TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD AND COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on Wednesday, February 24, 1999, commencing at 9:30 a.m., the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at Harrah's Lake Tahoe, second floor convention center, U.S. Highway 50, Stateline, Nevada. The agenda is attached hereto and made a part of this notice.

Governing Board Committee items are action items unless otherwise noted.

NOTICE IS FURTHER GIVEN that on February 24, 1999, commencing at 8:30 a.m., in the same location, the Finance Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) receipt of the January 1999 financial statement and check register; 3) Suits v. TRPA, approval of Rule 68 offer; 4) revision of FY 98-99 operating budget; 5) Placer County request for air quality mitigation funds ($37,655) for North Shore trolley service in 1998 and $85,000 for bike trail projects; and 6) member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS FURTHER GIVEN that on February 24, 1999, commencing at 8:30 a.m., in the same location, the Legal Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Duffield, show cause hearing, Code violations, Washoe County APN 126-243-03; 3) Suits v. TRPA, approval of Rule 68 offer; and 4) member comments. (Committee: Cronk, Bresnick, Waldie, Sandoval, Miner, DeLanoy)

February 11, 1999

[Signature]

Jerry Wells
Deputy Executive Director

NOTE: Items on the agenda without a time designation may not necessarily be considered in the order in which they appear on the agenda.

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada, and Stateline and Al Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GID office, and the North Lake Tahoe Chamber of Commerce.
TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Harrah's Lake Tahoe
U.S. Highway 50, Stateline, Nevada

February 24, 1999
9:30 a.m.

All items on this agenda are action items unless otherwise noted.

AGENDA

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND DETERMINATION OF QUORUM

III. PUBLIC INTEREST COMMENTS (No Action)

Any member of the public wishing to address the Governing Board on any agenda item not listed as a Project Review, Public Hearing, RTPA, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, RTPA, Appeal, and Planning Matter items will be taken at the time those agenda items are heard.

NOTE: THE GOVERNING BOARD IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

IV. APPROVAL OF AGENDA

V. APPROVAL OF MINUTES

VI. CONSENT CALENDAR (see agenda page 3)

VII. APPEAL

A. John Graham/Charles Ebright, Appeal of Executive Director's Decision Regarding Banking of Commercial Floor Area; 3766 Montreal and 1091 Fern, City of South Lake Tahoe, El Dorado County APNs 29-342-01 and -04, TRPA File No. 980176

VIII. PUBLIC HEARINGS

A. Amendment of Map Showing Need for Water Quality Improvements Pursuant to Requirements of Chapter 37, Individual Parcel Evaluation System, Section 37.10.A, Installation of Water Quality Improvements in Vicinity of Parcels, El Dorado, Placer, and Washoe Counties

B. Amendment of Code Chapter 81, Water Quality Controls, to Provide for Minor Exemptions Related to the Prohibition of Certain Watercraft in the Tahoe Region

PAGE 55

PAGE 83

PAGE 99
IX. SHOW CAUSE HEARING

A. Duffield, Code Violations, Washoe County APN 126-243-03

X. PLANNING MATTERS

A. Notice of Preparation and Scoping, Environmental Impact Study for Incline Village General Improvement District, Proposed Ice Rink, Parasol Foundation Building, Conference Facilities and Offices, and Other Projects on the Property Identified as Washoe County APNs 127-040-07, 127-030-02, -15, and -16

B. Notice of Preparation and Scoping, Environmental Impact Statement for Sierra Nevada College, Modified Development Plan, Sierra Nevada College Campus, Washoe County APNs 127-040-08; 129-280-20 and -21; 124-02-16, -017, and -18, and 124-083-26; TRPA File #990011

C. Notice of Preparation, Environmental Impact Statement for Tahoe Keys Marina Master Plan, City of South Lake Tahoe, El Dorado County

D. Discussion on Movement of the Individual Parcel Evaluation System (IPES) Line in El Dorado and Placer Counties

E. Annual IPES/Land Capability Status Report

F. Report on Flood Plain Map and Related Code Requirements

XI. ADMINISTRATIVE MATTERS

A. Appointment of Nevada and California Lay Members to the Advisory Planning Commission

B. Status Report on FY 98-99 Overall Work Program

C. Resolution Establishing Tahoe Metropolitan Planning Organization (TMPO) and the TMPO Board of Directors

XII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee

B. Legal Committee

1. Suitum v. TRPA, Approval of Rule 68 Offer

C. Environmental Improvement Program Implementation Committee

XIII. REPORTS

A. Executive Director Monthly Status Report

1. Status Report on Project Applications
2. Status Report on Regional Revenue Source Study

B. Legal Division Monthly Status Report

C. Governing Board Members

XIV. ADJOURNMENT

<table>
<thead>
<tr>
<th>Item</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. January Financial Statement and Check Register</td>
<td>Receipt</td>
</tr>
<tr>
<td>2. Revision of TRPA Operating Budget FY 98-99</td>
<td>Approval</td>
</tr>
<tr>
<td>3. South Tahoe Public Utility District, A-Line Export Pipeline</td>
<td>Approval of Findings and Conditions</td>
</tr>
<tr>
<td>Relocation Project Phase III, El Dorado County</td>
<td></td>
</tr>
<tr>
<td>4. Release of Placer County Air Quality Mitigation Funds ($37,655)</td>
<td>Approval</td>
</tr>
<tr>
<td>for North Shore Trolley Service in 1998 and $85,000 for Bike Trail</td>
<td></td>
</tr>
<tr>
<td>Projects Pursuant to the March 1998 Placer County Master Plan for</td>
<td></td>
</tr>
<tr>
<td>Air and Water Quality Mitigation Funds</td>
<td></td>
</tr>
<tr>
<td>5. Sierra Community Church, Public Service Addition, 1165 Sierra</td>
<td>Approval of Findings and Conditions</td>
</tr>
<tr>
<td>Boulevard, City of South Lake Tahoe, El Dorado County APNs 31-191-08,</td>
<td></td>
</tr>
<tr>
<td>3, 12, and 19, and 31-193-04 and -05</td>
<td></td>
</tr>
<tr>
<td>6. Hatter Dynamics, New Commercial Building, 932 Incline Way,</td>
<td>Approval of Findings and Conditions</td>
</tr>
<tr>
<td>Washoe APN 132-231-14</td>
<td></td>
</tr>
</tbody>
</table>

These consent calendar items are expected to be routine and non-controversial. They will be acted upon by the Board at one time without discussion. The special use determinations will be removed from the calendar at the request of any member of the public and taken up separately. If any Board member or noticed affected property owner requests that an item be removed from the calendar, it will be taken up separately in the appropriate agenda category.
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 require 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
TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD  

North Tahoe Conference Center  
Kings Beach, California  

January 27, 1999  

REGULAR MEETING MINUTES  

I. PLEDGE OF ALLEGIANCE  

Chairman Larry Sevison called the regular January 27, 1999, meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:35 a.m. and asked Vice Chairman Don Miner to lead in the Pledge of Allegiance.  

II. ROLL CALL AND DETERMINATION OF QUORUM  

Members Present: Mr. Waldie, Dr. Miner, Mr. Sevison, Mr. Heller (present after action on item VI), Mr. Davis, Ms. Bennett, Mr. Cronk, Mr. Perock, Ms. Neff, Mr. Galloway, Ms. Bresnick, Mr. Sandoval, Mr. Solaro, Mr. DeLanoy  

Members Absent: Mr. Neumann  

Chairman Sevison welcomed Tom Davis, sitting in for Hal Cole of South Lake Tahoe, and new Board members Dave Solaro, from El Dorado County, and Brian Sandoval, the Nevada at-large member.  

III. PUBLIC INTEREST COMMENTS  

Incline Village resident Don Kornreich commented on anticipated completion of $27 million in water quality projects in Nevada over the next six years; on the Conservation District's involvement in project implementation using Nevada bond monies; and on the District's bio-mass grant and backyard conservation program (handout). He advised he would be moving away from the Incline area within the year, and Mr. John Carney would be following up and keeping an eye on public transportation issues.  

Board member Galloway recognized Don Kornreich for his past work and noted that Don had just been named volunteer of the decade by the Incline Village/Crystal Bay Chambers of Commerce.  

Board members added their compliments to Don for his years of service.  

Mr. Phil Gilanfarr commented on the specificity of flood plain maps used by staff and applicants in project submittals and staff's reliance on Army Corps-approved maps. Because the Corps had advised him that it was no longer updating maps, Mr. Gilanfarr asked that the Board direct staff to review the floodplain mapping policy to allow staff to recognize and work with applicant-prepared floodplain maps.  

Executive Director Jim Baetge advised that staff would bring the Board a report at the February meeting on the issues raised by Mr. Gilanfarr relative to floodplain maps and the Agency's requirements.
IV. APPROVAL OF AGENDA

Mr. Galloway asked that items XII.C.1. (Request for Reconsideration of Denial of Bear Ridge Developers Appeal of Staff Determination, Washoe County) and IX.B. (Bear Ridge Developers Appeal) be pulled from the agenda at the request of the appellant.

MOTION by Dr. Miner to approve the agenda as modified. The motion carried unanimously.

V. APPROVAL OF MINUTES

MOTION by Mr. Cronk to approve the December 16, 1999, regular meeting minutes as presented. The motion carried with Mr. Davis and Mr. Sandoval abstaining.

VI. CONSENT CALENDAR

Ms. Bennett noted the Finance Committee at its morning meeting recommended approval of items 1 through 4 on the consent calendar.

Mr. Cronk advised that item 3 (retention of Agency Special Projects Attorney) was to be continued at the request of the Legal Committee.

MOTION by Ms. Neft to approve the consent calendar with the exception of item 3. The motion carried unanimously.

(The following items were approved:
1. December Financial Statement and December Check Register
2. Resolution Amending the TRPA/Caltrans FY 1998-99 Overall Work Program (Amendment #2) (RTPA Resolution No. 99-1)
4. RTPA Resolution Allocating FY 1998-99 Local Transportation Funds ($336,941) to Placer County for Operating Assistance For the TART System (RTPA Resolution No. 99-2)
5. Podel, Expansion of Existing Pier and Plan Revision, 658 Olympic Drive, Placer County APN 094-263-03, TRPA File No. 980272
6. North Tahoe PUD, Water-Oriented Outdoor Recreation Concession, Special Use Determination, Kings Beach Recreation Area, Placer County APN 90-060-04

The following item was continued to the February meeting:
2. Retention of Agency Special Projects Attorney)

(Mr. Heller came into the meeting.)

VII. PUBLIC HEARINGS

A. Amendment of Chapter 73, Livestock Grazing, and Chapter 2, Definitions, Relative to Grazing and Livestock Containment practices

Using an overhead projector, Senior Planner Joe Pepi presented the proposed amendments and discussed previous meetings and workshops, the Board's earlier discussion on separating grazing from livestock containment facilities, the availability of technical and financial assistance to complete the best management practices required in the regulations, implementation cost estimates, livestock numbers in the Basin, the potential role of the Natural Resource Conservation Districts in designing and implementing grazing plans, various alternatives to restrict grazing animals from riparian areas (fencing, collars), and the earlier vote by the Advisory Planning Commission
(APC) on the amendments. In his comments, Mr. Pepi described specific grazing allotments and plans, the APC's concern that a monitoring plan be a part of the grazing management plan, TRPA's commitment to seek monitoring funding, staff's recommendation for implementation of BMPs on all properties including single family homes and commercial properties, required compliance for commercial stables (Cascade, Ponderosa, Camp Richardson, and Zephyr Cove), how the proposal would affect the Tahoe Wildlife Care facility in Meyers, the possibility for alternative BMPs provided water quality standards were met, Tahoe's status as an Outstanding Natural Resource Water, and Chapter 81 water quality nondegradation standards. The Board members discussed the economic impacts to property owners in implementation of management plans.

Mr. Gordon Barrett, Chief of Long Range Planning, advised that TRPA was not attempting to eliminate the grazing uses in the Basin. As with any use, however, they needed to implement Best Management Practices to address their impacts on Lake Tahoe. Casinos were putting in drainage systems as were individual property owners. Everybody had to play a part. Four of the nine grazing operations identified in the staff summary were Forest Service operations, and the Forest Service was requiring its permittees to address this. The private Barton Meadows operation was already implementing a good plan, in cooperation with NRCS. The NRCS did have a role to play. The APC's concerns were addressed in the proposal now before the Board, including the ability to propose alternative BMPs. The Board's earlier request for more information on the effect of the required plans on individual operations was included in the staff's summary.

