this NDC.

NUMBER OF POTENTIAL BOXES: 305 boxes

CONCLUSIONS AND RECOMMENDATIONS-

Recommendation on the size of the space should be determined, in this instance, on the terms of the lease. It is probable that very little growth will occur in the next three to five years; however, this is an area that has the most potential for growth if there is to be any in the future. If it is a five year lease with options, most likely a 750 box facility should be designed to allow for future expansion. However, this facility does not meet the criteria for USPS ownership as set forth in the Action Plan. The lack of ownership could potentially have long term adverse impacts if the lease expires and a fair market rent can not be negotiated which could force relocation.
TAHOE KEYS

SITE PLAN - PARCEL 2

SOUTH LAKE TAHOE, CALIFORNIA

JERE E. WILLIAMS
Consulting Engineer
P.O. Box 1163, Zephyr Cove, NV 89448 - 775-588-7473

SITE PLAN FROM INFORMATION BY ROBERT MASON, ARCHITECT.
LOCATION: Lake Tahoe Blvd and Sawmill Road/Tahoe Mt. Road (two sites)

EXISTING STATUS: Vacant undeveloped property.

SNOW REMOVAL ROUTE: Lake Tahoe Blvd.

OWNER: Private/see attached.

TRAFFIC CIRCULATION: Lake Tahoe Blvd., left on Sawmill or continue west on Lake Tahoe Blvd. which runs into North Upper Truckee Road.

SITE-

LAND AREA: 27.03 acres

LAND COVERAGE: 184,645 square feet (see attached)

TOPOGRAPHY: Along Lake Tahoe Blvd., just west of the intersection, the area is flat and has been previously disturbed. This was the site of the old sawmill operations that have now been abandoned.

SURROUNDING DEVELOPMENT: There is no development in the immediate vicinity.

OTHER CONSIDERATIONS: Both of these parcels are large. The one parcel identified on the attached map as "A" may be purchased by
the USPS under the Burton-Santini Land Acquisition program. If this were to happen, a section of the property could be parceled off with a boundary line adjustment since the U.S. Government does own the lands adjacent to this parcel.

RADIUS OF SERVICE-

POSTAL ZONE(S): 48, 49, 50, 51, 52

NUMBER OF EXISTING DEVELOPED PARCELS: 998

GROWTH FACTOR: 107 boxes

PERMANENT RESIDENCY FACTOR: 80% (801)

SERVICE FACTOR: 70% (561)

PERCENTAGE OF TRIPS FACTOR: 74% (415)

COMMENTS: Service needs - 450 to 550 boxes. This is the only feasible site to locate a facility to service this area due to the lack of high capability lands.
LOCATION: Black Bart and Pioneer Trail
EXISTING STATUS: Vacant undeveloped parcel
SNOW REMOVAL ROUTE: Pioneer Trail and Black Bart
OWNER: U. S. Government, managed by the U.S.F.S., LTBMU

TRAFFIC CIRCULATION: Traffic heads west along Pioneer Trail, right hand turn to site. Black Bart is also used as a primary traffic artery from Highway 50. Left turn off Black Bart to the site and a right hand turn to exit onto Pioneer Trail to continue west on Pioneer. The intersection has a left turn lane on Pioneer Trail to turn onto Black Bart. There is also a left turn lane on Black Bart to turn onto Pioneer Trail. Traffic also uses the lined shoulder area along Pioneer to decelerate to make a right turn on Black Bart. There are some preliminary plans by El Dorado County to install signals at this intersection.

SITE-

LAND AREA: Large land area
LAND COVERAGE: 25% allowed coverage
TOPOGRAPHY: Flat area with a small earth berm on Pioneer Trail

SURROUNDING DEVELOPMENT: Open space development on three sides, the sewer district holding pond is on the north side of the
property and is fenced in. There are a few single family residences across Black Bart. There should be very little conflict from this site on the existing development.

