TRPA
APC
PACKETS

MARCH
1985
TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on March 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 Wednesday, March 27, 1985, commencing at 8:30 a.m. in the same location, the Litigation Committee will meet to discuss additional legal support.

NOTICE IS FURTHER GIVEN that on Thursday, March 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 February, 1985 financial statement; 3) report on Transportation Development Act; 4) status of Nevada Legislative Auditor Report; 5) status of FY 1984-85 budget; and 6) status of FY 1985-86 and 1986-87 budget requests.

Date: March 8, 1985

By: 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.
Preliminary Agenda

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. DISPOSITION OF MINUTES

IV. PROJECT REVIEW

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

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

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. APPEAL

A. Tahoe Keys Property Owners Association, Appeal of Staff Determination That Proposed Shoreline Protective Structures Are Inconsistent With the Shorezone Ordinance
B. Edgewood Golf Course, Appeal of Staff Determination Regarding Additional Parking for the Senior Open

VII 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


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

5. Manny Seals, Unauthorized Construction and Signs, Douglas County APN 03-141-01 and 03-142-01

6. F. Huntington, Unauthorized Structure, Douglas County 01-080-09

B. Reports

VIII PLANNING MATTERS

A. Tahoe Basin Association of Governments, Report and Recommendations on the Urban Land Institute Study Findings

B. Status Report on Air Quality Planning

1. Nitrate Deposition

2. Reasonable Further Progress Report

C. Report on Apparent Discrepancies in Water Quality Analyses

IX ADMINISTRATIVE MATTERS

A. Finance Committee Report and Recommendations

B. Litigation Committee Report and Recommendations

X REPORTS

A. Acting Executive Director

B. Legal Counsel
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
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.
Cove East Subdivision, Tentative Map for 26 Units
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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 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".

**Restoration:** Based on a report prepared by the applicant and submitted to the California Water Quality Control Board, Lahontan Region (Lahontan) no more than two feet of fill would have to be removed to allow the inland area to be periodically inundated. Soil pits indicate that no more than 2.6 feet of fill were placed by Dillingham at most locations. Removal of all fill material on the westerly portion of the islet would still not allow the land to be periodically inundated, but would permit it to be restored to its original condition as a stream environment zone. The cost of such a proposal, using costs given in the report, would be about $700,000. This cost does not include the cost of the land.

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.

**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**
- **Recreation Facilities (including parking)**
- **26 Lots @ 10,500 sq. ft. each**
- **Walks and Pathways**

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<th>Category</th>
<th>Coverage (sq. ft.)</th>
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<td>Roads</td>
<td>114,000</td>
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<tr>
<td>Recreation Facilities (including parking)</td>
<td>12,200</td>
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<tr>
<td>26 Lots @ 10,500 sq. ft. each</td>
<td>273,000</td>
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<tr>
<td>Walks and Pathways</td>
<td>800</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>400,000</strong></td>
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Cove East Subdivision, Tentative Map for 26 Units
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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 generally 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 stream zone land disturbed or developed would be Areas C and D.

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

Lahontan 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 the loss in treatment capacity resulting from the modifications to the stream environment zone. Based on preliminary figures received from Lahontan, if Area B only is reclassified as man-modified, the mitigation fee would be $342,990 including credit for the 7.5 acres of stream zone restoration proposed by the applicant. If the entire parcel is reclassified as man-modified, the fee would be $566,500.

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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.

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.

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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.

* 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.

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. This conclusion is based primarily on the finding in the EIS that any development on the property will adversely impact wildlife due to its proximity to the important wildlife habitat of the Upper Truckee Marsh and any development on the islet portion of the property will degrade the scenic quality of the shoreline unit.

However, the impacts on water quality resulting from the cluster alternative are substantially less than the 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.

The EIS, due to initial demonstrations that they would not be economically feasible, does not assess project alternatives that would; (1) not result in impacts on wildlife, scenic quality or water quality; or (2) not result in development on the islet. Therefore, no alternative would prevent visual impacts on the shore zone unit or impacts on water quality and wildlife.

The no project alternative assessed in the EIS is the only alternative that would not result in significant impacts on wildlife, scenic quality or water quality. A project with no development on the islet would not result in significant impacts on visual quality, but would still result in significant impacts on wildlife and water quality. Except for the no project alternative, a project with no development on the islet would result in the least amount of impact on wildlife and water quality, and would be most consistent with the amended Regional Plan and adopted environmental threshold carrying capacities. However, the economic feasibility of such a project is questionable.

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An evaluation of the project alternatives with respect to consistency with the Article V(g) findings indicates that a project with no development on the islet would be most consistent, however, such a project would still be inconsistent with the Conservation Element due to impacts on wildlife and water quality. A project proposing no development in Areas C and D, such as the Cluster Alternative, would be the second most consistent but, in addition to impacts on wildlife and water quality, would result in impact on scenic quality. Any project proposing development in Areas C or D, including the revised tentative map proposed by the applicant, will result in additional, significant impacts on water quality and is inconsistent with TRPA ordinances prohibiting development in stream zones.

Alternative Actions: Based on evaluation of the project, the EIS prepared for the project and the litigation settlement in Dillingham vs TRPA, Agency staff has developed three (3) alternative actions for Governing Board consideration:

I. **Require Proposed Tentative Map to be Revised to Eliminate Development in Areas C and D**

   A. A motion to find that;

   1. The Dillingham Settlement Agreement requires the EIS to consider alternatives consistent with TRPA's plan and ordinances;

   2. The Settlement requires TRPA to review the project pursuant to its subdivision map review procedures under the amended regional plan;

   3. The TRPA amended regional Plan and ordinances prohibit grading and construction in SEZ's;

   4. The project, as proposed, includes grading and construction in SEZ lands and is therefore inconsistent with TRPA's amended regional plan and ordinances;

   5. The project as proposed would adversely affect the implementation of the amended plan and would cause the environmental threshold carrying capacities to be exceeded;

   6. The findings required by Article V(g) cannot be made with respect to the project as proposed;

   7. The Settlement agreement provides that the Governing Board may require modification;

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**AGENDA ITEM IV A.**
6. The Settlement Agreement provides that the Governing Board may impose reasonable conditions and mitigation measures;

9. The modification required by the Governing Board does not propose any grading or construction in SEZ;

10. The project as modified is consistent with TRPA ordinances prohibiting development in stream environment zones and is most consistent with the amended Regional Plan, while allowing some development on the islet portion of the project site;

11. Each of the foregoing findings is supported by substantial evidence in the record.

B. A motion, based on the foregoing findings, to direct the applicant to revise the proposed tentative map to eliminate any land coverage or grading in Areas C and D as shown on Figure 3 of the Final EIS.

II Approval of Proposed Tentative Map, Revised to Eliminate Development in Area C

A. A motion to find that;

1. In recognition of the limitations upon the Governing Body's project review authority, which limitations are a direct result of the injunction in the litigation entitled CA/LTSLT v. TRPA, the tentative map shall not be considered finally approved until a specific exemption is obtained from the injunction or the injunction is dissolved; and

2. As to the significant impacts identified in the EIS: water quality, scenic resources and wildlife, the Governing Body makes the following separate written findings for each of said identified impacts:

a. Water Quality - Specific considerations relating to the litigation settlement in Dillingham v. TRPA and the potential for serious adverse impacts should the litigation proceed, which impacts include but are not limited to, construction of an 86 unit subdivision, other construction on Dillingham's property being found to be exempt from TRPA's plan and ordinances, invalidation of certain TRPA ordinances, invalidation of the prohibition against new subdivisions in the Compact, and money damages against the TRPA; and

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specific considerations relating to the economic feasibility of the project in that the financial viability of the project requires the lots to be sited as proposed as well as other aspects of the subdivision; and

specific considerations relating to the general welfare of the inhabitants of the Tahoe Basin which include the benefit derived from the donation of Parcel 5 to a public agency, the option to buy Parcel 1 given to the City of South Lake Tahoe and to be used for the welfare of said City, and the avoidance of protracted and expensive litigation.

b. Scenic Resources - Specific considerations relating to the litigation settlement in Dillingham v. TRPA and the potential for serious adverse impacts should the litigation proceed, which impacts include but are not limited to, construction of an 86 unit subdivision, other construction on Dillingham's property being found to be exempt from TRPA's plan and ordinances, invalidation of certain TRPA ordinances, invalidation of the prohibition against new subdivisions in the Compact, and money damages against the TRPA; and

specific considerations relating to the economic feasibility of the project in that the financial viability of the project requires the lots to be sited as proposed as well as other aspects of the subdivision; and

specific considerations relating to the general welfare of the inhabitants of the Tahoe Basin which include the benefit derived from the donation of Parcel 5 to a public agency, the option to buy Parcel 1 given to the City of South Lake Tahoe and to be used for the welfare of said City, and the avoidance of protracted and expensive litigation.

c. Wildlife - Specific considerations relating to the litigation settlement in Dillingham v. TRPA and the potential for serious adverse impacts should the litigation proceed, which impacts include but are not limited to, construction of an 86 unit subdivision, other construction on Dillingham's property being found to be exempt from TRPA's plan and ordinances, invalidation of certain TRPA ordinances, invalidation of the prohibition against new subdivisions in the Compact, and money damages against the TRPA; and

specific considerations relating to the economic feasibility of the project in that the financial viability of the project requires the lots to be sited as proposed as well as other aspects of the subdivision; and
specific considerations relating to the general welfare of the inhabitants of the Tahoe Basin which include the benefit derived from the donation of Parcel 5 to a public agency, the option to buy Parcel 1 given to the City of South Lake Tahoe and to be used for the welfare of said City, and the avoidance of protracted and expensive litigation.