The Board and staff discussed the existence of industry standards for grazing management plans, the accuracy of staff's fencing cost estimates, monitoring results, individual allotment evaluations, availability of funding for smaller land owners, the accuracy of coliform data, the level of significance of livestock and grazing impacts in relation to fertilizer use and overall loading of nutrients to the Lake, the cost of implementing regulations for the benefit gained, and funding availability for the BMP retrofit program through Lahontan and through the NRCS Backyard Conservation Program.

Mr. Bill Snodgrass, El Dorado County Agricultural Commissioner, distributed a handout containing several letters and discussed the availability of NRCS funding for the larger operations. He did not agree that cattle grazing contributed to pollution of Lake Tahoe. Although grazing was an important part of Tahoe's heritage, it was a declining industry. With regard to industry standards, before granting a grazing allotment lease, the Forest Service required a rancher to sign an agreement setting forth grazing conditions. Using an overhead projector, Mr. Snodgrass addressed the scientific data and compared the increased levels of impacts to the Lake from residential development with grazing impacts. While he would not suggest there was no pollution from livestock, it was not at the levels as presented previously. Mr. Snodgrass responded to Board member questions about industry standards, habits of grazing cattle, the level of significance on streams from cattle grazing, the financial hardship being imposed on cattle grazers with the plan preparation and implementation requirements, and the value of cattle grazers as stewards of the land. He noted he had strong feelings about the clarity of the Lake and had done everything to insure that the Lake's water quality was not degraded. This was also the position held by cattlemen as a whole. The proposed amendments to Chapter 73 and Chapter 2 were very restrictive and costly to implement.
Ms. Bennett noted that the NRCS would have a strong role to play in implementation of these plans. NRCS needed to be involved in the Basin and particularly on this kind of issue. A strong case could be made to NRCS with TRPA’s support to resolve the issue of plan implementation without creating an undue burden.

Ms. Frances Cole read a statement into the record, noting that the grazing issue was originally brought forward to deal with commercial grazing activities. Because of its broad interpretation, however, it would negatively affect pet owners. Local zoning dictated that hoofed animals, primarily horses, only be kept on or adjacent to meadows, not in traditional backyards. The ordinance would impose further requirements for confinement facilities already considered sufficient under the existing ordinances. She urged the Board to deal with grazing and animal confinement separately and raised questions and issues related to private containment of animals, proximity of golf courses to SEZs and fertilizer use in SEZ areas, the cost and impacts of retrofitting an already approved containment facility, giving leniency to existing TRPA-approved facilities and exempting all containment facilities not used for commercial purposes. Most animal owners were conscious of how precious Lake Tahoe was and were good stewards of the land.

Mr. Dave Roberts, for the League to Save Lake Tahoe, noted much of the past opposition had been curtailed. There were several Code chapters that would address the animal impact problem. If $900 million was going to be spent on the EIP improvements, it made sense to address the impacts of grazing. There was buy-in and recognition of the problem by the Forest Service, the NRCS, and Lahontan. Problems with grazing and coliform were national problems. Stream exclusion was not unique to Lake Tahoe and was being discussed across the country. The impacts from pets should not be separated out, since BMP retrofit was required of all property owners and uses. The rules needed to be consistently applied.

Mr. Robert Brown, South Tahoe resident, introduced Shirley Taylor, owner of the Celio Ranch, and asked her to comment on costs involved for the smaller rancher.

Ms. Shirley Taylor, owner of Celio Ranch, explained the requirement under the proposed ordinances for her to submit a management plan by 2001. She was concerned with the availability of funding to assist the small grazer and the requirement for and repeated TRPA scrutiny of an annually required management plan (Section 73.3.B. Confirmation of Plan). Her plan was 80 percent completed now and she did not know how extensive additional fencing requirements would be. She commented on the 135-year heritage of her ranch and efforts over the years to preserve the grazing use and buildings through zoning and management practices. Because of the regulations, she was concerned that by 2001 there would be only four grazers left.

Mr. Robert Brown noted that Ms. Mary Lou Mosbacher, an interested pet owner, was unable to be present. He asked that the matter be continued to a South Shore meeting.

Mr. John Cobourn, hydrologist and water resource specialist with UNR Cooperative Extension, noted he had done his hydrology Master’s thesis on cumulative watershed effects, the essence of non-point source pollution. The basic concept of nutrient pollution was that every single source of nutrients must be addressed; they all added up and accumulated. Small sources happened on all properties and on grazing. They
added up to big impacts which were killing Lake Tahoe. Nutrient pollution did not come from just a single source but from all who lived and recreatated at Tahoe. He had been working with BMPs for agriculture and grazing since 1993 and had authored a book called "The Small Ranch Manual." He had written this because grazing BMPs were required all over the country due to the cumulative effect of nutrients from that activity. The book was being used by the governmental entities overseeing the Carson and Truckee Rivers in Nevada to deal with the recognized problems of agricultural pollution caused by grazing. Mr. Cobourn presented more details on his specific recommendations regarding stream fencing, pasture management, animal waste management, livestock containment facilities, and avoidance of over-grazing.

Ms. Shirley Giovacchini, owner of 60-head of cattle grazed on 2,000 acres in the Basin, explained her cattle did not spend an inordinate amount of time in the streams. They drank from the streams as needed and returned to the trees.

Mr. Lou DeBottari, from Carson City, suggested that single family units caused a lot of pollution. Much of the point source that people were talking about came from air pollution that ended up in the water after the snow melt. The phosphorous that was found in testing results did not come from cows but rather from wood burning stoves.

Mr. Robert McDowell, for the U.S. Forest Service, spoke in support of the proposed amendments, particularly as they related to grazing on the National Forest. A Forest Service specialist was involved in the drafting deliberations. In spite of what TRPA did, the Forest Service was committed to achieving its goals for the Region. The Forest Service and TRPA goals were the same. Economics did play a part in the decision on what types of BMPs would be implemented. The Forest Service currently had a monitoring program in place for all National Forest activities. Mr. McDowell responded to Board member questions.

**MOTION** by Mr. Galloway to separate out and continue to February Board action on the grazing portion of the amendments. Staff would not bring back the domestic animal regulations until such time as staff had consulted further with affected residents to attempt to reach some consensus. This would be followed by APC discussion and recommendation.

Chairman Sevion suggested the Board needed to address conflicts encountered by already approved operations and the proposed ordinance. There should be a way to deal with that.

Mr. Baetge explained that this concern was already addressed by permitting submittal of alternative BMPs. The animal confinement issue could easily be separated so that the Board could act on grazing today.

Mr. Galloway suggested his one concern related to the onerous condition requiring the preparation of the management plan. He asked staff for more information.

Mr. Pepi explained that the Forest Service prepared an annual monitoring report to see whether the plan in place was working.
Mr. Baetge suggested that, under the Clean Water Act and every provision related to water quality, there was some reporting requirement, although the time periods for monitoring varied.

Mr. Galloway explained he had no problem with the annual reporting; his concern was the plan. The Agency already had the ability to deal with a noncompliance situation.

Mr. Pepi explained that Section 73.3.B was written with a view toward letting the property owner write his own plan. If it were adequate, the owner would not need to get assistance from anyone else. Only one plan was required; it was not an annual requirement. The reporting requirement was an annual one, however.

Mr. Galloway suggested Section 73.3.B be further amended to refer to "Confirmation of Initial Plan." After making appropriate findings, his motion would be to delete domestic animal references, to retain grazing operation regulations, and to clarify Section 73.3.B as discussed.

**MOTION** by Mr. Galloway to make the findings for approval of amendments to Code Chapters 2 and 73. The motion carried unanimously.

Agency Counsel John Marshall itemized changes to the ordinance as follows: 1) in the title delete "And Livestock Confinement"; 2) Finding 1.10 delete in fourth line "and livestock confinement"; 3) Section 73.1 delete in third line "and containment facilities including those used for domestic animal grazing as defined in Chapter 2"; 4) Section 73.3.B. to read "Confirmation of Initial Plan"; 5) Section 73.5 delete all changes (referring to domestic animal raising) and retain as currently worded; 6) Chapter 2 amend Livestock Containment Facilities to delete changes and return to original wording; 7) Section 73.2J delete "and domestic animal raising."

Ms. Bresnick explained she was not supportive of separating out the grazing from livestock containment. She would, however, vote in favor of the motion. If the second part was being taken out, Section 73.1 should be amended to delete, "or best management practices (BMP)," since they related to domestic facilities and not to grazing.

**MOTION** by Mr. Galloway to adopt Ordinance No. 99-1 with amendments as discussed and further amended, if necessary, to delete all references to domestic animal regulations.

Mr. Cronk asked if a few head of domestic cattle were excluded from the ordinance.

Ms. Bresnick responded that if they were not a commercial operation they were not addressed in the ordinance.

Mr. Cronk clarified that the dividing line appeared to be commercial v. non-commercial.

The motion carried unanimously.
MOTION by Mr. Galloway to direct staff to invite the public to a meeting for further discussion on the domestic animal issue in an effort to reach some kind of consensus. Following that, the proposal would be taken through the APC process before coming back to the Board.

Deputy Executive Director Jerry Wells explained that the APC had reviewed the ordinance amendments seven months ago. The proposal had changed since that time and should, out of fairness, be taken back to the APC for recommendation.

Ms. Bennett asked that the domestic animal issue come back in six months or less.

The motion carried unanimously.

Agency Counsel John Marshall read the ordinance by title:

"An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending the Regional Plan of the Tahoe Regional Planning Agency; Amending Chapters 73 and 2 of the Code of Ordinances Relating to Grazing and Providing For Other Matters Properly Relating Thereto"

C. Amendment of Round Hill Community Plan to Transfer in Bonus Tourist Accommodation Units From Kingsbury Community Plan

No one wished to comment in the public hearing.

MOTION by Dr. Miner to make the appropriate findings for the amendments to the Round Hill and Kingsbury Community Plans. The motion carried unanimously.

Chairman Sevison read the ordinance by title:

"An Ordinance Amending Ordinance No. 87-9, as Amended, by Amending the Regional Plan of the Tahoe Regional Planning Agency; Amending the Roundhill and Kingsbury Community Plan to Transfer Bonus Tourist Accommodation Units From Kingsbury to the Roundhill Community Plan, and Providing for Other Matters Properly Relating Thereto"

MOTION by Dr. Miner to adopt Ordinance No. 99-2. The motion carried unanimously.

The meeting recessed for a lunch break 12:00 – 1:10 p.m. The Environmental Improvement Program Implementation Committee (EIPIC) met during the lunch recess.

B. Amendment of Code Chapter 81, Water Quality Controls; and Goal #2, Chapter 2, Water Quality Subelement, of the Goals and Policies Plan to Clarify the Prohibition of Certain Watercraft in the Tahoe Region

Mr. Gordon Barrett, Chief of the Long Range Planning Division, outlined the topics for discussion, including background, Board action, the impact analysis, analysis of possible exemptions, and the staff and APC recommendation (copy distributed). The Board in June 1997 adopted a prohibition on carbureted two-stroke engines commencing June 1, 1999. As a part of that action, the Board had numerous discussions in the summer and
fall of 1997 about possible exceptions and exemptions and litigation. (Attorney Clem Shute, with the firm of Shute, Mihaly and Weinberger, the firm defending TRPA in the watercraft litigation, was present to assist the Board on this agenda item.) The Board agreed earlier that upon conclusion of studies the Agency would look at the results to see if changes to the ordinance were appropriate. After considerable discussion at the last two meetings, the Board directed that staff analyze exemptions for certain situations. Mr. Barrett described the specific recommendations and briefly addressed the findings outlined in the Environmental Assessment in the packet mailing.

The major findings from all the studies, testing and monitoring determined that discharge of petroleum products occurred from boating, and this discharge of pollutants generally occurred during the boating season in the summer and faded out to non-detects in the winter. Stream monitoring verified that pollution was not coming from the land. The studies further found that carbureted two-stroke engines were the major source at a magnitude of 10 times more than four-stroke engine technology. Twenty-five percent of the fuel went out the back of the machines unburned. The California Air Resources Board (ARB) recently certified new regulations confirming these same facts. Through use of overhead projections, Mr. Barrett presented more information about impacts from boating and pollutants, EPA and ARB regulations, exemptions analyzed by staff, significant v. insignificant levels of discharge and mitigation for exemptions, the need for action at this meeting in anticipation of the 1999 boating season, additional requests for exemptions, and staff’s recommendation. The addition of the third exemption to the June 1, 1999, prohibition (as set forth in the staff’s and APC recommendation) was contingent on support for it from the manufacturers and those suing the Agency. Without that support, staff would not recommend its inclusion.