OTHER CONSIDERATIONS: This site is located at an intersection that has a high traffic volume and a substantial amount of trips to the residential development does pass this point. The traffic circulation is a concern at this site but, it should be able to be adequately engineered to insure safety and minimize conflicts.

RADIUS OF SERVICE - #1

POSTAL ZONE(S): 12, 13, 14, 15, and 16

NUMBER OF EXISTING DEVELOPED PARCELS: 613 plus 5 apartments

GROWTH FACTOR: 195 boxes

PERMANENT RESIDENCY FACTOR: 77% (472)

SERVICE FACTOR: 70% (330)

PERCENTAGE OF TRIPS FACTOR: 96% (317)

COMMENTS: Since there will be minimal pedestrian use of this site, the parking should be increased to five spaces including one handicap space. The land coverage should not be an issue due to the size of the site (which is estimated to be approximately 5,000 square feet).

RADIUS OF SERVICE - #2

POSTAL ZONE(S): 10, 11, 12, 13, 14, 15, and 16
NUMBER OF EXISTING DEVELOPED PARCELS: 1,186

GROWTH FACTOR: 234 boxes

PERMANENT RESIDENCY FACTOR: 75% (890)

SERVICE FACTOR: 70% (623)

PERCENTAGE OF TRIPS FACTOR: 85% (529)

COMMENTS: This alternative does have the potential to generate additional VMT to the site since it will be difficult to control all the use in this area. However, the expansion of the radius to include these zones becomes more practical if another NDC is constructed near Elks Club Drive to service the trips that use this route to gain access to Highway 50 and the areas west of Sierra Blvd.
ALTERNATIVE SITES EVALUATION

ALTERNATIVE SITE A:

LOCATION: Golden Bear and Pioneer Trail, AP# 80-010-15
SITE: 29.6 acres of land, 268,045 square feet of allowed coverage.
SERVICE ZONES: 10, 11, and 12 (321 residential service)
NDC SIZE- 325 postal boxes

COMMENTS: This site is has a very appealing feature of being located next to an existing fire station, which would offer an excellent security factor. The size and topography of the parcel (and the inability to create a smaller parcel) would not warrant serious consideration.
ALTERNATIVE SITE B:

LOCATION: Pioneer Trail and Plateau Circle (several vacant parcels)

COMMENTS: This area can be developed up to 25%; however, it would only serve postal zones 12, 13, 14, and 15. The construction of an NDC in this area would have an adverse impact on the surrounding development and would create traffic congestion in an area close to a public elementary school where children are present.
ALTERNATIVE SITE C-

LOCATION: Pioneer Trail and Cold Creek Court

COMMENTS: This site does not have adequate land area to accommodate the development of a NDC. The location is almost directly across from the intersection of Cold Creek Trail and Pioneer Trail which has a history of accidents due to the limited visibility of traffic heading east on Pioneer and the steep slope of the street as Cold Creek enters Pioneer.
Memorandum

TO: U.S. Postal Service Advisory Committee
FROM: Dena L. Schwarte
DATE: January 16, 1985
SUBJECT: Summary of January 10, 1985 Meeting

Enclosed is a summary of the U.S. Postal Service Action Plan Advisory Committee meeting held on January 10, 1985, which explains the recommended sites for the first three NDCs. If you have any questions concerning the committee's recommendations, or if you have any comments, please do not hesitate to contact this office.

jg
Enclosure
DENA EWING STRATFORD ASSOCIATES

U.S. POSTAL SERVICE ADVISORY COMMITTEE
January 10, 1985, 10:00 a.m.
City Council Chambers

Those in attendance were:

Stu Jann, U.S. Postal Service
John Jackson, U.S. Postal Service
Ted Widman, U.S. Postal Service
Al Lopez, U.S. Postal Service
George Boettger, U.S. Postal Service
Larry Bzoskie, U.S. Postal Service
Tom Stewart, El Dorado County Supervisor
Neva Roberts, City Councilwoman
Del Laine, City Councilwoman
Rick Angelucci, TRPA
Teri Jamin, City Planning Director
Jon Hoefer, U.S. Forest Service
Ken Rollston, Attorney
Greg Margetich, Tahoe Keys Center
Phil Kassis, Tahoe Keys Center
Joanna Miller, Tribune

Summary of Meeting:

Dena Schwarte, the U.S. Postal Service consultant on the Neighborhood Delivery Center (NDC) project, introduced the representatives from the Postal Service that were present. She then explained the rationale and methodology used in evaluating the preferred and alternative sites proposed for the location of the first three NDCs.

Ms. Schwarte then explained the preferred sites proposed; specifically, Black Bart and Pioneer Trail, Tahoe Keys Boulevard and Eloise Avenue, and Lake Tahoe Boulevard and Sawmill Road. The alternative sites proposed are Ski Run Boulevard and Pioneer Trail, and the Elks Club Drive area. She said she would like a 4th alternative recommended by the committee just in case one of these sites did not work out.

Tom Stewart asked where the alternative location in the Tahoe Keys area was. Dena said that there are a few areas along Tahoe Keys Boulevard that were considered, but people are against having a facility located next to their homes. Mr. Stewart asked if there was a possibility of leasing a building that already exists. Dena said that the Tahoe Keys Convenience Center location has been considered; however, one of the objectives in the Action Plan is to purchase sites
instead of leasing them. It makes more sense economically for the Postal Service to purchase sites. She explained that this does not mean they will never lease a site, but that purchasing is the preferred alternative if sites are available.

Ken Rollston, Attorney for the Tahoe Keys Center, asked why his clients had not been contacted to discuss buying a space in the center. He feels that the Eloise site is too congested and locating a facility there would further exacerbate the situation. Mr. Stewart said that a survey was taken which showed that the number one priority for a facility was in the Tahoe Keys Center. He said if a facility was located on Eloise, that it would force people to drive to the location, whereas, at the Keys Center, you would get a lot of pedestrian use. Also, that location could serve half of Tahoe Island Park #4. He said he has been receiving calls from Tahoe Keys residents saying that the facility was supposed to be in the Keys Center.

Dena explained that one of the goals of the Action Plan was to not generate traffic, and locating at the Keys Center would be inconsistent with the traffic patterns of the residents in Tahoe Island Park #4 (Zone 40).

Del Laine said that the EIR identified the Keys Center as a site for a facility. If the priority is purchase, then could the Postal Service approach the owners of the center and discuss purchasing a site?

Stu Jann explained to the committee that the purpose of the meeting was to discuss all the possibilities. They are not ruling any site out. Once a consensus has been reached as to the preferred sites, then the Postal Service's Real Estate Division will conduct an analysis of the sites as to the economics of leasing or purchasing. He said they have been pushed all along to locate a facility in the center without the Postal Service's knowledge, and if it is not economically justified from the analysis, then they could not locate there. He reiterated that they will consider all of the sites that are recommended by the committee.

Mrs. Laine said that it was not unknown to Postal Service officials that a site was proposed at the Keys Center. She said she did not want to leave the impression that it was decided without Postal Service contact.

Dena said that the ideal situation would be to have facilities at both of those locations.

Mr. Stewart said that his recommendation would be that the Tahoe Keys Center be a first priority site. Then we can evaluate it and determine whether it is adequate or not or if we need to expand to
another area. Mr. Angelocci explained that Dena made a good point as far as if a facility is located in the center, that it would generate traffic from Zone 40, which was not the intent of the Action Plan. However, he agreed with Mr. Stewart's suggestion of locating at the center now and then have the opportunity to evaluate the facility for its effectiveness and efficiency in serving that area.