3. The subdivision application of Dillingham was duly submitted and reviewed pursuant to the subdivision map review procedures effective after the adoption of the amended regional plan pursuant to TRPA Ordinance 84-1; and

4. The Governing Body, in order to comply with the deadlines for approval in the litigation settlement, hereby waives the requirement in its Rules and Regulations (Article V, Section 5.2) that all state approvals be obtained before a finding that the application is complete is made; and

5. In order to comply with the intent of said Rules and Regulations, the approval of the tentative map is contingent upon Dillingham obtaining the approval of California Water Quality Control Board, Lahontan Region; and

6. The tentative map was the subject of an EIS prepared and certified in accord with, and pursuant to, TRPA's Rules and Regulations and Article VII of the Compact; and

7. The tentative map is based upon the recognition of a 26 lot subdivision in the TRPA's amended regional plan, from a standpoint of planning and zoning, as a permitted use, and further, the recognition of a reduction of Dillingham's previously approved and asserted vested right, is not a new subdivision and therefore not subject to the prohibition against subdivisions in the Compact; and

8. The tentative map is approved in recognition of, and in conjunction with, a litigation settlement of disputed claims, including but not limited to an 86 unit subdivision and other development inconsistent with TRPA's plan and ordinances; and

9. Notwithstanding the fact that the tentative map is inconsistent with TRPA's plan and ordinances in some limited and identified respects, for the reasons stated hereinabove and hereinafter, the establishment, maintenance, and operation of the proposed subdivision and associated uses, will not be detrimental to the health, safety, peace, comfort and general welfare of persons

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residing or working in the neighborhood of the proposed subdivision, nor detrimental nor injurious to the property and improvements in the neighborhood thereof nor to the general welfare of the region; and

10. With respect to those portions of the project site identified as areas B and D on Figure 3 of the final EIS, the SEZ lands have been so substantially modified so as to alter the lands' capability, soil characteristics, hydrology and geomorphic characteristics; and

11. Area B has been so substantially modified so as to alter the vegetation; and

12. The above modifications occurred prior to February 10, 1972; and

13. Areas B and D no longer exhibit the characteristics of a stream environment zone; further development therein will not exacerbate the problems caused by development in SEZs; mitigation in the form of 7.5 acres of stream zone restoration is provided to at least partially offset the losses which were caused by modification of the stream environment zone; and

14. Restoration of areas B and D is infeasible for the following reasons:

   a. The cost of removal of the fill is exorbitant;

   b. The obtainment of legal access to the property for removal of the fill may be impossible to accomplish; and

   c. A certain amount of fill must remain to provide a barrier and support for the lagoon adjoining the property.

15. 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 subdivision improvements, 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; and
Cove East Subdivision, Tentative Map for 26 Units
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16. Notwithstanding that the tentative map is inconsistent with TRPA's plan and ordinances, in some limited and identified respects, the approval of said tentative map will not adversely affect the implementation of the amended regional plan and will not cause the environmental threshold carrying capacities to be exceeded in view of the potential for substantial adverse impacts which would affect all planning efforts in the Tahoe Basin, including prohibitions against new subdivisions and further and other development in the Tahoe Keys; and

17. Each of the foregoing findings is supported by substantial evidence in the record.

A motion to approve the proposed tentative map for Cove East based on the foregoing findings and subject to the conditions of approval listed on Attachment C of the staff summary, plus the condition that the proposed tentative map be revised to eliminate any land coverage or grading in Area C as shown on Figure 3 of the Final EIS.

III Approval of the Cluster Development Alternative Assessed in EIS

A. A motion to find that;

1. In recognition of the limitations upon the Governing Body's project review authority, which limitations are a direct result of the injunction in the litigation entitled CA/LTSLT v. TRPA, the tentative map shall not be considered finally approved until a specific exemption is obtained from the injunction or the injunction is dissolved.

2. As to the significant impacts identified in the EIS: water quality, scenic resources and wildlife, the Governing Body makes the following separate written findings for each of said identified impacts:

a. Water Quality - Specific considerations relating to the litigation settlement in Dillingham v. TRPA and the potential for serious, adverse impacts should the litigation proceed, which impacts include but are not limited to, construction of an 86 unit subdivision, other construction on Dillingham's property being found to be exempt from TRPA's plan and ordinances, invalidation of certain TRPA ordinances, invalidation of the prohibition against new subdivisions in the Compact, and money damages against the TRPA; and

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specific considerations relating to the general welfare of the inhabitants of the Tahoe Basin which include the benefit derived from the donation of Parcel 5 to a public agency, the option to buy Parcel 1 given to the City of South Lake Tahoe and to be used for the welfare of said City, and the avoidance of protracted and expensive litigation.

b. Scenic Resources - Specific considerations relating to the litigation settlement in Dillingham v. TRPA and the potential for serious, adverse impacts should the litigation proceed, which impacts include but are not limited to, construction of an 86 unit subdivision, other construction on Dillingham's property being found to be exempt from TRPA's plan and ordinances, invalidation of certain TRPA ordinances, invalidation of the prohibition against new subdivisions in the Compact, and money damages against the TRPA; and

specific considerations relating to the general welfare of the inhabitants of the Tahoe Basin which include the benefit derived from the donation of Parcel 5 to a public agency, the option to buy Parcel 1 given to the City of South Lake Tahoe and to be used for the welfare of said City, and the avoidance of protracted and expensive litigation.

c. Wildlife - Specific considerations relating to the litigation settlement in Dillingham v. TRPA and the potential for serious adverse impacts should the litigation proceed, which impacts include but are not limited to, construction of an 86 unit subdivision, other construction on Dillingham's property being found to be exempt from TRPA's plan and ordinances, invalidation of certain TRPA ordinances, invalidation of the prohibition against new subdivisions in the Compact, and money damages against the TRPA; and

specific considerations relating to the general welfare of the inhabitants of the Tahoe Basin which include the benefit derived from the donation of Parcel 5 to a public agency, the option to buy Parcel 1 given to the City of South Lake Tahoe and to be used for the welfare of said City, and the avoidance of protracted and expensive litigation.

3. The subdivision application of Dillingham was duly submitted and reviewed pursuant to the subdivision map review procedures effective after the adoption of the amended regional plan pursuant to TRPA Ordinance 84-1; and
4. The Governing Body, in order to comply with the deadlines for approval in the litigation settlement, hereby waives the requirement in its Rules and regulations (Article V, Section 5.2) that all state approvals be obtained before a finding that the application is complete is made; and

5. In order to comply with the intent of said Rules and Regulations, the approval of the tentative map is contingent upon Dillingham obtaining the approval of California Water Quality Board, Lahontan Region; and

6. The tentative map was the subject of an EIS prepared and certified in accord with, and pursuant to, TRPA's Rules and Regulations and Article VII of the Compact; and

7. The tentative map is based upon the recognition of a 26 lot subdivision in the TRPA's amended regional plan, from a standpoint of planning and zoning, as a permitted use, and further, the recognition of a reduction of Dillingham's previously approved and asserted vested right, is not a new subdivision and therefore not subject to the prohibition against subdivisions in the Compact; and

8. The tentative map is approved in recognition of, and in conjunction with, a litigation settlement of disputed claims, including but not limited to an 86 unit subdivision and other development inconsistent with TRPA's plan and ordinances; and

9. The establishment, maintenance, and operation of the proposed subdivision and associated uses, will not be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of the proposed subdivision, nor detrimental nor injurious to the property and improvements in the neighborhood thereof nor to the general welfare of the region; and

10. That with respect to those portions of the project site identified as Area B on Figure 3 of the final EIS, the SEZ lands have been so substantially modified so as to alter the lands' capability, soil characteristics, hydrology, vegetation and geomorphic characteristics; and

11. That the above modifications occurred prior to February 10, 1972; and
12. That Area B no longer exhibits the characteristics of a stream environment zone; further development therein will not exacerbate the problems caused by development in SEZs; mitigation in the form of 7.5 acres of stream zone restoration is provided to at least partially offset the losses which were cause by modification of the stream zone; and

13. That restoration of Area B is infeasible for the following reasons:

   a. The cost of removal of the fill is exorbitant;

   b. The obtainment of legal access to the property for removal of the fill may be impossible to accomplish; and

   c. A certain amount of fill must remain to provide a barrier and support for the lagoon adjoining the property.

14. 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 subdivision improvements; and

15. The project as modified is consistent with TRPA ordinances prohibiting development in stream environment zones and is most consistent with the amended Regional Plan, while allowing some development on the islet portion of the project site.

16. Each of the findings is supported by substantial evidence in the record.

B. A motion to approve the Cluster Development Alternative based on the foregoing findings and subject to the conditions of approval listed on Attachment C of the staff summary, accept conditions 6, 7, 12 and 15 (f).
basis on which construction of the project could be permitted in these areas under the provisions of Section 3.00 of TRPA Ordinance 81.5.

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
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 reclaimed 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 SE7 of 7.58 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
March 20, 1985

RECOMMENDED CONDITIONS OF APPROVAL
COVE EAST SUBDIVISION

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

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 subdivision is the subject of legal action.

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 approved by the Agency, any removal of vegetation, grading, filling or creation of land coverage shall be prohibited outside of the building envelopes. This restriction shall be included in the subdivision CC&Rs. 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. Parcel 5, as identified in settlement agreements affecting land owned by the applicant, shall be deeded to the CTRPA, its successor, or its nominee in accordance with the Settlement Agreement between Dillingham Development Company and the TRPA.