The staff and Advisory Planning Commission recommendations were as follows:

812.6 Prohibition of Certain Watercraft: Commencing June 1, 1999, the launching, mooring, or operation of all two-stroke engine powered watercraft within the Region is prohibited, except:
1. Any two-stroke engine powered watercraft whose fuel is directly injected into the cylinder shall be exempt from the prohibition;
2. Any watercraft powered by a two-stroke engine whose fuel is injected in to the crankcase prior to entering the cylinder and was purchased before January 27, 1999, shall be prohibited commencing October 1, 2001.
3. Any watercraft powered by a two-stroke engine whose engine is certified by Environmental Protection Agency as meeting the U.S. EPA 2006 standard or is certified by California Air Resources Board as meeting the CARB 2001 standard shall be exempt from the prohibition.

Mr. Shute explained that there had been discussions with the watercraft industry on the litigation. The concept set forth in item 3 was not the same one staff had been following earlier. Substantively there was no objection to it, but he did not want TRPA to accept it unless the industry was requesting it and urging its inclusion in the ordinance. It would be a big step toward resolving the litigation. It was not a compromise on the protection of Lake Tahoe’s water quality and did not weaken the ordinance.

Executive Director Jim Baetge stressed the importance of the Board taking action today to establish the final rules for the upcoming summer boating season. Staff would be gearing up to deal with the June date, and it was critical for the public to know what the Agency’s position was.
Mr. Jerry Stewart, a 20-year Incline resident, asked that the Board consider an exemption for his small two-cycle 8 horsepower motor. TRPA's figures showed that of all the two-cycle pollution, motors of less than ten horsepower accounted for less than 1.6 percent of the problem. Without such an exemption, TRPA would be causing tremendous economic hardship for hundreds of boat owners. His motor weighed 57 pounds. He could lift it; he could not lift an 80 pound motor. He urged the Board to exempt small two-cycle engines under ten horsepower.

Mr. Larry Hoffman, representing boat users, boat owners, and concessionaires in the lawsuit, commented on boat use in the Basin; the lack of grandfathering or exemptions in the existing ordinance; TRPA's effectiveness in focusing local, state, and national attention on boating issues and MTBE; the effect on boat owners with implementation of the ban in June 1999; the need to deal fairly with those who had relied on government in the past; and the need for phased application of rules on a prospective not retroactive basis. The boater was not the enemy; people needed to be educated so they could comply. The concessionaires served the tourists and the visitors; they were not the problem and were doing all they could to acquire the new technology. Mr. Hoffman presented more information on the specific machines being produced for the summer boating season, suggested the Board look at a mid-course correction and allow a phase in of the newer technology, and rely on CARB to be the regulator.

Mr. John Fagan, on behalf of the National Marine Manufacturers Association (NMMA), distributed a January 27, 1999, letter to the Board on the proposed amendments. He noted his organization was a plaintiff in the litigation against the Agency and had consistently opposed any regulation on two-stroke engines. There was no reasonable basis for regulation or a ban. More headway could be made with negotiation and he preferred that TRPA adopt the CARB and EPA emissions regulations and use the experts' findings. Mr. Fagan presented a summary of events dating back to the Shorezone Policy Committee consideration of impacts of personal watercraft in November 1996, and the initial concern with the noise nuisance and safety issues. His remarks covered the Board's deliberations, scientific data presented by experts, the findings of the European-commissioned T&O Industrial Research Study, findings from the motorized watercraft study group report on MTBE and BTEX, and what he would need to settle the litigation. He noted that his letter set forth needed elements for a settlement, including exemptions for direct injection engines, electronic fuel injection engines, watercraft powered by engines meeting EPA's 2001 emissions standard (to be allowed until October 1, 2001), and engines meeting either CARB 2001 or EPA 2006 emissions standards in perpetuity. His clients would settle with these exemptions in place. He had sent this information to staff in a January 19 letter and asked at the same time for certain exemptions. He wanted the discussion to stay open for possible exemption on trolling motors and for auxiliary motors on sailboats. What was proposed by TRPA staff and what was acceptable to his client had changed. The hang-up seemed to be watercraft meeting EPA 2001 emission standards (item (ii) in his January 27 letter). These engines constituted approximately a 35 percent reduction from the 1998 baseline standards. This was significant and allowed phasing in the ban and greater enforceability. Mr. Fagan asked that the findings in the adopting ordinance be amended to delete reference to "toxic" pollutants. As testified earlier, toxicity depended on levels of concentrations. He asked that the Board not adopt this wording because of its significant ramifications. He would not agree to any settlement that presumed there were toxic emissions from boats. The Agency's own findings undermined that; concentrations from engines were not toxic. He preferred reference to "emissions of
hydrocarbons and NOX," an emissions-based ban and not something based on technology. Mr. Fagan responded to questions about study results on PAHs and toxicity, the industry's understanding of emissions, the industry's position on regulations at Lake Tahoe in comparison to elsewhere in the country, the difference in the various exemption proposals, his preference for standards tied to emissions, and his concern that wording was not clearly exempting the Bombardier RFI technology.

Agency Counsel John. Marshall explained that staff's proposal number 2) would address the exemption for the Bombardier engines that had already been purchased. Staff did not know what the impacts were for a carbureted two-stroke engine with a catalytic converter added on, and, based on its impacts, what mitigation package would be appropriate. Staff had not received any information from Mr. Fagan or from EPA on this option and had therefore not brought it forward as an exemption.

Mr. Fagan noted that item 2 as worded by staff did not meet Bombardier RFI technology. His (ii) option met that concern as it did the Yamaha catalytic converted two-stroke that was 60 percent cleaner. Mr. Fagan suggested that (iii) as he had worded it was much clearer and would give better direction to the consumer.

Mr. Shute explained that staff had stated clearly that item 2) in staff's proposal would cover the engines of concern to Mr. Fagan. This was in the record that would be presented to a federal court. There was no way TRPA could interpret this language differently in the future.

The Board members, staff and Mr. Fagan discussed the various options presented by staff and the industry.

Mr. Mark Sentyrz, North Shore concessionaire, explained he had purchased Bombardier two-stroke fuel-injected machines based on earlier statements by former Board member Steve Wynn. He had promised also to purchase more of these machines. Typically he turned these machines over after a number of years, but he now was faced with the problem of not being able to sell his 1997 two-stroke carbureted machines. He could not afford the new machines, which cost $7,000 to $9,000 each, without getting rid of the old machines. Staff was proposing exemption for machines purchased before January 27, 1999; he, unfortunately, had made commitments to buy these machines from his dealer and he would not be taking possession of the machines until May. He and his employees had spent money training on these new machines, and he had parts and service contracts lined up. He preferred a simple sticker program to identify acceptable machines. There was no dealership support for models produced by Polaris and Arctic Cat. Option (iii) as proposed by Mr. Fagan would work for him.

Mr. Dan Siegel, with the California Attorney General's office, commented on Tahoe as a special place and spoke in support of TRPA's efforts to protect the Lake. His office supported staff's recommendation, particularly in light of the evidence on impacts of these machines and MTBE and benzene emissions on Lake Tahoe and on drinking water. Even though toxins may dissipate, in areas of high watercraft use concentrations of MTBE and benzene were found to exceed drinking water standards in areas of drinking water intake lines. The occurrence of high watercraft use near drinking water intake lines could result in contamination. Even smaller engines in the Lake emitted 237 gallons of MTBE each year and sailboat auxiliary engines put in 108 gallons of MTBE.
each year. It would be sending the wrong message to weaken the ban by adopting these exemptions.

Mr. Larry Trippett, from Incline Village, discussed the Board's actions in 1996 and 1997 and steps taken to study the impact of two-stroke engines on Lake Tahoe. Pollutants were detected in high boating areas but were found to be below health and safety thresholds. In mid-lake, at great depths, and in the winter, they were undetectable. He did not feel what was going on in the Lake warranted the existing ordinance or exemptions. He favored a repeal of the existing ordinance. Clean engines were coming, and there was no crisis that justified the ban.

Mr. Russell Anders, representing "Joe consumer little guy," noted he was on the Lake 20-30 hours per week during the summer and had been involved in the process over two years. He had earlier presented results of his study on two-stroke engines. Mr. Anders commented on erroneous information presented to the Board by former Board member Steve Wynn. The Agency's APC studied the environmental assessment and threw it out because the ban was not supported. The boating season was 90 days long, and the only solution to MTBE contamination throughout the State was for CARB to tell the manufacturers to get it out of gasoline. He opposed the ban on two-cycle engines because of the circus atmosphere surrounding the process. Mr. Anders commented on findings from studies conducted by public health agencies and the fact the results were overlooked because of the circus atmosphere created by Mr. Wynn. Two-cycle engine emissions were not affecting water clarity of the Lake; clarity was a nutrient issue based on nitrates.

Mr. Waldie, a member of the Shorezone Policy Committee, suggested Mr. Anders' comments about Mr. Wynn were uncalled for. He did not want the record left without a repudiation from at least one member who believed that Mr. Wynn's activities on this issue were motivated by a sincere belief in the validity of his position. The personal attack on Mr. Wynn was undeserved.

Mr. Bob Hassett, Action Water Sports, presented the Board with information on the new 60 percent cleaner Yamaha engines. The Seadoo was 35 percent cleaner. Out of fairness, if the Board were going to allow the Seadoo, the Yamaha should be accepted as well. He personally was going with the Polaris machines. He was concerned that marina operators were being relied on to enforce the Agency's new rules and ban. He operated Meeks Bay and Timber Cove Marinas, and he did not want to have to accept the responsibility of being the bad guy by prohibiting people from using his ramp to get out on the Lake. It was not fair to put the marina operators in that position. There was also a concern with liability and potential lawsuits naming him for turning people away.

Mr. Dave Roberts, for the League to Save Lake Tahoe, noted this was a local issue, and the ordinance applied only to Tahoe. Constituents were not only the boat owners but the public. President Clinton expressed a national commitment and concern that Tahoe be protected. Regulations should be strict. Tahoe was an outstanding body of water both nationally and internationally. The League supported the existing ordinance and banning engines under 10 horsepower, engines that were the dirtiest. Frequency and duration of use were not the issue; it was impact on the water. The ordinances were designed to protect the environment. He responded to Board member questions about data on pollution from smaller engines.
The Board members discussed an exemption for new watercraft purchased before January 27, 1999, certified as meeting EPA's applicable 2001 emission standards with purchase defined to include orders secured before that date with a non-refundable deposit.

Ms. Carol Boughton, a member of the motorized technical advisory committee and representing U.S.G.S., clarified that studies done by Dr. Jim Orris clearly indicated that on the two species used as test species there were acute and chronic toxicity issues associated with PAHs. She also commented on the results of MTBE and BTEX findings as set forth in the study group report.

After a brief recess, the Board discussed possible action, the status of the litigation and potential for settlement, Mr. Fagan's requested exemptions, and lack of currently available environmental documentation to support an EPA 2001 exemption.

Mr. Shute advised the Board that the Federal court had expected TRPA to take action in December. Because of the difficulty in bringing together all the studies, he had advised the judge that action could be taken in January. The court at some point would be concerned with the plaintiffs' rights to have the matter adjudicated. He urged the Board to take some action today. A status conference with the court was scheduled for the middle of February. If some headway was made toward settlement, there could likely be some agreement among the parties to continue the case. He and staff had no objection to the CARB 2001 exemption as set forth by Mr. Fagan in his January 19 letter if it was part of an overall settlement. He did not want it to be accepted, however, unless it was part of an overall package that settled the litigation. He recommended the Board discuss the EPA 2001 issue (iii in Mr. Fagan's letter) and the questions of whether there should be other exemptions for less than 10 horsepower and sailboat engines. He suggested that the Board adopt staff's recommendations 1) and 2) and direct staff to discuss the balance of the various options. This would satisfy the requirement that action be taken.

Mr. Galloway explained he would not vote on anything that did not include the exemptions he had earlier asked for.