Dena reiterated that the Action Plan's objective is to divert or pick up a trip, and not have backtracking. We want to avoid that situation. Mr. Stewart said that people will take the most convenient route regardless of identified traffic patterns. He agrees with all the proposed locations, but the Tahoe Keys Center is his recommendation as top priority, and we should study this site for now and see how effective it is, then if we need to expand, then go to another site. Mr. Rollston also said that we should go with what is convenient for the people, and that economics shouldn't come up now. He said we should identify the sites and then proceed with acquisition.

Mr. Jann explained once again that if Zone 41 is the recommended priority area to serve first, then the Postal Service will look for a space to locate a facility, but it does not lock them into locating there. Their Real Estate Division will have to analyze the location from an economic standpoint.

Jon Hoefer said that he felt that both sites had advantages, but that he liked the Tahoe Keys Center site. He said that it would be easier for the Postal Service to sell out (at the Keys Center) if the project did not work, and that it would not be easy to get out of the Eloise site if that location did not work. He feels that Zone 41 area would be well utilized and the facility could be moved into quickly.

The committee then went on to discuss the Black Bart/Pioneer Trail site. Dena explained the traffic circulation in the area and the County's plan on putting in a signal at that intersection, and that site engineering would be done to alleviate some of the traffic concerns. She explained that she had obtained reports from the Public Works Department which indicated that many of the traffic problems in that area was not due to the Black Bart/Pioneer Trail intersection, but the inability of vehicles to stop on the Cold Creek/Pioneer Trail intersection. She said that a facility at this location should not impact that area, especially with the proposed signalization. Mr. Angelocci suggested that ingress and egress be off of Pioneer Trail, and Dena said that the site will be engineered to avoid conflicts.

Dena explained the Lake Tahoe Boulevard/Sawmill Road site and the Lake Tahoe Boulevard/Tahoe Mtn. Road site and that these parcels consist of
many acres. The Lake Tahoe Boulevard/Sawmill Road parcel is proposed to be acquired by the Forest Service under the Burton-Santini program, and if this happens, we will work with the Forest Service to isolate a high capability area for a facility and then proceed with a lot line adjustment. However, she explained that the feasibility of this proposal was not known at this time.

Dena discussed the alternative sites proposed; specifically Ski Run Boulevard/Pioneer Trail and the Elks Club Drive area. She explained that of all the sites looked at, the Ski Run Boulevard/Pioneer Trail site is the one that would have a lot of pedestrian access. However, high capability lots are limited in that area. There are many vacant lots in the Elks Club Drive area and a facility here would pick up a lot of trips. She said this would be a less complicated site to locate a facility than one at the Ski Run/Pioneer Trail area.

Dena explained that the Al Tahoe and Sierra Tract areas do need a facility, but there are some limiting constraints in locating a facility there. Mr. Angelocci asked if it would be possible to purchase an existing building in either of those areas. Dena said that the Postal Service will consider that option when a facility in that area is proposed. Mrs. Laine said that she felt Al Tahoe was a high priority area, since it is highly developed. As far as population served, she felt it should be placed above the Lake Tahoe Boulevard/Sawmill site. Teri Jamin said that area is close to the Main Post Office; therefore, she doesn't think it would save a lot of trips.

Recommendations for the top priority sites were discussed and the following was the consensus of the committee:

1. Tahoe Keys Center and Tahoe Keys Boulevard/Eloise Avenue
2. Black Bart/Pioneer Trail
3. Lake Tahoe Boulevard/Sawmill Road
4. Elks Club Drive
5. Al Tahoe

Dena thanked the committee for their input and recommendations.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 85 -

AN ORDINANCE AMENDING ORDINANCE NO. 84-1 OF THE TAHOE REGIONAL PLANNING AGENCY AMENDING THE REGIONAL PLAN; EXTENDING THE EFFECTIVE PERIOD OF THE PLAN AREA STATEMENTS AS INTERIM POLICY GUIDELINES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Body of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings

1.10 It is necessary and desirable to amend Ordinance No. 84-1 of the Tahoe Regional Planning Agency, amending the Regional Plan, to extend the effective period of the Plan Area Statements as interim policy guidelines until September 1, 1985.