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;
   g) the restrictions set forth in conditions 10 and 12; and
   h) 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.
Recommended Conditions of Approval  
Attachment C  
3/20/85

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 ability to transfer the required number of sewer units must be verified 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. For purposes of this condition, implementation shall require the applicant to have options on properties having the required number of sewer permits.

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. The applicant shall not be required to comply with condition 16 if new sewer units can be obtained from the South Tahoe Public Utility District. In this instance, the applicant shall mitigate the impacts resulting from vehicle miles traveled and vehicle trips at the intersection of Tahoe Keys Blvd. and U. S. Highway 50, as identified in the EIS, through either the payment of a mitigation fee or construction of a traffic improvement project. The amount of mitigation shall be consistent with applicable TRPA ordinances or policies and, if a traffic improvement project is undertaken, the cost of such shall be equal to or greater than the otherwise applicable mitigation fee. If the applicant is not required to comply with condition 16, construction of each single family dwelling shall be subject to obtaining an allocation in accordance with the amended Regional Plan.

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

21. 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.

22. 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.

23. All material obtained from any excavation work that is not contained within foundations, retaining walls, or to be used on the project site as shown on the final construction drawings shall be removed from the project site and disposed of at a site approved by Agency staff.

24. 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.

25. During construction of the subdivision improvements, all trees and natural vegetation to remain on the site shall be protected by the placement of a fence that physically separates the construction areas from the remainder of the project sites. Scarring of trees shall be avoided and, if scarred, damaged areas shall be repaired with tree seal.

26. 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.

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

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

29. All other permits regarding the development shall comply with these conditions.
30. This approval becomes invalid if a local government permit for this project expires or will-serve letters are cancelled.

31. 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.

32. 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.

33. All construction shall be accomplished in strict compliance with the final construction drawings approved by TRPA.

34. 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.

35. 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. In computing this twenty-four (24) month period, any period of time shall not be counted during which the subdivision is the subject of a legal action.
36. 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.

37. 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;

e) when all construction slash and debris will be removed;

f) when driveways, parking areas and other paved surfaces will be paved;

g) when installation of permanent mechanical erosion control devices will occur;

h) when installation of permanent drainage improvements will occur;

i) when revegetation will occur;

j) when construction will be completed;

k) when the site will be winterized, if appropriate; and

l) other information deemed necessary by Agency staff to assure compliance with the purpose of this Section as stated above.

38. The entire project site shall be winterized by October 15. Winterization shall include, but not be limited to:

a) installation of temporary erosion controls;

b) installation of temporary vegetation protection fencing;

c) stabilization of all disturbed areas;

d) clean-up and removal of all on-site construction slash and debris;

e) installation of mechanical stabilization and drainage improvements where feasible; and

f) removal of all spoil piles from the site.
Recommended Conditions of Approval
Attachment C
3/20/85

39. Equipment access shall be prohibited on the project site after October 15.

40. All work must be performed in such a manner that the project can be winterized within twenty-four (24) hours.

41. The length of open trenches (excluding foundation) at the end of each working day shall not exceed fifty (50) feet.

42. No cleaning of equipment, including cement mixers, shall be permitted anywhere on the subject property unless authorized by Agency staff.

43. No vehicles or heavy equipment shall be allowed in any stream environment zone, or wet areas, except as specifically authorized by Agency staff.

44. All vehicles and heavy equipment operated on the subject property shall be confined to the area within the vegetative protection fencing as shown on the plans approved by Agency staff, unless specifically authorized by Agency staff.

45. Loose soil mounds or surfaces shall be protected from wind or water erosion by being appropriately covered when construction is not in active progress or when required by Agency staff.

46. All excavated material shall be stored in areas approved by Agency staff. No material shall be stored in any stream environment zone or wet areas.

47. Equipment of a size and type that, under prevailing site conditions, will do the least amount of damage to the environment shall be used.

48. The property owner, or his authorized representative, shall notify Agency staff and arrange to have the following inspections made:

   a) Prior to any grading activity commencing, a pregrading inspection by Agency staff shall be required at which time all temporary erosion control and vegetation protection and construction site boundary fencing shall be in place.

   b) An inspection by Agency staff shall be required to assure that installation of permanent mechanical erosion control devices, drainage improvements and revegetation be accomplished as soon as feasible after the start of construction.
c) Upon completion of all construction activities and prior to release of securities, a final site inspection by Agency staff shall be required at which time all improvements and revegetation shown on the final construction drawings approved by the Agency shall be properly installed and all conditions of approval satisfied.

Failure to have any of these inspections performed may result in the issuance of a Stop Work Order by the TRPA.

49. All existing overhead power lines located within the project area shall be integrated into the development and placed underground.

50. All equipment used on the project site during construction of the project shall meet the State Standards for noise emission.

51. All structures shown on the Cove East project map contained in the EIS that encroach upon the waters of the Upper Truckee River shall be eliminated from the final construction drawings.

52. All road surfaces and first level finished floors of building structures shall be higher in elevation than the 100 - year flood plan.

53. The final construction drawings shall identify adequate snow storage areas within the boundaries of the subdivision. Adequate drainage facilities shall be provided for these snow storage areas.

54. The subdivision lots located adjacent to the shoreline of Lake Tahoe shall not be permitted to place piers, mooring buoys, boat ramps, launching facilities or floating docks and platforms in the waters of Lake Tahoe. This restriction shall be included in the subdivision CC & R's.

55. Prior to recordation of the final map or issuance of the TRPA permit the applicant shall submit to the Agency a copy of the final waste discharge requirements issued by the California Regional Water Quality Control Board, Lahontan Region.

56. The requirements contained in the CTRPA/Tahoe Keys Property Owner's Association 1982 Report shall apply to the lots contained in the subject subdivision so that the subject property will meet the same requirements as imposed on other Tahoe Keys properties.
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 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 alternatives 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 lesser 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.
TAHOE REGIONAL PLANNING AGENCY

PREFERRED MITIGATION SUMMARY

COVE EAST

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 Billingham.

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 grounding.

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.
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
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: California Department of Transportation, Highway 89 Road Widening and Channelization in Tahoe City, TRPA File #84600

Application Type: Public Works

Applicant: California Department of Transportation (Caltrans)

Location: California State Route 89, Tahoe City from the junction of Route 28 to 0.2 mile north of Fairway Drive.

Review Per Section:

1. Subparagraph D(12), 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)

Proposal Description: This project would extend the continuous left-turn channelization to include the driveways to commercial operations and provide left-turn channelization at road approaches and the driveway to the Caltrans Maintenance Station. Eight-foot shoulders would extend from the beginning of the project area to where the existing bike path starts and will be designated as bike lanes. Beyond that, the south shoulder would remain eight feet to the Caltrans Maintenance Station driveway and the shoulder on the north would be four feet to better fit existing conditions. The area between the highway and the right-of-way line on the river side would be revegetated and protected from vehicle traffic. In addition, Sierra Pacific Power Company and Pacific Bell are proposing to replace existing overhead utilities within the project area with underground conduit, vaults, cables, and padmount transformers. The proposed utility undergrounding includes installation of the following items:

- 12 - Cable Vaults
- 5 - SPPCo Vaults (48"Wx72"Lx84"D)
- 5 - PT&T Co. Vaults (35"Wx65"Lx24"D)
- 1 - SPPCo Box (17"Wx30"Lx24"D)
- 1 - PT&T Co. Box (17"Wx30"Lx24"D)

The proposed utility undergrounding has been identified in the Placer County mandated program to replace existing overhead utilities with underground facilities.

RA: mlm
3/20/85

AGENDA ITEM IV B.
At the request of Placer County, a transit bus turnout has been incorporated into the project south of Station 12 + 75. The addition of this facility necessitated relocating the foot path (walkway) in that area.

At the request of an existing rafting rental operator, an asphalt concrete foot path has been added between the existing foot path and the State's Right-of-Way line south of Station 15 + 40.

Existing Facility: The project area begins at the Route 89/28 intersection, which currently has signals and channelization. The roadway transitions from two lanes in each direction at the intersection to one lane each direction just north of the intersection. The left-turn lane at the intersection extends north a short way from the intersection as a continuous left-turn lane to provide storage for traffic turning into the rafting company parking area. Further north, the roadway is two lanes with a varying width paved shoulder.

The existing right-of-way is 100 feet or more through the project limits except where the roadway passes through the 64-acre tract of Federal land. In this area, there is a 60 foot right-of-way plus an additional 20 foot temporary easement on the north.

Background: Route 89 at this location is a two-lane conventional highway with varying width paved shoulders running parallel and adjacent to the Truckee River.

There have been a series of events since 1975 that have affected the development of this proposed project. For many years, the area of state owned right-of-way on the south side of Route 89, between the highway and the Truckee River, has been used for parking. In 1975, the County of Placer was granted an encroachment permit from Caltrans authorizing the construction and maintenance of a parking lot on the state's right-of-way between the highway and the Truckee River. The permit for parking was issued on a "non-exclusive" basis. Subsequently, an encroachment permit was issued to a raft rental business to construct and maintain that parking lot. To date, the parking lot has not been constructed and parking continues on the unpaved surfaces.

At the present time, there are two commercial rafting companies operating in the area, under permits issued by Placer County. One of the conditions of these permits limits the number of rafts a company may rent. This limit is based, in part, on available parking space.