Mr. Marshall suggested that the staff and litigants could discuss (iii) in Mr. Fagan's letter. He urged the Board to reach closure on the other exemptions (under ten horsepower and sailboat engines), because at this point staff and plaintiffs were totally at odds. There was no negotiating these points absent Board direction. He felt that the ordinance as adopted earlier and the staff-recommended proposal were very defensible. The Board's judgment should not be swayed on what it would take to settle the lawsuit. The Board should decide the exemptions independently from the lawsuit.

Ms. Bennett read an excerpt from a January 27 Reno Gazette Journal article on the importance of TRPA's reaffirmation of the two-stroke watercraft ban for the protection of Lake Tahoe.

MOTION by Ms. Bresnick to adopt staff and APC recommendations 1), 2), and 3) plus adding language to 2) that would define purchase as including contract purchase entered into before January 27, 1999.
There was considerable discussion on clarifying the motion and the impact it would have on various types of engines.

**AMENDMENT** by Mr. Galloway to include exemptions 1. and 2. on page 78 of staff’s packet materials (1. Exempt sailboats utilizing carbureted two-stroke engines as auxiliary power until October 1, 2001; and 2. Exempt watercraft using outboard carbureted two-stroke engines under 10 horse power and under until October 1, 2001).

Mr. Waldie explained that his vote on the amendment did not reflect what his vote may be were the amendment at a later date to become part of a settlement offer. Part of the ammunition for a settlement may be an amendment of this type. He likely would vote against the amendment because he did not want to remove from counsel these provisions for a proposed settlement.

The Board members discussed giving staff direction on which options were negotiable and the possibility of having Mr. Fagan, Mr. Hoffman, staff, and legal counsel meet outside the room to see whether they could come to some agreement.

Ms. Bresnick withdrew her motion.

Mr. Galloway withdrew his amendment.

**STRAW VOTE** on whether the two exemptions addressed on page 78 in the staff report (1. Exempt sailboat auxiliary engines and 2. Exempt outboard carbureted two-stroke engines 10 horse power and under) could be used as negotiating tools. Hands raised in favor: Davis, Sandoval, Solaro, Galloway, Neft, Bennett, Waldie, Cronk, Miner, Perock, Sevison. Hands raised in opposition: Heller, Bresnick, DeLanoy.

As a result of the straw vote, Mr. Sevison advised that the majority of the Board members were willing to use these two exemptions as negotiating options.

The Board moved on to agenda item VIII.C. (Staff, Agency Counsel, Mr. Shute, Mr. Fagan and Mr. Hoffman left the room to discuss the options as directed by the Chairman.) (See page 16 of these minutes for more action on item VII.B.)

VIII. PLANNING MATTERS

C. Status Report on NDOT Phase II Master Plan

Planner Kara Russell distributed a Tahoe Counterparts Newsletter prepared by NDOT and introduced NDOT representatives.

NDOT Chief Hydrology Engineer Emir Soltani summarized NDOT’s plans for the Tahoe Basin for the next several years and its intent to spend close to $29 million on water quality and erosion control projects in the Tahoe Basin over the next four years. He summarized the list of projects, the funding sources, and the tight construction schedule. Funding was coming from Forest Highway Funds and from the Department of Highways discretionary funds. The funds were to be obligated by September of 1999. Phase I of the Master Plan started in 1995 and saw the completion of a $2 million water quality demonstration project in 1996. NDOT then started a master planning process for SR 28 and finalized plans for Highway 50 from Spooner Summit to Zephyr Cove. Phase II of
the Master Plan started in June 1998 and would include finalization of the design on SR 28 by September 1999 at a cost of $7.5 million. NDOT was also looking at the possibility of constructing 150 parking spaces in five different locations off of SR 28. NDOT had been working with TEAM Tahoe, TRPA, the Forest Service and many others over the last year on this. The overall cost of building these spaces was in excess of $850,000. In his remarks Mr. Soltani addressed the planning and project proposals, tentative construction schedules, funding and costs, maintenance and repairs, partnering with over 40 agencies, and public involvement.

The Board complimented NDOT for its leadership in these improvement efforts.

A. Finding That the City of South lake Tahoe, El Dorado County, Placer County, Carson City, Washoe County, and Douglas County Have Demonstrated a Commitment to Assume Their Fair Share Responsibility to Provide Low and Very Low Income Housing

Senior Planner Paul Nielsen presented the staff's recommendation that findings be made by the Board for the local jurisdictions as outlined in the packet materials. The Board was asked to review whether the finding could be made for each jurisdiction on an annual basis in order to allow subdivisions to occur in preferred affordable housing areas. In recommending the finding, staff looked at policy programs and physical affordable housing improvements (new units and/or physical upgrade of existing units). In the future, staff felt it may be necessary to evaluate the effectiveness of the policies and programs and actually provide affordable housing. By continuing to allow subdivisions in preferred affordable housing areas, the available land base for future affordable housing was being reduced.

Ms. Pat Fowler, Director of La Comunidad Unidad in Kings Beach, explained she had some questions about housing in Placer County and would be working with the county to get clarification. She expressed concern for low and very low income residents and the conditions under which they lived. She asked that the Board give staff some direction on what the guidelines and criteria would be, so her group could join with the county to improve the success rate of low income housing efforts. She questioned whether anything had been done by TRPA to assist with a community-wide effort to increase available housing. She urged the Board to give staff direction on developing guidelines and criteria. Her group did not want to wait a year only to find out that there was something that the community could have done earlier.

Mr. Sevison explained that typically a project would come forward and the Agency would tailor amendments to make the project function. What was needed was the beginning outline of a project. He encouraged Ms. Fowler to meet with Placer County's redevelopment people and Ron McIntyre, of the Resort Association, to come up with a skeleton program. He would be glad to assist Ms. Fowler with what he could do to further this program. One other thing to do was look at employee housing as a subsidy for that process. The problem was that the private sector was not always willing to get involved in this because there it was not a big money-maker.

Mr. Nielsen explained that the existing report would be used as a starting point for setting up guidelines. In Kings Beach specifically, the primary focus would be to evaluate those units that had been upgraded and to look at units that had incomplete plumbing and kitchen facilities.
MOTION by Dr. Miner to make the findings that all jurisdictions had demonstrated a commitment to assume their fair share responsibility to provide low and very low income housing and to reconsider the finding for December 31, 1999. The motion carried unanimously.

F. TRPA/RTPA Resolution Amending the 1998 Regional Transportation Improvement Program (RTIP)

Chairman Sevison noted the Board was also meeting as the Regional Transportation Planning Agency for this item.

Transportation Planner Richard Wiggins advised that the Finance Committee had earlier recommended approval of this item. In February 1998, the Board adopted an RTIP that allocated $7.8 million. The Board was now acting on an additional $2.2 million. Mr. Wiggins distributed and described a handout listing projects and planning programs which would use the $2.2 million. He noted that the RTIP was being expanded to include Nevada projects and getting in line for the Metropolitan Planning Organization process. The $10 million for transportation projects was very significant and should go a long way towards improving water and air quality. Mr. Wiggins responded to questions about getting a fueling station for TART for natural gas buses and funding for an Echo Summit project.

MOTION by Dr. Miner to adopt Resolution No. 99-3 amending the January 1999 amendment of the 1998 Regional Transportation Improvement Program for the Lake Tahoe Region including the current update. The motion carried unanimously.

Ms. Bennett commented on the progress being made on behalf of the Tahoe Transportation District. She had been on the TRPA Board since 1989 and on the TTD Board as well. It was just within the last six to eight months with the designation of MPO and the influx of funding that the TTD had become more effective.

D. Movement of the Individual Parcel Evaluation System (IPES) Line

E. Annual IPES/Land Capability Status Report

Deputy Executive Director Jerry Wells explained that item E. did not require action; the status report was in the packet materials. If the Board did not need a detailed staff summary on item D. the Board could act to lower the line in Washoe and Douglas Counties.

Chairman Sevison opened the public hearing.

Several Board members noted that this item was of interest to Larry Hoffman. He currently was out of the room discussing what agreement could be reached on agenda item VII.B.

MOTION by Dr. Miner to move the findings necessary to move the line in Washoe and Douglas Counties. The motion carried unanimously.
TRPA REGULAR MEETING MINUTES JANUARY 27, 1999

MOTION by Dr. Miner to adopt Resolution No. 99-1 moving the IPES line in Washoe and Douglas Counties. The motion carried unanimously.

B. Report on the 1999 Action Plan for the Permit Integration Program

Mr. Rick Angelocci, Chief of Project Review, reminded the Board members that they had received a copy of the report entitled, "Permit Integration Program Action Plan" with their packet mailing. This report outlined where the Agency wanted to be in a few years. Consultants were present to make a presentation should the Board have time. Mr. Angelocci distributed a handout summarizing specific action items related to streamlining work program modifications. He would be working solely on these items for a completion date in May. He thanked Board member Don Miner for his efforts in exploring the possibility of placing a Douglas County planner in TRPA's office to process all Douglas County applications. This was a big step towards one-stop permitting and actually went beyond the scope of the delegation MOUs.

Mr. Angelocci reminded the Board this was the first step. He was hoping that a lot of steps would be in place for the year's building season starting in May. He had talked with all jurisdictions to discuss expansion of the current MOUs. All jurisdictions were very supportive of this provided there were resources for the counties to take on the additional work. One recommendation in the report was for TRPA to reevaluate the fee structure to see if it covered the cost of processing the permits. He would be coming back to the Board with a recommendation to amend application fees so that he could assure local governments that expanded delegation MOUs would be fiscally neutral.

Mr. Galloway asked that staff get buy-in from the counties on the hours for certain activities. Washoe County in the past was over-estimating hours and not tracking them. He would like to see agreement on this ahead of time.

Mr. Angelocci introduced the consultants who had assisted with preparation of the report (Paul Sedway, Bob Odland, Susan Stoddard, and Lewis Kraus).

VII. PUBLIC HEARINGS

B. Amendment of Code Chapter 81, Water Quality controls; and Goal #2, Chapter 2, Water Quality Subelement, of the Goals and Policies Plan to Clarify the prohibition of Certain Watercraft in the Tahoe Region (continued)

Agency Counsel John Marshall asked that the Board for its deliberations have three documents available for review: page 78 of the staff packet, the one-page staff and APC recommendation (dated 1/27/99), and page 2 of Mr. Fagan's January 19, 1999, letter. He explained that staff was recommending a two-step process, the first being to address the three exemptions outlined in the staff and APC recommendation. There was general agreement with items 1), 2), and 3) on that recommendation but with one disagreement. For item 2) it was agreed to add in Ms. Bresnick's language regarding purchase and/or contract of purchase. The plaintiffs wanted to delete the date requiring that the purchase have occurred before January 27, 1999. Staff wanted the purchase date to remain. The second step of the process, and one with which staff would be comfortable, was to take Mr. Fagan's (iii) (top page 2 of his letter) which provided an exemption until October 1, 2001, for any watercraft powered by an engine certified as meeting EPA's applicable...
2001 emission standards. There needed to be some sort of mitigation package that would permit adoption in February with a finding of no significant impact. This could not be done today, because the necessary findings could not be made at this time. The group also discussed the two exemptions on the top of page 78 of the packet: 1. exemption for sailboats using carbureted two-stroke engines as auxiliary power until October 1, 2001, and 2. exemption for watercraft using outboard carbureted two-stroke engines 10 horsepower and under until October 1, 2001. There was disagreement over these two. Staff did not support these two exemptions. Plaintiffs favored them. Mr. Marshall asked that the Board provide direction on whether it wanted to support these two. If so, staff could return with the exemptions and a mitigation package that would address the additional associated impacts. The first step at this point was to vote on the staff and APC recommendation. The second was a direction vote on whether staff should incorporate exemptions 1. and 2. into a February ordinance, provided there was sufficient documentation. The same was true for (iii) and presentation in February of documentation. Mr. Marshall clarified that 2) on the staff and APC recommendation would provide that "purchase" meant purchase by dealer before January 27, 1999, or an end user by that date.

Mr. Fagan explained that from the standpoint of the NMMA he would prefer that the staff be directed to draft an ordinance that tracked exactly his January 19, 1999, letter and that staff come back with supporting environmental documentation, along with any necessary environmental documentation to support any grandfathering of 10 horsepower and under and auxiliary sail engines. That would bring the whole issue back in February for final disposition as one whole ordinance, as opposed to doing it piecemeal. This was what he was authorized to do. A two-phase process would not necessarily preclude resolution of the matter, however.