1.20 As required by law, the Governing Body of the Tahoe Regional Planning Agency, prior to the adoption of this ordinance, conducted a duly noticed public hearing, at which hearing all persons desiring to present oral testimony or documentary evidence were permitted to do so.

1.30 This ordinance is necessary and desirable to promote, and is reasonably related to, the public health, safety and general welfare of the Lake Tahoe Region, complies in all respects, procedural and substantive, with the Tahoe Regional Planning Compact and the regional plan, as amended, ordinances, rules, regulations and policies of the Tahoe Regional Planning Agency, and is necessary to effectuate and implement the same.

1.40 The extension of the effective period of the Plan Area Statements as interim policy guidelines is necessary to allow for the complete evaluation of the Plan Area Statements, both individually and cumulatively. Numerous public hearings have been held and will continue to be held within the individual Plan Areas so that all interested persons and entities may testify and participate in the adoption of the Plan Area Statements as final land use regulations. Due to great public interest, said public hearings have taken more time and will continue to take more time than foreseen at the time of the adoption of Ordinance No. 84-1.

1.50 By virtue of the nature and purpose of the provisions of this ordinance, this ordinance will not have a significant effect on the environment of the Tahoe Region and is thus exempt from the requirement of preparation of an environmental impact statement pursuant to Article VII of the Tahoe Regional Planning Compact, as amended.

Section 2.00 Amendment Extending Effective Period of Plan Area Statements

Subsection 2.12 of Ordinance No. 84-1 of the Tahoe Regional Planning Agency is hereby amended to read as follows:

AGENDA ITEM X
2.12 Plan Area Statements

The document entitled Draft, Regional Plan for the Lake Tahoe Basin, Part I: Plan Area Statements, Tahoe Regional Planning Agency, is adopted as an interim policy guideline, effective until September 1, 1985, unless otherwise provided by amendment to this ordinance. The Governing Body shall amend said document and the Plan Area Overlay Maps referred to in subsection 2.13(1), pursuant to at least one duly-noticed public hearing, the subject of which hearing shall be the adoption of said document and said maps, as they may be amended, as final land use regulations.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the regional plan adopted by this ordinance shall be liberally construed to effect their purposes. If any section, clause, provision or portion of this ordinance or said amendments is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance or said amendments, as the case may be, shall not be affected thereby. For this purpose, the provisions of this ordinance and said amendments are hereby declared respectively severable.

Section 4.00 Effective Date

This ordinance shall be effective immediately upon second reading.

FIRST READING: January 23, 1985

SECOND READING:

PASSED and ADOPTED by the Governing Body of the Tahoe Regional Planning Agency at a regular meeting held __________, 1985, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Chairman Stanley G. Hansen
Tahoe Regional Planning Agency
MEMORANDUM

February 7, 1985

To: The TRPA Governing Board

Subject: Selection of TRPA Executive Director

On February 2, 1985, the Executive Director Committee interviewed nine candidates for the subject position. Members of the Committee were Governing Board members Stan Hansen, Roland Westergard, Jim Reed and myself, and APC representatives Teri Jamin and Sam McMullen.

Upon completion of the interviews, the Committee discussed the qualifications of the various candidates and, in open session, agreed to recommend to the full Governing Board the following candidates:

Gary D. Midkiff - Acting Executive Director
Tahoe Regional Planning Agency

William A. Morgan - Administrator, Lake Tahoe Basin Management Unit, U.S. Forest Service

Melvyn (Mel) G. Wingett - Public Management Consultant

David S. Ziegler - Chief of Long Range Planning
Tahoe Regional Planning Agency

The final selection will be made by the full Governing Board at the February 27, 28, 1985 meeting, and further information on these candidates will be presented at that time.

Norman C. Woods, Chairman
Executive Director Committee

AGENDA ITEM XI C.