The area has become popular with rafters, who enter the Truckee River at this location and raft downstream. In the summer months, it is not unusual for all the state's right-of-way plus adjoining Bureau of Reclamation land to be used for parking.

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During the time this area between the highway and the river has been used for parking, a Lake Tahoe Basin Water Quality Plan (208 Plan) has been developed and adopted by the Tahoe Regional Planning Agency and California Regional Water Quality Control Board, Lahontan Region. The 208 Plan considers the Truckee River at Tahoe City as a third order (major) stream and describes the stream environment zone as a buffer strip 100 feet on either side of the stream. The plan also places restrictions on disturbances within stream environment zones. One restriction is that no structure shall be located within the minimum buffer strip for the stream.

This section of Route 89 traverses a 64-acre tract owned by the U. S. Department of the Interior, Bureau of Reclamation. The proposed project would require additional right-of-way from this 64-acre tract and the District has requested that as part of the transfer, the Bureau of Reclamation reserve the required right-of-way to the State of California, Department of Transportation, for public transportation purposes. The U. S. Forest Service's Tentative Development Plan for the 64-acre tract indicates that the area, which is traversed by Route 89, will be stabilized (revegetated) between the highway and the Truckee River. This area to be stabilized is currently being disturbed by motorized vehicle parking.

On August 31, 1983, Caltrans held a public meeting in Tahoe City to describe the proposed project and get opinions and comments from the public. There were favorable comments concerning the widening to provide channelization but unfavorable comments about the removal of parking that is currently within the right-of-way.

On September 26, 1983 at a Tahoe City Public Utility District board meeting, the proposed project was discussed, but no action was taken. The Utility District maintains a bike path in the area between the highway and river.

Staff Analysis:

Land Capability District/Land Coverage: The majority of the project site is located within land capability district 1b, stream environment zone (SEZ). Although the applicant is proposing to install an additional 33,000 sq. ft. of asphalt paving, the majority of the new paving will be located over existing disturbed, compacted areas. Furthermore, the applicant is proposing to revegetate approximately 109,000 sq. ft. of existing disturbed and compacted area (approximately 3 to 1 ratio).
Water Quality: The proposed project includes installation of drainage inlets with sediment traps and curb and gutter conveyance systems, which combined with the proposed revegetation, will result in a substantial reduction in the amount of sediment currently discharging into the Truckee River. As the proposed 33,000 sq. ft. of new asphalt will be installed over existing compacted areas, no water quality mitigation fee is required.

Transportation: Goal 4, Policy 1 of the Transportation System Management Subelement of the amended Regional Plan urges improvements to transit system attractiveness through an aggressive bus pullout/shelter construction program, and this project incorporates a bus turnout. Additionally, the Regional Highway System Subelement encourages highway capacity increases through operational improvements to SR 89 between Tahoe City and Truckee. Finally, Goal 1 of the Nonmotorized Subelement urges the development of bicycle and pedestrian facilities, which are provided for in this project.

TRPA staff analysis, including a computer run of the roadway/air quality model, indicates that the extension of the existing left turn lane, the addition of eight-foot shoulders, and the elimination of access and egress conflicts related to the off highway parking, should increase capacity along this segment by approximately 15%, and reduce congestion accordingly. Assuming identical traffic volumes, this capacity improvement would represent up to an 8% reduction in carbon monoxide emissions. There would be no significant change in oxide of nitrogen emissions.

Parking: This project will involve the revegetation of 109,000 square feet of compacted and disturbed land area currently used for parking. As set forth previously, the primary users of this parking area have been commercial rafting operations. For the 1985 rafting season, it is staff's understanding that all applications to Placer County for commercial rafting permits have included provisions for off site parking.

With respect for the need for parking for private individuals interested in sightseeing and recreation in the Tahoe City area, the staff recommends that the Tahoe City Citizens Planning Committee, the Chamber of Commerce, the County (both Planning and Public Works), and local merchants work together to identify suitable and appropriate parking.

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.

3/20/85
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 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.

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 improve both air quality and circulation within the region.

3/20/85 AGENDA ITEM IV B.
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.

B. Conditions:

1. The standard conditions listed 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. The security required under Condition 1(b) shall be $2,000.00.
MEMORANDUM

March 18, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Tahoe Keys Property Owners Association, Appeal of Staff Determination That Proposed Shoreline Protective Structures Are Inconsistent With the Shorezone Ordinance

This appeal was scheduled for a hearing before the Advisory Planning Commission on March 13 but was not acted on because there was no one present representing the appellant. The appeal is therefore continued until such time as the APC has acted and made a recommendation.

jf
3/18/85

AGENDA ITEM VI A.
MEMORANDUM

Date: March 15, 1985

To: TRPA Governing Board

From: Agency Staff

Subject: Edgewood Golf Course, Appeal of Staff Determination Regarding Additional Parking for the Senior Open

Background:

The United States Senior Open Golf Tournament is to be held at the Edgewood Golf Course June 24 - 30, 1985. The tournament is expected to need adequate parking for up to 2,000 vehicles during the final round (June 28, 29 and 30). There is no on-site parking available to spectators, and the casinos will not devote exclusive use of their facilities to the Senior Open.

The Senior Open Committee has identified the Edgewood Ranch meadow as an alternative parking site (see Attachment A). The Edgewood Ranch meadow is currently classified as a stream environment zone (SEZ), land capability 1b. Agency staff and legal counsel have reviewed the Senior Open Committee's request for use of the meadow and have found no provisions in the Agency ordinances which would allow for approval of the request.

Problem Assessment:

If parking is not provided near the tournament site, numerous vehicles will search the area for a parking space. This circuitous vehicular movement will result in traffic congestion, additional VMT, and increased vehicle emissions.

In recognition of the potential impacts, Agency Transportation staff have examined several alternatives to provide for controlled parking during the peak tournament days.

Alternative Sites

1. Upper Loop Road

The Upper Loop Road extends from Park Avenue to Highway 50 behind Harrah's and Caesars casinos. The width of the road is 42 feet and it has a speed limit which varies between 25 and 35 mph. If the local jurisdictions would
allow parallel parking along both sides of the Loop Road, this would provide approximately 320 parking spaces on the Nevada side and 58 spaces on the California side. These spaces would not interfere with existing access points to the casino parking areas or the apartments on the California side.

If parking were allowed along the Upper Loop Road, a 9' x 18' parking space would be provided for each vehicle, while allowing a 24' right-of-way for two directional vehicle movement. A temporary 10 - 15 mph speed limit would need to be instituted. Recreational vehicles would not be allowed to utilize this area for parking and an attendant would be needed to maintain consistent parking procedures. All "no parking" signs would need to be covered and consideration should be given to chalking an outer line to delineate the 9' parking width. The Upper Loop Road should be used only for the peak days during the Golf Tournament.

2. **Lower Loop Road**

The Lower Loop Road, which has been identified as a possible parking area, extends from Highway 50 to the California/Nevada state line and is adjacent to the High Sierra and Harvey's casinos. The width of the Lower Loop Road is 42' and it has a speed limit which varies between 25 and 35 mph. If Douglas County were to allow parallel parking along both sides of the Lower Loop Road, this would provide approximately 240 parking spaces. These spaces would not interfere with access points to the First Interstate Bank, the Casinos, or the Edgewood Golf Course.

If parking were allowed along the Lower Loop Road, a 9' x 18' parking space would be provided for each vehicle, while allowing a 24' right-of-way for two directional vehicle movement. A temporary 10 - 15 mph speed limit would need to be instituted. Recreational vehicles would not be allowed to utilize this area and a parking attendant would be needed to maintain consistent parking procedures. All "no parking" signs would need to be covered and consideration should be given to chalking an outer line to delineate the 9' parking width.

3. **High Sierra Parking Lot**

The U. S. Senior Open Golf Tournament Organizing Committee has secured 150 parking spaces in the High Sierra parking lot for Thursday, Friday, Saturday and Sunday.

4. **First Interstate Bank Parking Lot**

The U. S. Senior Open Golf Tournament Organizing Committee has secured 50 parking spaces in the First Interstate Bank parking lot on Saturday and Sunday.

3/15/85
5. **Crescent V Shopping Center**

The Crescent V Shopping Center presently has an abundance of parking spaces. Based upon aerial photos and applied parking standards on the site, TRPA staff have identified 200 parking spaces, which could be used for the golf tournament. TRPA staff has contacted the owners of the Crescent V Center and they have indicated they will cooperate with the community.

The identified parking area reserved for the tournament should be clearly defined. Proper signing would be needed to direct traffic to the site. An attendant should be on-site to insure consistent parking procedures. On-site signing should indicate proper circulation and directions to additional parking areas once the lot is at capacity. The City of South Lake Tahoe has indicated a willingness to operate shuttle service along the Highway 50 corridor to the tournament site for the convenience of spectators.

6. **Douglas County Administrative Center**

The Douglas County Administrative Center does not utilize its entire parking area on the weekends. TRPA staff has identified 57 parking spaces, which could be designated for the golf tournament on Saturday and Sunday.

7. **Heavenly Valley Ski Resort**

The Heavenly Valley parking lot is located at the end of Wildwood Avenue on the California side of the state line. Heavenly Valley has indicated that they have 2,200 parking spaces available, which could be used for the golf tournament.

If the Heavenly Valley parking lot was to be used for overflow and recreational vehicle parking, proper signing would need to be displayed along the Highway 50 corridor to direct traffic. The Heavenly Valley parking lot is approximately 3 miles from the tournament site. A convenient shuttle system would need to be provided for individuals parking in the Heavenly Valley lot. Heavenly Valley and the City of South Lake Tahoe have indicated that a shuttle system could be provided if the tournament would pay the drivers' salary, vehicle insurance, and fuel costs.