Mr. Baetge urged the Board to consider the need for clarity for the public on what was going to happen in June. The negotiation of this whole package had been going on for a long time. Giving it one more month would not, in his opinion, guarantee a lot. The step one/step two process was absolutely necessary if there was going to be something ready for June and the boating season. Step one would have the Board adopt the changes on which there was agreement. Step two was to bring back in February those items on which analysis was needed. The significance of the January 27, 1999, date was that the plaintiffs were asking for deletion of the date because it would make it possible for someone to purchase a prohibited machine right up to the June date. This was misleading the public.

Mr. Marshall explained this would also allow some extra time for those who had purchased these machines in good faith based on TRPA’s earlier discussions. This would force people to purchase other cleaner craft and not continue to buy those which were going to be prohibited.

Mr. Fagan noted that the question was one of enforcement. The problem of carrying around a bill of sale was onerous on the machine owners. From a practicality standpoint, a person would not likely buy one of these machines with only one year of use left on it.

Mr. Galloway suggested that he would have the same concerns about including exemptions if the Board chose to proceed with the two-step process as outlined by staff.
Mr. Marshall suggested in this case that the Board vote first on the two exemptions (sailboat engines and 10 horsepower and under engines). The Board could then proceed with the three items in the staff recommendation. The first vote would be to direct staff to prepare necessary environmental documentation and a mitigation program for exemptions 1. and 2. and the EPA 2001 watercraft (iii in Mr. Fagan's letter). Based on discussions with the industry, staff felt that the industry would need to come up with a mitigation plan to allow TRPA to make the findings necessary to adopt exemptions 1. , 2. , and (iii). If this could not be done, then the question moved into EIS territory and, frankly, at that point the staff would have to come back to the Board for further direction.

Mr. Hoffman explained that neither he nor Mr. Fagan were prepared to settle the lawsuit unless in February the Board, if it were to give direction on exemptions 1. and 2., also included (iii). He also wanted the term “toxic” removed from the ordinance findings and wanted the record clear on enforcement concerns as raised earlier by one of the marina operators.

Mr. Baetge noted the concern related to what would be expected of marina operators. Once the ordinance was adopted, TRPA would sit down with the operators. TRPA was not expecting them to take any of the heat. He would expect when the marina operators knew an illegal motor was going into the water they would call TRPA to let staff know, document it, and basically help TRPA with enforcement at that level. That was the kind of agreement that TRPA would expect. The Forest Service had already indicated it would work with its permittees on this.

Mr. Marshall noted the ordinance findings could be amended to retain the term "pollutant" but delete the reference to “toxic.”

**MOTION** by Mr. Galloway to provide the necessary documentation for exemptions 1. (exempt sailboats utilizing carbureted two-stroke engines as auxiliary power until October 1, 2001) and 2. (exempt watercraft using outboard carbureted two-stroke engines 10 horsepower and under until October 1, 2001) on page 78 of the staff summary and exemption (iii) on page 2 of Mr. Fagan's letter (Any watercraft powered by an engine certified as meeting EPA’s applicable 2001 emission standard shall be exempt from the prohibition until October 1, 2001.).

Mr. Waldie asked staff its position on these exemptions.

Mr. Marshall explained that staff would be interested in exploring (iii) further, because currently there was a lack of information. Staff was not in support of the 10 horsepower or less or the sailboat auxiliary engines.

Mr. Waldie asked if this view would change if these exemptions were part of a settlement of the litigation.

Mr. Shute responded with a recommendation that the Board separate it into two motions – the EPA 2001 (iii) and the sailboat and 10 horsepower issues. Staff was willing to work with the 2001 exemption but was not willing to work at this point, subject to Board direction, on the auxiliary engines and 10 horsepower or under exemptions. Aside from the lawsuit, staff did not support those exemptions. It was a Board policy decision. Staff preferred to keep the dates in the staff and APC recommendation item 2) because the
date would encourage people not to buy engines which would add an additional pollution load.

Chairman Sevion suggested staff’s point was to have direction on as many of the pieces as possible. He encouraged someone to make a motion on (iii) first. This was the most palatable issue for staff.

MOTION amended by Mr. Galloway to direct staff for February to prepare environmental documentation on (iii) (Any watercraft powered by an engine certified as meeting EPA’s applicable 2001 emission standard shall be exempt from the prohibition until October 1, 2001) and to look at findings in connection with (iii).

Mr. Galloway suggested that staff could also consider some additional finding points about air pollution.

The motion carried on the following vote:

Ayes: Ms. Neft, Mr. Waldie, Mr. Cronk, Dr. Miner, Ms. Bresnick, Mr. Perock, Mr. Davis, Mr. Sandoval, Mr. Solaro, Mr. Galloway, Mr. Sevion
Nays: Ms. Bennett, Mr. Heller, Mr. DeLanoy
Abstain: None
Absent: None

MOTION by Mr. Galloway to direct staff to prepare environmental documentation for items 1. and 2. (sailboats utilizing carbureted two-stroke engines as auxiliary power until October 1, 2001, and watercraft using outboard carbureted two-stroke engines 10 horse power and under until October 1, 2001). The motion carried on the following vote:

Ayes: Ms. Bennett, Mr. Waldie, Mr. Cronk, Dr. Miner, Mr. Davis, Mr. Sandoval, Mr. Solaro, Mr. Galloway, Mr. Sevion
Nays: Mr. Heller, Ms. Bresnick, Mr. DeLanoy, Mr. Perock, Ms. Neft
Abstain: None
Absent: None

At this point, Mr. Marshall clarified that the staff and APC proposal was to reword item 2) to include “purchase by an end user or dealer before January 27, 1999.” This would provide an exemption for a dealer who in good faith reliance on earlier Board discussion purchased or had a contract of sale for a stock of machines that then could be sold to the general public.

Ms. Bresnick asked that the motion be clear that it refer to purchase or contract to purchase by a dealer before January 27, 1999.

Mr. Davis suggested that the public was geared for the prohibition to go into effect by June 1, 1999. He would prefer that the date be left out, since it would provide consistency with the ordinance timelines.
MOTION by Ms. Bresnick to adopt the ordinance as presented by staff with the modifications that were just discussed in terms of specifying the dealer and contract for purchase in item 2) of the staff and APC recommendation. The January 27, 1999, date would stay in item 2.

Mr. Marshall reminded the Board that the first step in ordinance adoption was to make the findings. The staff would be redoing the ordinance in the packet materials to line up with the Board’s action.

MOTION restated by Ms. Bresnick to make the findings to adopt Ordinance No. 99-3 with the word “toxic” stricken from the findings and retaining “pollutants.” The motion carried on the following vote:

Ayes: Mr. Waldie, Mr. Heller, Mr. Cronk, Dr. Miner, Ms. Bresnick, Mr. DeLancy, Mr. Perock, Mr. Davis, Mr. Sandoval, Mr. Solaro, Ms. Neft, Ms. Bennett, Mr. Sevison
Nays: Mr. Galloway
Abstain: None
Absent: None

Ms. Bennett asked if the findings referred to the inclusion of item 3) in the staff and APC recommendation (Any watercraft powered by a two-stroke engine whose engine is certified by EPA as meeting the U.S. EPA 2006 standard or is certified by California ARB as meeting the CARB 2001 standard shall be exempt from the prohibition).

Ms. Bresnick responded that the findings the Board just approved would apply to this item.

Mr. Marshall explained that the Board in adoption of the ordinance was also amending Chapter 2 of the Goals and Policies.

MOTION by Ms. Bresnick to adopt the amendment to Chapter 2 of the Goals and Policies and to adopt Ordinance 99-3 as per the staff (and APC) recommendation of 1/27/99 with the language adding “dealer and contract for purchase” as discussed and leaving the January 27, 1999 date in item 2.

Chairman Sevison read the ordinance by title:

“An Ordinance Amending Ordinance No. 87-9, as Amended, of the Tahoe Regional Planning Agency; Amending Chapter 81 of the Code of Ordinances and Chapter 2 of the Goals and Policies Relating to the Regulation of the Operation of Motorized Watercraft”

The motion carried on the following vote:

Ayes: Mr. Heller, Mr. Cronk, Dr. Miner, Ms. Bresnick, Mr. DeLancy, Mr. Perock, Mr. Sandoval, Ms. Neft, Ms. Bennett, Mr. Waldie, Mr. Sevison
Nays: Mr. Davis, Mr. Solaro, Mr. Galloway
Abstain: None
Absent: None
VIII. PLANNING MATTERS

C. Movement of the Individual Parcel Evaluation System (IPES) Line (continued)

Mr. Baetge advised that Larry Hoffman was out of the room when this item came up previously. He wanted to say a few words on it.

Mr. Hoffman noted that he understood what the Board acted on as the line's movement related to Washoe and Douglas Counties. That was a purposeful judgment not to move the line on the California side. He had been before the Board on numerous occasions on this topic and an entire year had gone by without fixing the problem for California properties. This was unconscionable. The statute of limitations started ticking with the Board's action, and he would like the California issue to come back to the Board in February.

Mr. Sevison explained he had the Board take action on the Nevada side because it was appropriate for the line to move in the two Nevada counties. He was not sure that would necessarily preclude consideration on the California side.

Mr. Baetge noted the Board could ask staff to bring the matter back in February.

Mr. Dan Siegel, for the California Attorney General, expressed support for adherence to the 208 Plan requirements that were adopted because of serious concerns about developing environmentally sensitive lots without adequate mitigation and removal of other lots from the inventory. Staff was on the right track in honoring the 208 plan requirements. He looked forward to working with staff to legitimately move the line.

(Ms. Bennett left the meeting at 5:45 p.m. Mr. Heller left the meeting at 5:50 p.m.)

Chairman Sevison noted he felt it was appropriate for Mr. Hoffman to have an opportunity to comment on this item, particularly since the Board was aware Mr. Hoffman's concern. He urged the Board not necessarily to support what Mr. Hoffman was saying but to give him the opportunity to speak on the matter. Without Board member objection, Chairman Sevison directed that staff put an item on the February Board agenda for the movement of the IPES line in California.

IX. APPEAL

A. John Graham/Charles Ebright, Appeal of Executive Director's Decision Regarding Banking of Commercial Floor Area; 3766 Montreal and 1091 Fern, City of south lake Tahoe, El Dorado County APNs 29-342-01 and -04, TRPA File No. 980176

Mr. Dale Sare, on behalf of the appellant, asked that the appeal be early on the February agenda if it was continued due to the lateness of the hour and possible loss of a quorum.

MOTION by Dr. Miner to continue Graham/Ebright appeal to February. The motion carried unanimously.
D. Annual IPES/Land Capability Status Report

Ms. Bresnick asked about the Board discussion on this item.

Chairman Sevison asked that this item be taken up in February at the same time as the IPES line movement in California.

X. ADMINISTRATIVE MATTERS

A. Appointment of Board Members to Committees

Chairman Sevison asked the Board for approval of the following committee appointments:

Finance: Solaro, Neft, Galloway, Bennett, Heller
Legal: Cronk, Bresnick, Waldie, Sandoval, Miner
Rules: Solaro, Neft, Bresnick, Heller, Galloway
EIPIC: Cronk, Waldie, Cole, Perock, Miner, Bennett, DeLanoy
Shorezone Policy: Waldie, Cronk, Cole, Miner, Perock, Galloway
Retirement: Sandoval, staff, DeLanoy, Neft

MOTION by Dr. Miner to approve the committee appointments. The motion carried unanimously.

Chairman Sevison asked each committee to elect its own chairperson.

XI. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee – completed report

B. Legal Committee

Committee Chairman Waldie explained that there was earlier consideration of moving Ms. Scholley, Agency Special Projects Attorney, from staff to contract employment. There now was a proposal to move her back to staff status. The Committee had questions about the legal consequences of that proposal and therefore continued the matter until such time as there was a further report from Legal Counsel.

C. Environmental Implementation Program Implementation Committee (EIPIC)

Mr. Baetge explained that at noon the Committee discussed the 1999 legislative packet and what it would look like. It would be brought back in published form next month.