**Analysis**

The mechanics of developing a parking management plan need the cooperation of Douglas County, the City of South Lake Tahoe, Tournament Organizing Committee, TRPA, and all individuals involved with contributing parking sites. When the parking areas have been designated, spectators need to be informed of their locations and conditions which must be adhered to. This information should be included in a brochure when officials send out tournament tickets in May.

3/15/85

AGENDA ITEM VI B.
MEMORANDUM

To: TRPA Governing Board
Re: Edgewood Golf Course
Page Four

Designated satellite parking areas should provide convenient shuttle service to and from the tournament site and the casinos. Shuttle service should extend into the evening hours to allow spectators the freedom to enjoy the amenities of the Stateline area after the tournament.

The City of South Lake Tahoe and Heavenly Valley have indicated that shuttle service could be provided along Highway 50 and from the satellite parking areas if the Golf Tournament would pay the drivers' salary, vehicle insurance, and fuel costs.

It is the staff's position that parking areas nearest the tournament site should be utilized first. Safety to spectators, motorists, and pedestrians should be emphasized. Tournament officials should provide attendants to manage parking procedures and direct spectators to alternative parking sites.

Staff Recommendations:

Staff recommends the Governing Board uphold the staff denial of the subject request. Further, the Governing Board should direct staff to pursue agreement from the involved parties to implement the staff alternative parking management plan, with a progress status report to be presented at the next Governing Board meeting. To this end, Staff will continue to work with the Senior Open Committee on a detailed parking plan as a condition of the exemption for parking in satellite sites. The parking plan will include, but not be limited to:

- marking
- signage
- attendants
- shuttle buses

3/15/85

AGENDA ITEM VI B.
MEMORANDUM

March 20, 1985

To: The TRPA Governing Board

From: The Staff

Subject: City of South Lake Tahoe, Unauthorized Expansion at the South Tahoe Airport

Agency counsel is continuing to work with the City of South Lake Tahoe and the plaintiffs in this matter, and an oral report will be presented at the March meeting.

jf
3/20/85

AGENDA ITEM VII A. I.
MEMORANDUM

Date: February 27, 1985

To: TRPA Governing Board

From: Agency Staff

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

The Governing Board directed continuance to March, 1985 Governing Board meeting based on Mr. Montesano’s acceptance of the following conditions.

1. That the temporary erosion control measures be properly installed as per the Handbook of Best Management Practices and approved by Agency staff onsite, within 72 hours; and

2. That the owner shall increase his existing $2,000 security to $6,000 within ten days of this date.

Mr. Montesano hereby accepts same.

[Signatures]

Thomas Montesano, Owner

Tahoe Regional Planning Agency Staff

RF:bl
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,

[Signature]

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 8708 • INCLINE VILLAGE, NEVADA 89450

January 29, 1985

TAHOE REGIONAL PLANNING AGENCY

Governor Richard Bryan
Executive Chambers
Capitol Building
Carson City, Nevada 89710

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—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 Mr. Reid Badgley, 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,

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
MR. RODNEY H. PAYNE

BOX 8708 • 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/T
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 the 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.

This item was continued from the February Governing Board meeting, since staff
had received a letter from the Borselli's stating that the deck and hot tub
would be removed in 15 days. This time period has passed without removal of the
unauthorized coverage.

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

AGENDA ITEM VII A. 3.
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.
To - T.R.P.A.

To Robert Parish

2/26/85

Dear Sir,

The Boselli Unauthorized Land Coverage will be removed and restored by them willing to remove the hot tub and deck. This project will need about 15 days to relocate and work at this project. Also, in willing to move the hot tub and deck. The Boselli's is to show restuce there #2500 from the T.R.P.A. to this matter and to solve this problem.

Thank you.

Joseph R. O'Sullivan
Silversea R. O'Sullivan

FEB 26 1985

YANCE REGIONAL PLANNING AGENCY

RECEIVED
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
Joseph Borselli
198 Ray Way
Skyland
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 (6229.1 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 ACOE permit to do so (Haas letters dated 8/31/82 and 8/2/83). Had Mr. Haas complied with ACOE 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.

Proposed Settlement: Mr. Haas requested and received a thirty (30) day continuance from the Governing Board after a good faith security in the amount of $2,500.00 was deposited with the Agency. Since then, Mr. Haas has agreed to remove all fence material including associated concrete retaining wall and pier blocks lakeward of the ordinary high water line (6,229.1 Lake Datum). Mr. Haas has forwarded a surveyor's report of this elevation to staff and will call for a security return inspection when the work is completed.

Concerning tree removal on his property, Mr. Haas contacted State of California Department of Forestry and a preliminary inspection of the site by Unit Forestry Dan Scatena indicated that the wood pile on the lot was from a dead tree. Mr. Scatena is reserving final judgement until he can inspect the tree stump which was occluded by snow. In the event that the tree was alive when cut and no permit can be issued, Mr. Haas has agreed to have the proposed $500 fine deducted from his security deposit.

The condition of requiring Mr. Haas to file for a permit has been dropped due to the inability of the agency to accept applications for repairs of a nonconforming structure because of the federal court injunction.

Staff Recommendations: Accept the terms of the settlement.

3/20/85
March 18, 1985

FEDERAL EXPRESS

Mr. Paul Kaleta
Tahoe Regional Planning Agency
2155 South Avenue
South Lake Tahoe, CA 95731

Dear Paul:

I am writing to confirm our agreement to the following effect:

1. I will comply with conditions 1 and 4 of your letter of February 6.

2. TRPA waives compliance with conditions 2 and 3 of that letter.

3. Our $2,500 security deposit will be returned promptly after conditions 1 and 4 are complied with. We did not discuss this explicitly, but I assume that if by any chance the Department of Forestry refuses to issue the permit called for in condition 4, you would propose a penalty of $500 (the amount recommended in the 2/20/85 staff summary) or less and refund the balance of the deposit.

4. TRPA prefers us to proceed promptly with the removal of fence materials without waiting for the usual building season. No permits are required to do this work.

5. So long as we remove the fence materials promptly, there will be no "show cause" hearing and no penalties will be assessed with respect to the fence.
Mr. Paul Kaleta
March 18, 1985
Page Two

I enclose a copy of the survey prepared by K.E. Foster. There are a couple of errors in that it shows our one-foot high concrete wall as being six feet high and gives the wrong address, but I believe that the key point (the location of the high water mark) is correct.

Please call me immediately if you believe I have not accurately stated our agreement.

Yours very truly,

[Signature]

Raymond P. Haas

RPH:jg
Enclosure
APN 89-051-08
2.63 AC

SEE DETAIL "A-A" BELOW

NOTE: BOUNDARY BEARINGS AND DISTANCES ARE COMPILED FROM RECORD DATA ONLY.

PLAN VIEW
1" = 100'

HIGH WATER LINE EXHIBIT FOR RAYMOND HANS
1550 North Lake Blvd., APN 09-051-08, Vol. 2187, P. 449
Placer County California

HIGH WATER 6289.11

SECTION A-A
1" = 5'
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 1 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,

M. L. Helm

[Signature]

D. A. DENNIS  
Chief, Construction-Operations Division

1 Incl

As stated
Show Cause Hearing: Manny Beals, Unauthorized Construction and Signs, Douglas County, APN 03-141-01, 03-142-01 and 03-145-01, TRPA File #83320

Property Owner: Manny Beals

Violation Description:

1. Unauthorized construction of two (2) wood frame storage sheds on APN 03-141-01 (gas station).

2. Expansion of deck, roof and commercial floor space on APN 03-145-01.

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

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

Violation Location: Cave Rock, Douglas County, APN's 03-141-01, 03-142-01 and 03-145-01.

Site Description: The three (3) parcels have existing commercial uses. They are each owned by Mr. Beals and include a gas station, a restaurant and a tavern. The parcels are each nonconforming as to use and coverage.

Land Use District: Low Density Residential

Land Capability Classification:

<table>
<thead>
<tr>
<th>APN</th>
<th>Classification</th>
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<tbody>
<tr>
<td>03-141-01</td>
<td>1a</td>
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<tr>
<td>03-142-01</td>
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<td>03-145-01</td>
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Violation Analysis: Activities on these properties have come up before Douglas County, the Nevada State Health Division, the Nevada Department of Transportation, Nevada Gaming Commission and this Agency on previous occasions. Little change to the better is evident to date.

The two (2) storage sheds were constructed in 1982. Subsequently a show cause hearing was held on March 24, 1983 at which time the Governing Board directed Mr. Beals to submit an application within 60 days for either:

1. a general plan amendment to reclassify the property so the structures and signs are conforming, or

2. a finding that the structures and signs are similar and appropriate use to those permitted in an LDR.

SC:mlm
3/13/85

AGENDA ITEM VII A.5
An application was submitted on May 12, 1983 for bathroom facilities. Neither the general plan amendment nor the finding of similar and appropriate were mentioned in that application.

The storage sheds are new commercial structures, which due to the nonconforming nature of the present use, cannot be authorized under Section 9.11 of the Nevada Side Land Use Ordinance. The gas station parcel is also overcovered (approximately 100%). The preliminary injunction does not allow the Agency the flexibility to review new commercial structures. Mr. Beals has no alternative but to remove the structures.

The deck, roof and commercial floor space expansion on APN 03-145-01 (formerly the Cave Inn) occurred during June of 1984. The deck was expanded beyond its original dimensions, clearly evidenced by the previous rock-cobble foundation under the deck. The Agency, while attempting with Douglas County to bring the structure into accordance with local building codes, exempted specific work on the structure under the ordinary maintenance and repair section of Ordinance 81-1. The exemption was dated April 16, 1984. The deck was to be only repaired to its existing dimensions at the time. No enlargement or structural alterations were allowed.

The new roof over the deck, and the deck addition itself are structural modifications to the building and due to its nonconforming nature, this is prohibited under the existing ordinances. Mr. Beals asserts that the roof existed prior to its replacement in June, but staff has been unable to secure photos or other evidence to prove that. Staff has requested such evidence from Mr. Beals and have not, to date, received any. The deck is being used as commercial floor space due to the addition of tables and chairs for outside service. Staff has again requested information from Mr. Beals to prove that the deck area was previously used as commercial floor space and to date have not received any. Until the Regional Plan lawsuit is settled and a commercial floor space allocation system is on line, no new commercial floor space is allowed in the Lake Tahoe Basin. The only alternatives available in this situation are 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, or providing proof to the Agency that the roof, deck and its use have not changed.

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 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 Lincoln Creek and one hundred and fifty (150) feet later, Lake Tahoe. The mouth of Lincoln Creek is approximately 100 yards from the water intake pipe of the Cave Rock Water Company. 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.

3/13/85

AGENDA ITEM VII A.5
During a meeting with Mr. Beals on March 1, 1985, he denied cleaning restaurant grills and the like in that area and said that his employees did clean the kitchen floor mats outside the kitchen. Staff feels there is sufficient evidence from witnesses and Mr. Beals own admission to find that such a discharge has occurred on many occasions. Lincoln Creek is discolored due to heavy growth of an orange algae.

The Douglas County Community Development Department has been working on the signage problem on the property. They have done sign inventories and given Mr. Beals a deadline to comply with the Douglas County sign regulations (the Douglas County sign regulations are stricter than the Agency's). That deadline will have passed by the Governing Board meeting.

As a means of resolving these violations, the Agency sent Mr. Beals a certified letter on February 13, 1985 outlining the violations and the steps needed to clear them. The letter is an addendum to this summary. Mr. Beals did not pick up the certified letter and at the request of the Governing Board, staff hand delivered the letter on March 1, 1985. The letter allowed Mr. Beals thirty (30) days to respond and reach a resolution. The means of resolution is clear, as stated previously, and due to the preliminary injunction, not much flexibility is available.

**Staff Recommendation:**

1. The Governing Board find that violations of Agency Ordinances exist.

2. The Governing Board direct Mr. Beals to:
   a) Remove the unauthorized storage sheds.
   b) Restore the deck structure to its dimensions prior to the unauthorized work taking place and remove all outside facilities capable of serving patrons.
   c) Direct Mr. Beals to cease discharging any waste water and materials from his property (other than via the local sewage system) and require that he provide the Agency with a report detailing his equipment cleaning procedures and a technical report of the pollutant concentrations in Lincoln Creek at its outflow to Lake Tahoe.
   d) Direct Mr. Beals to comply with Douglas County's order to conform to its sign ordinance and provide Douglas County with any assistance required to reach said conformance.
3. The Governing Board require a security in the amount of $5000 within thirty (30) days to insure that the above occurs.

4. The Governing Board direct Mr. Beals to pay a penalty in the amount of $10,000 to the TRPA in lieu of civil litigation.

5. That the Governing Board authorize 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 May 1, 1985.
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 a number of violations of Agency ordinances occurring on your properties at Cave Rock, 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.
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 on line, 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
TAHOE REGIONAL PLANNING AGENCY
STAFF REPORT

Show Cause Hearing:  F. Huntington, Unauthorized Structure, Douglas County APN 01-080-09

Property Owners:  David and Fritzi Huntington

Property Location:  Glenbrook, APN 01-080-09, Douglas County

Site Description:  Approximately 4.8 acre parcel located in the backshore along Glenbrook Bay.

Land Capability Classification:  Mapped as both 1a and 2 capability.  TRPA zoning on this parcel is rural estates.

Violation Description:  In August, 1981, the Huntington's placed a 35' x 10' railroad caboose on the parcel.  It has been connected to water, sewer, and electric utilities, and contains a cook top stove, sink, refrigerator, water closet, and shower.  The caboose is set on a section of railroad track, and is connected to utilities.  It is not currently used as living quarters.

Staff Action To Date:  Agency has been in contact with the Huntington's regarding this matter and have received cooperation in researching this entire matter.  It appears that in July of 1981, Douglas County was made aware of the fact that a caboose was to be placed on the parcel in a letter from the Huntington's to Doug Nelson, then head of the Douglas County Building Department (letter attached).  At that time, neither Douglas County nor the property owners informed TRPA that any additional land coverage had been proposed, in excess of their planned and approved guest house.  Agency staff was not aware of the subject caboose until February of 1985.

This Agency has been reviewing the site in order to propose a possible settlement in this matter.  There is sufficient existing coverage that can be removed in order to facilitate a project application for replacement of nonconforming coverage.  Staff has been working with the Huntington's toward this resolution.

Staff Recommendation:  Agency staff is currently working out a settlement proposal with the owners, and recommend that the Governing Board consider acceptance of this settlement as a resolution of the unauthorized structure and land coverage.  The settlement includes the following items:

1. Remove all dwelling unit amenities to include:  the cook top stove, sink, refrigerator, water closet, and shower;

2. Disconnect water and sewer utility connections;

3. Require submittal of a project application within 10 days for replacement of nonconforming land coverage to allow the caboose coverage to remain (305 square feet);

RP:bl
3/19/85

AGENDA ITEM VII A. 6.
4. Require double filing fee ($430.00);

5. Remove 2,742 square feet of existing nonconforming coverage within 30 days of May 1, 1985;

6. Require revegetation of area where coverage is removed; and

7. Require posting of a $6,500.00 security to ensure compliance of all settlement items.

In the event that a settlement is not reached on this matter, then staff recommends:

1. That the Board finds that a violation does exist;

2. Require the removal of the caboose from the property;

3. Require payment of a $2,500.00 civil penalty in lieu of civil, judicial proceedings; and

4. If compliance is not obtained on all of the above-noted items within 20 days, then this matter shall be forwarded to Agency legal counsel for action toward civil litigation.
July 3, 1981

Dear Mr. Nelson:

I have prepared the attached map of that portion of our property showing:

Blacktop areas removed, outlined in red.

Area for caboose.

Scale is one inch to twenty feet.

Please phone me at (702) 749-5644 if you require any other information.

Hoping this is satisfactory, I am,

Sincerely,

David Huntington

P. S. Please note that I have removed 617 sq. ft. more than required, or 1017 if the former blacktop patio (upper right on map) is allowed to be included.

Caboose is on wheels and tracks, giving high clearance between its floor and the ground. Ground is covered by 4 inches of gravel, which will allow total percolation of water without runoff. It is intended solely as a playhouse for grandchildren.
Show Cause Hearing: Douglas County Senior Citizen Center, Unauthorized Change of Use and Construction Activity, Douglas County APN 05-070-02

Property Owner: Douglas County

Site Location: Zephyr Cove - former Douglas County Sheriff's Substation

Site Description: Approximately 1/2 acre parcel that contains an existing structure and paved parking.

Land Capability Classification: Mapped as a class 5 parcel; TRPA zoning is public service.

Violation Description: As a mitigation measure for approval of the new Douglas County Service Center, Douglas County agreed to demolish and remove the existing Sheriff's Substation located in Zephyr Cove and to revegetate the site as open space. Attached is the staff summary of the new Douglas County Service Center, which states this requirement on page 4.

In October of 1984, Douglas County Planning Department discussed with Agency staff the possibility of converting the Sheriff's Substation to a senior citizen center. Agency staff informed the County, at that time, that it would be necessary to submit any construction modification plans to TRPA along with full information concerning trip generation and traffic impacts brought about by the change in use. As of this date, the Agency has not received any of the required information.

Staff Action To Date: Recent inspection of the subject site has shown that interior remodeling construction work is currently taking place. Since no Agency review of this matter has been performed, a letter was sent out to the Douglas County Community Development on March 15, 1985 notifying them that a Stop Work Order was in effect on the subject site (letter attached). A Stop Work Order was posted on the Substation site on March 18, 1985.

Staff Recommendation: Agency staff recommends that the Governing Board take the following action:

1. Require Douglas County to submit plans indicating all construction work involved in the building modification;

2. Require submittal of all change in use information, including a report on trip generation and traffic impacts;

3. Compliance shall be obtained on the above-noted items within ten days. In the interim, the Stop Work Order shall remain in effect, and no further work will be permitted on site until this matter has been resolved; and

RP:bl
3/20/85

AGENDA ITEM VII A. 7.
4. Noncompliance in this matter will result in forwarding of this item to Agency legal counsel with direction toward civil, judicial proceedings.
March 15, 1985

John Renz
Douglas County Community Development
P. O. Box 218
Minden, NV  89423

Subject: Change of Use, Sheriff's Substation to Senior Citizens Center

Dear John:

The Tahoe Regional Planning Agency is aware of the fact that the former sheriff's substation, located at Zephyr Cove, is currently being converted for use as a senior citizens center.

As of this date, TRPA has not received an application or building plans from Douglas County concerning the remodeling work occurring onsite. In addition, this Agency requires information about the proposed change in use, including the generation of vehicle trips. Therefore, effective immediately, a Stop Work Order is in effect on the subject site, and no further work shall be performed.