XII. REPORTS

A. Executive Director

Mr. Baetge advised that so far in both states the budget was going well.
TRPA REGULAR MEETING MINUTES JANUARY 27, 1999

1. Status Report on Project Applications

Mr. Baetge explained that this item was on the agenda each month in order for him to report to the Board if there were applications which were not acted on within the 120-day requirement. There were few of these situations. When they did occur, it was usually because there was snow on the ground and staff could not see the site. There was nothing to report this month.

Mr. Baetge asked that the Board consider having a retreat the day after the March Board meeting to provide staff with direction for the strategic plan.

After discussion Chairman Sevison asked that the retreat be scheduled for April 29.

B. Legal Division

Agency Counsel John Marshall reported that the deficiency request of the two states for money to cover outside legal costs for this fiscal year was looking good. On the Suitum case, he would likely be coming to the Board in February with a request to authorize a Rule 68 Offer of Judgment. This would be coming through the Legal Committee.

Mr. Marshall provided copies of the decision in the Tahoe Sierra Preservation Counsel case. He thanked Mary Snooover and Dan Siegel, of the State of California Attorney General's Office, and Bill Fry, from the Nevada Attorney General's office, for their help with the case.

Mr. Clem Shute, TRPA's counsel on the TSPC case, described for the Board the judge's recent decision in the case. The outcome of the 10-day trial in December was disappointing on one particular point related to the temporary takings issue; the court held in TRPA's favor on every other point. Mr. Shute presented a history of the pertinent TRPA planning activities, the claims in the lawsuit, and the findings of the decision.

Mr. Marshall explained that the Agency needed to request an opportunity to file an appeal before the February Board meeting. If the court granted that motion, he would come back to the Board for direction on whether to pursue the appeal or go ahead with the damages phase of the trial.

C. Governing Board Members

Mr. Solaro advised that retirement party invitations were going out for former Board member John Upton. The party was to be at Harrah's on February 17.

XIII. ADJOURNMENT – The meeting adjourned at 6:10 p.m.

Respectfully submitted,

Julie D. Frame
Clerk to the Governing Board
This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (775) 588-4547. In addition, written materials submitted at the meeting are available for review at the TRPA office, 308 Dorla Court, Zephyr Cove, Nevada.
MEMORANDUM

February 15, 1999

To: TRPA Governing Board
From: TRPA Staff
Subject: January Financial Statement and Check Register and Revision of TRPA Operating Budget FY 98-99

Requested Action: Staff will be discussing these three items with the Finance Committee prior to the full Board meeting on Wednesday, February 24, 1999. Requested action, should the Finance Committee concur, is receipt and/or approval.

CONSENT CALENDAR ITEMS 1., 2., & 3.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: STPUD A-Line Phase III Export Pipeline Relocation Project

Application Type: Public Service, Special Use Determination

Applicant: South Tahoe Public Utility District (STPUD)

Applicant's Representatives: Richard Solbrig, STPUD
Rob Brueck, Parsons Harland Bartholomew & Associates

Agency Planner: Kara Russell, Project Review Division

Location: Starting at the STPUD Wastewater Treatment Plant, the project crosses Meadow Crest Drive, crosses under Trout Creek and Martin Avenue to Barbara Avenue, parallels Barbara Avenue to its intersection with Beecher Avenue, heads west along the existing paved airport access road, and ends near the STPUD Upper Truckee River Pump Station.

TRPA Project Number/File Number: 510-302-98/980647

Staff Recommendation: Staff recommends approval of the project. The required actions and recommended conditions are outline in Section D of this staff summary.

Project Description: The project proposes to replace approximately 5,475 feet of existing effluent export pipeline, beginning at the STPUD Wastewater Treatment Plant and ending at the Upper Truckee River Pump Station. The existing 24-inch diameter pipeline will be replaced with 30-inch diameter pipe, but will remain in place and available for emergency use. Approximately 1,100 linear feet of pipeline will be installed below the Trout Creek Stream Environment Zone (SEZ). Horizontal directional drilling techniques will be used for the construction of this pipeline segment so that no surface SEZ disturbance will occur. The remainder of the pipeline will be placed within existing paved roadways and constructed by open trench cut.

The project does not involve the creation of additional land coverage. All necessary temporary Best Management Practices (BMP's) will be installed to minimize erosion and runoff, and any disturbed areas will be revegetated with native plants.

Background: In 1994, the STPUD selected a scope of work for the preparation of an environmental document to analyze several alternatives to relocate the portion of the A-Line within the Upper Truckee River SEZ. The STPUD A-Line Export Pipeline Relocation Project EIR/EIS/EA was prepared and certified by TRPA for the relocation of the existing A-Line to predominately residential streets located within El Dorado County.

The A-Line Export Pipeline Relocation Project was divided into 3 individual projects for the purpose of construction. Phase I was constructed in 1996 and Phase II in 1998. The proposed project is the final phase and concludes the STPUD A-Line Export Pipeline Relocation Project.

2/11/99
/KR
Issues: The proposed project involves a special use determination and is a project for which an EIS was prepared and certified, and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) to assess the potential environmental impacts of the proposed project, in addition to the EIR/EIS/EA that was certified by TRPA for the entire A-Line Export Pipeline Relocation Project. The IEC concluded that, provided the mitigation measures identified in the document were included as conditions of project approval, the project will not result in a significant effect on the environment. Staff has included the mitigation measures as recommended conditions of approval. A copy of the completed IEC will be made available at the Governing Board hearing and at the TRPA.

B. Plan Area Statement: The project is located within Plan Areas 100 (Truckee Marsh) and 105 (Sierra Tract), and the Bijou/Al Tahoe Community Plan. The proposed activity (local public health and safety) is listed as a special use in both of the subject plan areas and an allowed use in the community plan. Agency Staff has reviewed the subject plan areas and has determined that project is consistent with the applicable planning statement, planning considerations and special policies.

C. Land Coverage: No permanent disturbance or changes to land coverage are proposed.

D. Required Findings: The following is a list of the required findings as set forth in Chapters 6, 18, and 64 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

1. The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.

   a. Land Use: The proposed project is considered a special use in both of the plan areas in which the project will be constructed. In order to approve the project, the Governing Board must make Findings 4, 5, and 6 below.

   b. Transportation: The applicant shall be required to submit and implement a traffic management plan to eliminate or reduce to a less than significant level any temporary traffic impacts as a result of construction of the project. There will be no permanent impacts to transportation as a result of the project.

   c. Conservation: The IEC and the final EIR/EIS/EA for the project concludes that the project will not adversely affect existing wildlife, vegetation, scenic, water quality or cultural conditions.
(d) **Recreation:** The proposed project does not alter any existing recreational facilities.

(e) **Public Service and Facilities:** The project will not result in the requirement for any additional public services or facilities.

(f) **Implementation:** The project is consistent with the Implementation Element of the Regional Plan.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board meeting at TRPA.

3. **Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TRPA Compact, the project meets or exceeds such standards.**

(Refer to paragraph 2, above.)

4. **The project, to which the use pertains, is of such a nature, scale, density, intensity and type to an appropriate use for the parcel on which, and surrounding area in which, it will be located.**

The project proposes to replace an existing aging wastewater pipeline that has been susceptible to failure resulting in the discharge of treated effluent to the environment. The majority of the work will be done within existing roadways so as to minimize disturbance.

5. **The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant’s property and that of surrounding property owners.**

The applicant will be required to install Best Management Practices (BMP’s) as a part of the project. Construction activities will be limited to the hours of 8:00 a.m. and 6:30 p.m. to limit the potential effects of noise on the surrounding neighborhoods.
6. The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.

The proposed project involves the replacement of an existing wastewater pipeline. The new line will be placed underground and therefore will not change the character of the surrounding area. The existing pipeline will remain in place after construction of the new line. There is no evidence that the project will alter or affect the purpose of the applicable plan area statements or community plan.

7. The project is a necessary measure for the protection or improvement of water quality.

The project proposes to replace an existing aging pipeline that has experienced numerous leaks resulting in discharges of treated effluent into the groundwater.

E. Required Actions: Agency staff recommends that the Hearings Officer approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in this staff summary, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the following conditions:

A. The Standard Conditions of Approval listed in Attachment Q.

B. This permit is for Phase III of the A-Line Export Pipeline Relocation Project that replaces approximately 5,475 feet of the existing A-Line Pipeline. The project begins at the STPUD Wastewater Treatment Plant and ends near the STPUD Upper Truckee River Pump Station. No new land coverage or permanent ground disturbance is permitted. Open trench excavation is limited to existing roadways and compacted roadway shoulders. The existing A-Line will remain in-place after construction of the replacement pipeline.

C. Prior to permit acknowledgement, the following special conditions of approval must be satisfied:

(1) The site plan shall be revised to include:

   a. All mapped or verified land capability districts shall be delineated.

   b. Final revegetation specifications shall be included on the final plans for TRPA review and approval.
The permittee shall submit a Traffic Management Plan (TMP) to TRPA for review and approval. The TMP shall address maintaining access to all residential properties during all phases of project construction. The TMP shall be coordinated with Caltrans and the El Dorado Department of Transportation.

The security required under Standard Condition I.2 of Attachment Q shall be $20,000. Please see Attachment J, Security Procedures.

The permittee shall submit 3 sets of final construction drawings and site plans to TRPA.

D. The applicant shall submit a projected construction completion schedule to TRPA prior to commencement of construction. The schedule shall include completion dates for each item of construction, as well as BMP installations for the entire project area.

E. Prior to commencement of construction, the applicant shall pay to TRPA a fee in the amount of $3000 for construction inspection services during all phases of construction, including pre-construction, intermediate and final inspections.

F. The applicant shall obtain all required approvals from the affected agencies, as well as all easements necessary for construction.

G. Prior to commencement of construction, the applicant shall submit for review and approval by TRPA a dewatering plan to be implemented in the event groundwater is encountered during project construction.
MEMORANDUM

February 11, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Release of Placer County Air Quality Mitigation Funds Approval ($37,655) for North Shore Trolley Service in 1998 and $85,000 for Bike Trail Projects Pursuant to the March 1998 Placer County Master Plan for Air and Water Quality Mitigation Funds

Proposed Action: To approve the release of $122,655 to Placer County in Air Quality Mitigation Funds to be used to reimburse trolley operating expenses and bicycle construction costs.

Staff Recommendation: Staff recommends the Governing Board approve the release of $122,655 to Placer County in Air Quality Mitigation Funds for the Tahoe Trolley, Lakeside Bicycle Trail and Rocky Point Bicycle Trail.

Discussion: In March 1998 the Placer County Board of Supervisors adopted a Master Plan for Air and Water Quality Mitigation Fund projects. Within that Master Plan are three projects for which Placer County is requesting the release of Air Quality Mitigation Funds.

The first request is for the reimbursement of operating expenses associated with the Tahoe Trolley during the summer of 1998. Operated by the North Tahoe Resort Association (NLTRA), the trolley had a net operating deficit of $37,655. The request will provide Placer County with funds to reimburse the NLTRA for that deficit. It should be noted that, consistent with the use of air quality mitigation funds, this is not an-going commitment to fund the Tahoe Trolley operations, but to be used as start-up funding for new services. While the Tahoe Trolley has operated in the past, service during the summer of 1998 was a significantly expanded operation.

The second request is for $50,000 for a portion of the Lakeside Bicycle Trail project. The entire trail will be a Class I trail of 1.1 miles. It will connect the Truckee River trail with downtown Tahoe City, and is sponsored by the Tahoe City Public Utility District.

The third request is for $35,000 for the Rocky Point Bicycle Trail. This trail is 75% complete and the funding is to support completion of the trail.

If there are any questions, please contact Richard Wiggins at (702) 588-4547.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Sierra Community Church Addition & Remodel

Application Type: Public Service Addition

Applicant: Sierra Community Church

Applicant's Representative: Daniel Wilvers Sierra Community Church

Agency Planner: Kathy Canfield, Project Review Division

Location: 1165 Sierra Boulevard, City of South Lake Tahoe

Assessor's Parcel Numbers/File Number: APN 31-191-08, 12 & 19, 31-193-04 & 05/980777

Staff Recommendation: Staff recommends approval of the subject project. The required actions and the recommended conditions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to construct an approximate 3,000 square foot addition to the existing church, a 638 square foot addition to an existing church annex building, and a new 16 space parking lot. These additions will provide a new multi-purpose room, meeting rooms and storage areas. Best Management Practices (BMPs) and landscaping will also be added to the site.