Unless this Agency is in receipt of the required materials by March 22, 1985, this matter will be heard as a show cause hearing at the March 27 and 28 1985 meeting of the TRPA Governing Board.

We need to hear from your office immediately. If you have any questions regarding this matter, please call.

Sincerely,

Bob Pavich
Field Representative

RP:mlm
Douglas County/Kahle Park Plan, Tahoe Safety Center, APN 07-130-03 and -04, TRPA File #82652

Applicant: Douglas County

Project Description: Douglas County requests approval to construct County administrative offices and a local park on the 24.72 acre Hotol Oliver casino site.

The County office building will occupy the center of the site's lower terrace. The building will contain 22,000 square feet of office space. The lower floor of the building will be devoted to the Sheriff's office, a temporary holding facility, and a Parks and Recreation office. The second floor of the building will provide space for the Municipal Court, the District Attorney's office, Juvenile Probation office, Health Office and Community Development office. Parking areas providing a total of 115 spaces will be constructed at each end of the building. These will provide parking areas for both the park and the County offices. Access to the office complex will be provided at two points. Unrestricted access to and from Highway 50 will be provided by a signaled 4-way intersection at Kahle Drive. This intersection will connect with parking to the south of the building and to the parcel to the south of the County's property via a frontage road. A second access from Highway 50 will be provided at the south end of the County site. This access will be developed jointly with the owner of the parcel to the south and will be restricted to right-turn only movements to and from Highway 50.

The County will develop a local park on a 20.7 acre portion of the site's upper terrace. Access to the park is to be provided by a roadway intersecting with Kingsbury Grade and running across the eastern edge of the park. Parallel parking for 30 cars will be provided off of this road near the main park entrance at the center of the park's eastern boundary.

A park ranger's station is proposed near the existing Kingsbury Professional Building. Access to the ranger station will utilize the existing easement off Kingsbury Grade which accesses the existing office building.

When the park is developed, the drainage from Kingsbury Grade will be routed across the site through a series of detention/infiltration basins, ultimately reaching Burke Creek. All of this highly disturbed site, both the upper and lower terraces will be revegetated and the existing erosion stabilized. Areas receiving less intense use will be reseeded with native grasses. Those areas receiving more intense use will be planted with grasses more tolerant of such use. All of the existing vegetation on the site will be retained and new plantings will be provided. Picnic areas will be distributed throughout the park site. More intense uses such as play areas and terraced open space will be concentrated on the more disturbed northern half of the site.

6/11/82
GG:jf

Agenda Item VI A. 1.
Project Location: The Kahle site occupies 24.7 acres northeast of the intersection of Kingsbury Grade and U.S. Highway 50 in Douglas County.

Site Description: The best available information indicates that the site was used for a small casino and a 100 ± unit trailer court prior to the Agency's existence in 1970. The casino, which was located in the lower portion of the property, was removed prior to the Agency's existence; and the trailer units, which were located in the upper portion, were removed in 1980.

In general, the project site is highly disturbed with little understory growth, some tree cover on the upper portion, and large cuts and fills throughout the property. The TRPA land capability maps indicate the lower portion to be land capability level 7 (30% land coverage permitted) and the upper portion to be land capability level 3 (5% permitted land coverage). The accuracy of this delineation may be questionable due to the extent of existing disturbance on the site. The existing land coverage as of August, 1981 is estimated to be 32.3%.

The Burke Creek stream environment zone (SEZ) is located on the northern portion of the property. Fill has been placed on the south side of the stream and the channel has been diverted to a ditch on the Nugget Casino site. A specific delineation of the boundary of the SEZ under procedures set forth in the Agency's Handbook of Best Management Practices has not been completed as of this date.

The surrounding land uses consist of Harvey's Inn, minor commercial, and the restored Jennings Casino site to the west; the Nugget Casino and undeveloped lands to the north; Shady Lane industrial tract to the west; and a post office, light commercial, motel and offices to the south. The site itself has small "island" parcels which are not part of the project. One is undeveloped and one contains an office building. There is also a larger 2.6 acre vacant but highly disturbed parcel located on the southwest side of the site.

Land Use District: The site is classified Tourist Commercial by TRPA, which allows all of the proposed uses.

Land Capability Classification: The 24.72 acre parcel under consideration contains two soil types which correspond roughly to the upper and lower terraces on the site. The following is a summary of basic data for the parcel:

<table>
<thead>
<tr>
<th>Size</th>
<th>Soil</th>
<th>Land Capability</th>
<th>Allowed Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Terrace</td>
<td>20.7 acres</td>
<td>JED</td>
<td>3 5%</td>
</tr>
<tr>
<td>Lower Terrace</td>
<td>4.0 acres</td>
<td>EFB</td>
<td>7 30%</td>
</tr>
</tbody>
</table>

Land Coverage: To be included under separate cover.

6/11/82

Agenda Item VI A. 1.
Building Height: The average building height proposed is 38 feet. The allowed height is 40 feet.

Impact Analysis and Mitigation Measures:

Water Quality – The existing site has been greatly disturbed and compacted. Extensive gullying is present in the break between the upper and lower terraces. The project includes restoration of the site with landscaping and revegetation. Drainage from the lower terrace will be directed to a culvert along Highway 50, subject to treatment by Best Management Practices, and ultimately directed under Highway 50 to the pond on the Forest Service's restored Jennings site. Drainage from the upper terrace and from Kingsbury Grade will be detained and infiltrated through a series of ponds constructed across the site. What little water that is not infiltrated will drop off the upper terrace through a boulder-lined channel to a final pond before entering Burke Creek. The water reaching Burke Creek will be of improved quality from existing runoff.

With the treatment of the Kingsbury Grade drainage and the revegetation and stabilization of the existing site in compliance with the 208 Handbook of Best Management Practices, the overall impact of the project on water quality will be positive.

Traffic: Below is Douglas County's estimate of the number of trips to be generated by the project:

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Trip Rate</th>
<th>Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Offices - employees</td>
<td>55</td>
<td>12.0/employee</td>
<td>660</td>
</tr>
<tr>
<td>Park</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td></td>
<td>677</td>
</tr>
</tbody>
</table>

* Caltrans, District 4, Trip Ends Generation Research Counts

The project plans include a proposal for a stop light at Kahle Drive. This light will be coordinated with the light at the U.S. Highway 50/Kingsbury Grade intersection to prevent any problems with traffic backing up at the Kingsbury intersection.

Access to all properties on the lower terrace will be from the signaled Kahle intersection and a right-turn only entrance at the south end of the site, which will be shared with the adjoining property. Access to the upper terrace will be off Kingsbury via a paved road along the east side of the site.
The following mitigation analysis for the County administrative offices was submitted by Douglas County and was taken from "Information Report for the Douglas County Tahoe Service Center", which was prepared by Dolven, Larson, and Daniels and Omni-Means:

"With the completion of the proposed County Facility, six County agencies currently in the Lake Tahoe Basin will be relocated to the new facility. Douglas County has indicated that there will be no major increase in the number of employees working in the Basin. Therefore, the effects of the project will be limited to a redistribution of the trips currently generated by the existing County offices."

"Consolidation of Douglas County functions in the Basin into one office complex will affect project-related vehicle miles traveled (VMT). While people residing at Zephyr Cove or north of Zephyr Cove will increase travel distances, residents of the Kingsbury area will decrease their travel distances. The net result is a VMT reduction. Third, the distance that employees who live outside the Basin must travel is reduced. Since 75 percent of the employees reside in the Carson Valley area, this element of the project VMT reduction is the largest."

As discussed above, locating the County administrative offices at the proposed site would redistribute trips rather than increase trips. The existing Douglas County Sheriff's office in the basin will be demolished and the site revegetated as open space.

Since the administrative complex will not result in new vehicle trips being generated within the Basin - rather a redistribution of existing vehicle trips to the project site, Agency staff concurs with the regional traffic study presented as part of the administrative site application. This is further supported by the fact that existing County office spaces and facilities, with the exception of the court facilities, are not proposed to be converted to other uses and, in some cases, will be demolished and revegetated. The impacts of relocating the County facilities to the proposed site near the intersection of U.S. Highway 50 and Kingsbury Grade is considered to have the potential to create significant local traffic impacts.

Local Traffic Impacts - The information submitted with the application does not contain sufficient traffic data to assess the local traffic impacts. The Nevada Department of Transportation estimates that the administrative complex, not including the day-use areas, will redistribute approximately 770 vehicle trips per day to the site, with a peak hour volume of approximately 125 vehicle trips. This increase, combined with the existing traffic congestion and turning movement conflicts between the U.S. 50 and State Route 27 intersection and Nugget Casino, may compound the existing traffic-related problems.
To assess site specific traffic impacts and detailed mitigation measures, it is recommended that Douglas County complete a traffic engineering study addressing the requirements of the Nevada Department of Transportation encroachment application as set forth in the recommended conditions of approval.

Air Quality - The following discussion of air quality impacts was submitted by Douglas County and is taken from the "Information Report for the Douglas County Tahoe Service Center" prepared by Dolven, Larson, and Daniels and Omni-Means:

"EMISSIONS - The net reduction of VMT attributable to the project is approximately 525 per day. This volume translates to a reduction in emissions of 8.6 tons CO/year, 0.8 tons HC/year, and 0.6 tons NOX/year in 1983 (project completion)."