Site Description: The project area consists of four separate parcels located on seven lots of record. Two of the parcels contain existing development (the church and accessory buildings) and two of the parcels are vacant. While the vacant parcels have areas of disturbance, these areas are not considered land coverage. The project area is relatively flat and has been verified as Class 7 land.

Issues: The proposed project involves a special use for the plan area and the construction of more than 2,000 square feet of floor area and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the

2/11/99
/kc

CONSENT CALENDAR ITEM NO. 5

25
environment. A copy of the completed IEC will be made available at the
Governing Board hearing and at TRPA.

B. Plan Area Statement: This project is located within Plan Area 105, Sierra Tract. The Land Use Classification is Residential and the Management Strategy is Redirection. Agency staff has reviewed the subject plan area and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed use (church) is a special use for the plan area.

C. Land Coverage:

1. Land Capability District:

The verified land capability district for the 35,000 square foot project area is Class 7.

2. Allowable Land Coverage:

35,000 square feet x 30% = 10,500 square feet

3. Existing Land Coverage:

TRPA verified the existing land coverage for the entire project area (7 lots of record) as 20,437 square feet.

4. Proposed Land Coverage:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Church:</td>
<td>7,794 square feet</td>
</tr>
<tr>
<td>Church Annex:</td>
<td>1,622 square feet</td>
</tr>
<tr>
<td>Parking Lot (Sierra St.):</td>
<td>4,931 square feet</td>
</tr>
<tr>
<td>Parking Lot (Kubel St.):</td>
<td>4,558 square feet</td>
</tr>
<tr>
<td>Front Walkways:</td>
<td>480 square feet</td>
</tr>
<tr>
<td>Side Parking &amp; Walks:</td>
<td>614 square feet</td>
</tr>
<tr>
<td>Annex Stairs &amp; Balcony:</td>
<td>190 square feet</td>
</tr>
<tr>
<td>Total Proposed Onsite:</td>
<td>20,189 square feet</td>
</tr>
</tbody>
</table>

5. Land Coverage Mitigation:

Based on the above calculations, the project area contains 9,937 square feet of excess land coverage. The applicant is required to mitigate excess land coverage by either reducing land coverage or paying a mitigation fee pursuant to Subsection 20.5 of the TRPA Code of Ordinances. Any banked land coverage may be applied to the required mitigation.

D. Building Height: The building site has an approximate cross slope of 2%. Based on a proposed roof pitches of 4:12, the maximum allowable height for the proposed church and annex buildings is 29 feet, 3 inches. The church building
proposed building height of 24 feet, 6 inches, and the church annex building has a proposed height of 22 feet, 2 inches. Both buildings are consistent with the height requirements of Chapter 22 of the TRPA Code of Ordinances.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6, 18 and 20 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

1. **The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.**

   a. **Land Use:** The applicant is proposing to add a multi-purpose room, meeting rooms, storage areas and a parking lot to the existing church facility. The applicant will install temporary and permanent Best Management Practices (BMPs) within the project area and landscaping will be added to the site. The proposed use (church) is a special use for the plan area.

   b. **Transportation:** The project is estimated to generate 39 additional daily vehicle trip ends (dvte) which is defined as an insignificant increase by the TRPA Code of Ordinances. The applicant will be required to mitigate all additional dvte generated as a result of the project.

   c. **Conservation:** This project is not visible from a TRPA designated scenic resource or corridor. There are no known special interest species, sensitive or uncommon plants, or historical or cultural resources within the project area.

   d. **Recreation:** This project does not involve any recreation facilities or uses.

   e. **Public Service or Facilities:** This project does not require any additions to public service facilities. The proposed project is considered a public service use, however, it is not considered an "additional" public service use as defined by Chapter 33 of the TRPA Code of Ordinances.

   f. **Implementation:** This project does not require any allocations of development.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

   The basis for this finding is provided on the checklist entitled “Project Review Conformance Checklist and Article V(g) Findings” in accordance
with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Governing Board hearing and at TRPA.

3. **Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(g) of the TRPA Compact, the project meets or exceeds such standards.**

(Refer to paragraph 2, above.)

4. **The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.**

The proposed project is an addition to an existing church. Surrounding land uses include one and two-story residential structures and vacant property. The proposed additions provide a wider range of activities the church can offer, however, the proposed additions are intended to serve the existing community and the church patronage is not expected to increase due to the proposed additions.

5. **The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.**

The proposed project includes the paving of a disturbed parcel for a parking lot. Best Management Practices (BMPs) will be installed for the entire project area. The surrounding residential land uses are not expected to be impacted by the proposed church additions.

6. **The land coverage is to an equal or superior portion of the parcel or project area.**

The land coverage to be relocated within the project area is all verified as Class 7 land.

7. **The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.**

The proposed project includes additional landscaping added to the site. All areas of removed land coverage area proposed to be restored to a natural condition.
8. The relocation is not to Land Capability Districts 1a, 1b, 1c, 2, or 3 from any higher numbered land capability district.

All land coverage to be relocated is within land capability district 7.

F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the following conditions:

A. The Standard Conditions of Approval listed in Attachment Q.

B. This permit is for the construction of approximately 3,000 square foot addition to the existing church, a 638 square foot addition to an existing church annex building, and a new 16 space parking lot.

C. Prior to final acknowledgement of the permit, the following special conditions of approval must be satisfied:

1. The site plan shall be revised to include:

   a. Stoops for all exterior doors. The land coverage calculations shall be revised accordingly.

   b. Identification of pedestrian access from the Kubel Street parking lot to the church. Any additional land coverage to provide access shall be accounted in the land coverage calculations.

   c. New Offsite Land Coverage: 111 square feet.

   d. Allowable land coverage for the project area: 35,000 square feet x 30% = 10,500 square feet.

   e. A note indicating: “All barren areas and areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices. Application of a mulch may enhance vegetative establishment.”

   f. Dripline infiltration trenches, sized 18" wide x 8" deep, constructed beneath all roof driplines.
g. Temporary erosion control structures located
downslope of the proposed construction areas.

h. Vegetation protective fencing around the entire
construction site.

i. Parking barriers to restrict parking to approved
parking surfaces only.

2. The permittee shall submit a $975 air quality mitigation fee.
This fee is based on the estimated generation of 39
additional daily vehicle trip ends (dvte) assessed at $25
per dvte.

3. The security required under Standard Condition I.2 of
Attachment Q shall be determined upon the permittee's
submittal of required Best Management Practices plan and
related cost estimate. Please see Attachment J, Security
Procedures. At a minimum, the posted security shall be
$2,500.

4. The permittee shall submit an offsite coverage mitigation
fee of $555 for the creation of 111 square feet of land
coverage in the public right-of-way.

5. The permittee shall mitigate excess land coverage on this
property by submitting an excess coverage mitigation fee,
or by removing coverage within Hydrologic Transfer Area
Number 5 (see attached map).

The excess coverage mitigation fee shall be calculated as
follows:

(1) Estimated Project Construction Cost x 0.0225.

Please provide a construction cost estimate by your
contractor, architect or engineer. In no case shall the
mitigation fee be less than $100.00.

Excess land coverage may be removed in lieu of an
excess coverage mitigation fee. To calculate the amount
of excess coverage to be removed use the following
formula:

(2) Excess coverage mitigation fee (per formula (1),
above) divided by $5.00 per square foot.
If you choose this option, please revise your final site plan and land coverage calculations to account for the coverage removal.

6. The permittee shall submit engineered calculations demonstrating that the proposed Best Management Practices (BMPs) provide treatment and infiltration for a 20 year/1 hour storm event. Roof runoff along with parking lot area shall be included in the calculations. Sand/grease/oil separation shall be included. All required BMPs shall be shown on the submitted site plan.

7. The permittee shall submit a BMP maintenance schedule for TRPA review and approval.

8. The permittee shall provide details of all exterior building or parking lot lighting. All exterior lighting shall be consistent with Section 30.8 of the TRPA Code of Ordinances and with the City of South Lake Tahoe City-Wide Design Standards and Guidelines.

9. The permittee shall provide elevations drawings depicting all sides of the buildings.

10. The permittee shall consolidate all lots within the project area (Lots 8, 9, 10, 11 & 12 of Block 25, and Lots 8 & 9 of Block 30, Tahoe Sierra Subdivision No. 3) into one legal lot of record pursuant to applicable county/city subdivision ordinances and state subdivision laws, OR the permittee shall record a project area deed restriction permanently consolidating the affected parcels. TRPA approval as to form of the document is required prior to recordation of a deed restriction. Evidence of document recordation is required prior to final acknowledgement of the permit.

11. The permittee shall provide a landscape plan and fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances for TRPA review and approval.

12. The permittee shall submit five sets of final construction drawings and site plans to TRPA.

D. The architectural design of this project shall include elements that screen from public view all external mechanical equipment, including refuse enclosures, satellite receiving disks, communication equipment, and utility hardware on roofs, buildings or the ground.
E. All utilities within the project area shall be placed underground.

F. All signs within the project area shall be reviewed and approved by the City of South Lake Tahoe.

G. This permit does not verify or bank any existing residential units within the project area. The applicant is advised to submit a separate banking application to verify and bank any residential units that may currently exist on the property before removal of the units.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Hatter Dynamics New Commercial Building

Application Type: Commercial

Applicant: Hatter Dynamics Corporation

Applicant's Representative: Gregory Skinner

Agency Planner: Charles Donaldson, Associate Planner

Location: 932 Incline Way, Incline Village, NV

Assessor's Parcel Number/Project Number: APN 132-231-14 / 980575

Staff Recommendation: Staff recommends approval of the subject project. The required actions and recommended conditions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to construct a new commercial building on a vacant property within the Incline Village Commercial Community Plan. The proposed use for the new building is professional offices, which is an allowed use in the community plan. The proposed building contains 9,260 square feet of commercial floor area and will be three-stories. Forty-two parking spaces are proposed. Landscaping and community plan improvements will be added to the Southwood Blvd. and Incline Way street frontages.

Site Description: The vacant 28,502 square foot parcel is located at the northwest corner of the Incline Way and Southwood Boulevard intersection. This parcel is located within the boundaries of the Incline Village Commercial Community Plan Area. The verified land capability district is Class 6, which allows a base allowable land coverage of 8,551 square feet. Surrounding land uses consist of a condominium complex and bowling alley to the south, vacant land to the north, Incline Middle School to the east, and a professional office to the west.

Issues: The proposed project involves the transfer of commercial floor area greater than 2,500 square feet and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code.

Staff Analysis:

A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project will not have a significant effect on the environment. A copy of the completed IEC will be made available at the Governing Board hearing and at TRPA.

B. Community Plan: The project is located within the Incline Village Commercial Community Plan. The Land Use Classification is Commercial/Public Service and the

/ cd
2/8/99
Management Strategy is Mitigation. Agency staff has reviewed the subject community plan and has determined that project is consistent with the applicable planning statement, planning considerations and special policies. The proposed professional offices are allowed uses in the community plan.

C. Land Coverage:

1. Land Capability District:

The verified land capability district of the project area is class 6. The total project area is approximately 28,502 square feet, which allows a base land coverage of 8,551 square feet.

2. Existing Coverage:

TRPA does not recognize any existing land coverage within the project area.

3. Proposed Coverage:

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building</td>
<td>4,175 square feet</td>
</tr>
<tr>
<td>Asphalt Parking, Drive, Walks</td>
<td>14,140 square feet</td>
</tr>
<tr>
<td>Exposed Walkways</td>
<td>320 square feet</td>
</tr>
<tr>
<td>Total Onsite</td>
<td>18,635 square feet</td>
</tr>
<tr>
<td>Total Offsite</td>
<td>438 square feet</td>
</tr>
</tbody>
</table>

* Land coverage up to 50% of the project area is transferred at a rate of 1:1 per square foot, the remaining land coverage is transferred at a rate of 1.75:1 per square foot.

4. Allowable Land Coverage:

Base Allowable = (28,502 square feet x 30%) = 8,551 square feet.

Parcels located within an adopted community plan area that were vacant as of the date of adoption of the Regional Plan are eligible to transfer up to 70% of the project area, subject to the transfer requirements outlined in Subsection 20.3.C of the TRPA Code of Ordinances. The maximum land coverage permissible through transfer for this site is: (28,502 square feet x 70%) = 19,952 square feet.