Based on the results of the traffic engineering study required by the Nevada Department of Transportation, minor traffic circulation modifications may have to be made to the proposed site plan and additional mitigation measures implemented by the County. Agency staff does, however, agree that the proposed project will not have an adverse impact on air quality due to the redistribution of existing trips and the lessening of vehicle miles traveled.

Summary - Consolidation of Douglas County services into one office facility will reduce vehicle emissions because of reduced vehicle miles traveled. The reduction in emissions from project-related traffic in 1983 is estimated to be 8.6 tons CO/year, 0.8 tons HC/year, and 0.6 tons NOX/year.

Consistency With Applicable Plans, Ordinances, Regulations and Standards:

208 Water Quality Plan - The proposed development is consistent with the Tahoe Basin 208 Water Quality Plan in that it implements both remedial erosion control on the existing site and accomplishes the treatment of runoff from the lower Kingsbury area.

Land Use Ordinance - The proposed uses are allowed under the TRPA Land Use Ordinance; moreover, the proposed coverage is consistent with Section 9.21(3) for the replacement of nonconforming coverage.

Project Analysis and Issues for Discussion: The overall impact of the proposed development will be positive provided the recommended conditions of approval are satisfied. The project provides for the reduction of vehicle miles and emission of air pollutants. It greatly reduces sediment loads from existing sources of water pollution. And finally, it provides an alternative to the Hotel Oliver, an approved proposal which would, if built, be of tremendous impact on the Tahoe Basin and Douglas County.

6/11/82

Agenda Item VI A. 1.
MEMORANDUM

March 20, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Tahoe Basin Association of Governments (TBAG), Report and Recommendations on the Urban Land Institute (ULI) Study Findings

As of this mailing date, TBAG had not received copies of the final summary report for inclusion in the packet. The report will be given to Board members as soon as it becomes available.
MEMORANDUM

March 20, 1985

To: The TRPA Governing Board
From: The Staff

Subject: Status Report on Air Quality Planning

A. Nitrate Deposition Study

In 1983, the TRPA, with funding from U.S. EPA and the California Air Resources Board (CARB), began a group of studies to assess atmospheric deposition of nitrates and other pollutants on Lake Tahoe. This group of studies, known collectively as the nitrate deposition study, includes the following:

- snow sampling conducted by the USGS
- snow sampling conducted by the Desert Research Institute (DRI)
- ambient air quality monitoring conducted by Bruce Appel, Ph.D., private consultant
- wet and dry deposition monitoring conducted by the Tahoe Research Group.

In February, 1984, the EPA contracted with Radian Corporation (Sacramento and Austin, Texas) to assist the TRPA in analyzing the results of the individual studies and preparing a summary report. Radian's scope of work included the following items:

- summarize the results of each study to produce an estimate of nitrate deposition in the Tahoe region
- determine whether a coherent picture of deposition within the region can be made from the individual studies
- review each study's methodology, approach, quality assurance, and data analysis
- assess the validity and strength of results reported in each study
Memo to the TRPA Board
Air Quality Planning Status
March 20, 1985  page two

- make recommendations on additional work needed to evaluate atmospheric deposition in the Tahoe region.

On October 23, 1984, Radian submitted a draft report, Analysis of Nitrate Deposition in the Lake Tahoe Basin. Based on comments from the four contractors, TRPA and EPA, Radian revised the report and submitted a revised draft on January 17, 1985. The revised draft is now under technical review at TRPA and EPA. During the review period, two important technical problems have surfaced, which further research will have to resolve:

- uncertainty regarding the deposition velocity of nitrogen-compound molecules (i.e., dry deposition)
- uncertainty regarding the effect of meteorologic conditions (e.g., temperature inversions) on transport of pollutants from upwind.

Although the revised draft report is still under review, it allows staff to make some qualitative conclusions regarding atmospheric deposition in the Tahoe region. First, deposition of nitrogen compounds on Lake Tahoe is a significant source of nutrients. Second, both transport sources and local sources of airborne nitrogen compounds contribute to the total load. Deposition occurs in both wet (precipitation) and dry (particulate nitrate and gaseous nitric acid) forms.

B. Reasonable Further Progress Report

The Federal Clean Air Act of 1977 requires states violating Federal air quality standards for carbon monoxide to develop plans which demonstrate attainment of these standards by 1987. The Act also requires the states to make reasonable progress in annual emission reductions to ensure attainment of the standard by the deadline.

The Lake Tahoe Air Basin is not attaining the Federal standard for carbon monoxide. In August, 1982, the TRPA adopted an air quality plan which provides for the attainment of the CO standard by 1987. California submitted the plan to the EPA as a revision to the State Implementation Plan (SIP) in December, 1983. EPA approved the SIP revision in February, 1984.

The EPA requires an annual report on progress toward attainment of the CO standard. This report must contain an evaluation of both air quality trends and control measures. The staff and the APC are now working on a "Reasonable Further Progress" Report for 1982-1984. A second working draft is now under review. A copy of the summary and conclusions from that draft is attached.

When the APC has approved the RFP report for transmittal to the states and EPA, the staff will place it on the Board agenda for approval.
II. SUMMARY AND CONCLUSIONS

A. Control Measures

-- Although most of the adopted control measures are behind schedule, the TRPA and other lead agencies have made significant progress toward the goals of the Air Quality Plan.

-- Inspection/maintenance programs are underway in the urbanized areas of California and Nevada. Inspection/maintenance is not scheduled to begin at Tahoe until 1987. The Air Quality Plan may have overestimated the benefits of a Tahoe Basin I/M program.

-- Computerized traffic signals have been installed on the South Shore, and several key intersection improvements have been made.

-- Transit ridership has not increased as the Air Quality Plan projected. However, traffic volumes are generally down since 1981.

-- The Postal Service plans to install three pilot neighborhood delivery centers in 1985.

B. Ambient Air Quality

-- Violations of the 9 ppm 8-hour standard are common at two of the permanent monitoring stations--Stateline, California and Lake Tahoe Blvd. No violations are seen at the Bijou School or Stateline, Nevada. There are no apparent trends. (See Location Map, Figure 1.)

-- More violations usually occur in the winter months. However, in 1982, there were several summertime violations. (See Figure 10.)
MEMORANDUM

March 20, 1985

To: The TRPA Governing Board

From: The Staff

Subject: Report on Apparent Discrepancies in Water Quality Analyses

Introduction

At the February Governing Board meeting, Mr. Haagen asked the staff to analyze apparent discrepancies between two water quality reports. One report, the Lake Tahoe Basin Water Quality Plan (California SWRCB, 1980), indicates there are 142 tonnes* of dissolved nitrogen per year entering the Lake from tributary streams. Another report, the Study Report for the Establishment of Environmental Threshold Carrying Capacities (TRPA, 1982), indicates there are only 10 tonnes per year entering the Lake through this route.

In addition, the draft Study Report (May, 1982) discusses the discrepancy between the 10 and 142 tonne/year estimates, but the final Study Report (October, 1982) drops this discussion and represents the SWRCB's estimate as 19 tonnes/year.

Specifically, Mr. Haagen asked the staff to determine whether TRPA's thresholds are based on incorrect information from the SWRCB's Basin Plan.

Response

The confusion over these various estimates stems from differing definitions of the term "dissolved nitrogen". There are two forms of dissolved nitrogen entering Lake Tahoe from its tributaries, dissolved inorganic nitrogen ("DIN") and dissolved organic nitrogen ("DON"). The inorganic forms come from precipitation, soil disturbance, fertilizers, and sewage. The organic forms come primarily from the breakdown of organic matter in the watershed.

* metric tons (1,000 kg or 2,200 lbs.)

DZ: jf
3/20/85

AGENDA ITEM VIII C.
Although DON is a large component of the Lake's annual nutrient load, monitoring of DON is technically difficult, data on DON are spotty, and the role of DON in algal production is not well understood. DIN is easier to measure, and most water quality data from Lake Tahoe and its tributaries represent DIN. Also, algae are known to utilize DIN readily. It is important to note that the nitrogen budget in the Threshold Study Report is based on DIN only. On page 4-20 of the Study Report, the authors discuss the "largely unknown" importance of DON to Lake Tahoe's water quality and explain their reasoning for not including this type of dissolved nitrogen in their conceptual model.

At the time of preparation of the draft Threshold Study Report, the authors assumed that the 142 tonne/year estimate in the SWRCB's Basin Plan included only DIN, since the Basin Plan was not clear. The draft Study Report (May 1982), therefore, dismissed the 142 tonne/year estimate as an erroneous result from a modeling process. Subsequent to the publication of the draft Study Report, however, the SWRCB informed the TRPA staff and consultants that the 142 tonne/year estimate included DIN and DON and that the annual DIN load was approximately 19 tonnes/year. The Study Report authors revised their final report to reflect this information.

The final Study Report also discusses the difference between its estimate of 10 tonnes/year and the previous TRPA and SWRCB estimates of 19 tonnes/year. Briefly, the 10 tonnes/year estimate is based on an extrapolation of actual tributary data on flows and concentrations, and is considered superior to the other estimates which were based on theoretical models.

Although the ambiguity in the SWRCB's Basin Plan created some temporary confusion for the authors of the Study Report, the issue was resolved in the final Study Report to the satisfaction of the staff and the Agency's consultant. In the staff's opinion, the existence of ambiguity in the SWRCB's Basin Plan does not mean that the TRPA's water quality thresholds were based on incorrect data, nor that the SWRCB's Basin Plan was based on incorrect data.

At the March Governing Board meeting, the staff will give a brief report on this issue and answer questions from the Board. Please contact Dave Ziegler at (916) 541-0249 if you have any questions or comments on this memorandum.