5. Coverage Mitigation:

The applicant is required to mitigate the base allowable land coverage created on the site at $1.34 per square foot (8,551 square feet x $1.34 = $6,281.92). The remaining portion of the proposed land coverage, as a condition of approval, shall be transferred to the site. Transferred land coverage is not subject to a land coverage mitigation fee.

D. Building Height: Based on an 4% cross-slope retained across the building site, and a 12:12 pitch, the maximum allowed height for the proposed building is 37 feet, 0 inches.
The proposed building has a maximum building height of 37 feet, 0 inches, which meets this requirement.

E. **Required Findings:** The following is a list of the required findings as set forth in Chapters 6 and 22 of the TRPA Code of Ordinances. Following each finding, Agency staff has briefly summarized the evidence on which the finding can be made.

1. **The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code and other TRPA plans and programs.**
   
   (a) **Land Use:** The proposed land use (professional offices) is identified as an allowable use within the community plan. Surrounding land uses include multi-family dwellings to the south, vacant land to the north, Incline Village Middle School to the east, and a professional office to the west.
   
   (b) **Transportation:** Based on the proposed uses, it is estimated that the proposed project will generate 47 additional daily vehicle trip ends (dvte) which is defined as an insignificant increase by the TRPA Code of Ordinances.
   
   (c) **Conservation:** As a condition of project approval, the applicant will be required to apply both temporary and permanent Best Management Practices (BMPs) for the entire project area. This project is not visible from a TRPA designated scenic corridor. There are no known special interest species, sensitive or uncommon plants, or cultural or historical resources within the project area.
   
   (d) **Recreation:** This project does not propose any new facilities, or changes to existing recreation facilities.
   
   (e) **Public Service and Facilities:** This project does not require any additions to existing public services or facilities.
   
   (f) **Implementation:** As a condition of project approval the applicant shall transfer 9,260 square feet of commercial floor area to the parcel. The applicant shall also be required to transfer 13,642 square feet of hard land coverage to the site. The applicant will be required to mitigate the new dvte by paying an air quality mitigation fee of (47 dvte x $25 per dvte =) $1,175.

2. **The project will not cause the environmental threshold carrying capacities to be exceeded.**

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying
capacities. A copy of the completed checklist will be made available at the
Governing Board hearing and at TRPA.

3. Wherever federal, state or local air and water quality standards applicable for the
Region, whichever are strictest, must be attained and maintained pursuant to
Article V(c) of the TRPA Compact, the project meets or exceeds such standards.
(Refer to paragraph 2, above.)

4. When viewed from major arterials, scenic turnouts, public recreation areas or the
waters of Lake Tahoe, from a distance of 300 feet, the additional height will not
cause a building to extend above the forest canopy, when present, or a ridgeline.

This project is not visible from a TRPA designated scenic corridor or recreation
area.

5. When outside a community plan, the additional height is consistent with the
surrounding uses.

The project is not located outside a community plan area.

6. The maximum height at any corner of two exterior walls of the building is not
greater than 90 percent of the maximum building height. The maximum height at
the corner of two exterior walls is the difference between the point of lowest
natural ground elevation along an exterior wall of the building, and a point at
which the corner of the same exterior wall meets the roof. This standard shall
not apply to an architectural feature described as a prow.

The proposed building has a roof pitch of 12:12 and a proposed height of 37 feet
and 0 inches. The proposed wall height is 21 feet which is not greater than 90
percent of the maximum building height.

F. Required Actions: Agency staff recommends that the Governing Board approve the
project by making the following motions and findings based on this staff summary and
the evidence contained in the record:

I. A motion based on this staff summary, for the findings contained in Section E
above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the
following conditions:

1. The Standard Conditions of Approval listed in Attachment Q.

2. This permit is for the construction of 9,260 square feet of new commercial
floor area. The TRPA approved use on this site is a professional office.
Any changes to the approved uses will require the permittee to complete
and submit a TRPA Change in Operation form.
3. Prior to acknowledgement of the permit, the following special conditions of approval must be satisfied:

A. The site plans, floor plans, and elevations shall be revised to include:

(1) The floor plans shall be revised to reflect the following commercial floor area calculations:

<table>
<thead>
<tr>
<th>Floor</th>
<th>Square Feet of CFA</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>3,210</td>
</tr>
<tr>
<td>Second</td>
<td>3,498</td>
</tr>
<tr>
<td>Third</td>
<td>2,552</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>9,260</strong></td>
</tr>
</tbody>
</table>

***Pursuant to the above condition the applicant shall be required to transfer 9,260 square feet of commercial floor area to the parcel, or revise the proposed floor plans not exceed 8,895 square feet of commercial floor area as originally proposed.

(2) A designated snow storage area.

(3) Right-of-way improvements noted on the submitted site plan shall be identified. Any new land coverage shall be accounted for in the land coverage calculations.

(4) A note indicating: "All barren areas and areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices. Application of a mulch may enhance vegetative establishment."

B. Consistent with the document, Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County, the permittee is responsible for frontage improvements in the Incline Village Commercial Community Plan. Consistent with this requirement the permittee shall submit a plan to implement the following improvements;

(a) Six feet wide minimum concrete sidewalks measured from the curbline.

(b) Pedestrian street lights 12 feet high 50 feet on center or low level lights 25 feet on center.

(c) Six inch vertical concrete curbs or as specified by Washoe County.
(d) Street trees planted 50 feet on center or pockets of shrubs planted 25 feet on center or a combination, both subject to an approved landscape plan.

This plan shall include but not be limited to the following:

(1) Signed authorization from Washoe County for improvements in the right-of-way.

(2) A grading and slope stabilization plan for the improvements proposed in the right of way.

(3) A rehabilitation plan for the improvements proposed in the right of way.

(4) Existing and proposed coverage calculations for the improvements proposed in the right-of-way.

C. A water quality mitigation fee of $11,458.34 shall be paid to TRPA. This fee is based on the creation of 8,551 square feet of base allowable land coverage assessed at $1.34 per square foot.

D. The permittee shall submit a $1,175 air quality mitigation fee. This fee is based on the generation of 47 new daily vehicle trip ends (dvte) assessed at $25 per dvte.

E. The security required under Standard Condition 1.2 of Attachment Q shall be determined upon the permittee’s submittal of required Best Management Practices plan and related cost estimate. PleaseAttachment J, Security Procedures.

F. The applicant shall submit an offsite coverage mitigation fee of $2,190 for the creation of 438 square feet of new land coverage in the public right-of-way. (This land coverage is associated with driveways not the required sidewalk improvements.

G. The permittee shall transfer 13,642 square feet of hard land coverage to this parcel. Land coverage up to 50% of the project area is transferred at a rate of 1:1 per square foot, the remaining land coverage is transferred at a rate of 1.75:1 per square foot. All transferred coverage shall be from land capability class 1 through 6, or have any IPES score; and be located within Hydrologic Area 1. All coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances, and the TRPA Rules of Procedure and require separate TRPA review and approval.

H. The permittee shall submit a landscape plan and fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances for
TRPA review and approval. Also please review Chapter 6 of the document, Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County. This document also contains standards for landscaping in the community plan areas of Washoe County. The landscape plan shall include but not be limited to the following:

(1) Consistent with the Community Plan requirements, the applicant shall submit a plan to provide screening of the proposed parking areas.

(2) An irrigation system.

(3) A fertilizer management plan consistent with Section 81.7 of the TRPA Code of Ordinances.

I. The permittee shall submit engineered calculations demonstrating that the proposed infiltration systems are designed to treat and infiltrate a 20 year/1 hour storm event. Grease/sand/oil separation shall be included for all infiltration areas receiving parking and driveway runoff.

J. The permittee shall submit a Best Management Practices maintenance schedule for TRPA review and approval.

K. The permittee shall submit three sets of final drawings and site plans to TRPA.

L. The permittee shall submit an Exterior Lighting Plan for TRPA review and approval. This plan shall show conformance with Section 30.8 of the TRPA Code and Chapter 6 of the document, Signage, Parking & Design Standards & Guidelines for the Community Plans of Washoe County.

4. All utilities within the project area shall be placed underground.

5. Excavation equipment shall be limited to the foundation footprint to minimize site disturbance.

6. No signs were proposed or approved with this permit. A separate sign application shall be reviewed and approved by TRPA prior to any installation of signs within the project area.
MEMORANDUM

January 20, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Appeal of Executive Director’s Decision, John Graham and Charles Ebright, Commercial Floor Area Banking, 3766 Montreal and 1091 Fern Road, City of South Lake Tahoe, APN 29-342-01 and 04, File No. 980176

Appeal Description: John Graham and Charles Ebright filed an appeal of the Executive Director’s decision to not recognize commercial floor area within the project area. TRPA staff did not recognize commercial floor area within the subject project area because the applicants could not provide any substantial evidence that the commercial business operating on the site was legally established. The applicants could not provide substantial evidence that the “buildings” identified as commercial floor area had existed, were legally established, or met the TRPA definition of commercial floor area. In addition, the applicants previously requested and were granted two residential units and the transfer of one residential development right on the property they are now claiming as commercial.

Staff Recommendation: Staff recommends that the Governing Board support the Executive Director’s decision and deny the appeal.

Background: TRPA has processed three separate applications for this property since 1993. Prior to 1993, TRPA has no records of actions on this property.

In September 1993, Mr. Ebright applied to TRPA to bank two existing residential units of use and associated land coverage on the subject parcels. The parcels consist of Lots 1, 2 and 3 (APN 29-342-01) and Lot 4 (APN 29-342-04), Block 3 of Pinewood Park Subdivision. TRPA conducted a field visit to the site, reviewed Assessor’s information and utility records and acknowledged two residential units on the above parcels and 3,679 square feet of land coverage.

In October 1995, Mr. Ebright and Mr. Graham applied to transfer a residential development right from APN 29-342-01. TRPA staff determined that the site had two
residential development rights and one residential unit (the other verified residential unit was located on APN 29-342-04). The transfer of the development right was approved and the applicants recorded a deed restriction on the property. The deed restriction, signed by both Mr. Ebright and Mr. Graham, stated that the parcels would be considered permanently merged and consolidated with APN 29-034-04 to constitute on single project area and that the use of the resultant parcel, "...shall be limited to one existing residential unit, and such accessory uses as may exist and as may be permitted by TRPA."

In December 1997, Mr. Ebright and Mr. Graham applied to have commercial floor area recognized and banked on the above parcels. The application stated, "This property had been used for commercial purposes since the early 1950s. There were two residential structures on the property and numerous outdoor storage sheds. At different times the storage sheds collapsed and were rebuilt. Some buildings were replaced with inoperable buses and vans. Plumbing and heating fixtures as well as furniture and automobiles were sold from this property by the previous owner Peter Walker." A new site plan was submitted. This site plan was substantially different from the 1993 site plan submitted by the applicant that staff had used to verify existing land coverage and residential units. In addition, two affidavits were submitted with the commercial floor area banking application, both stating that the individuals signing the affidavits had purchased merchandise from this property. This application did not include the applicants' calculation of commercial floor area.

The TRPA Executive Director denied the request to recognize commercial floor area on the site. This decision was based on the lack of evidence provided by the applicants that the claimed commercial use was legal and that it existed after October 15, 1986 as required by the TRPA Code of Ordinances.

Staff Rationale for the Denial: Staff did not recognize commercial floor area on the subject parcels for the following reasons:

- The applicants did not provide substantial evidence that the commercial use was legally established or that the buildings identified on their submitted 1997 site plan actually existed or where legally established. Staff typically looks to Assessor's records, utility records, building department records, business licenses, tax receipts, income tax forms or any other "official" documents that would help to verify the legal establishment of the commercial use. The Assessor's and utility records were submitted with the 1993 residential use banking application and only documented residential uses on the property. The new information provided by the applicants were affidavits from various individuals, including the two current owners, stating that they had purchased items at this property. Staff does not dispute that items were sold from this property, but in determining the legal establishment of the commercial use, these affidavits are irrelevant because they don't address the legal establishment of the use. These statements also conflict with El Dorado County Assessor's records which document residential uses on the parcel up to 1993. In 1993, the Assessor's office was requested to change the land use from residential to vacant property, which is how it is now being assessed.
The applicants have exercised a permit to transfer a residential development right from APN 29-342-01. TRPA staff recognized the residential development right on the property because of the acknowledged residential uses of the property. If this site had been verified by staff as commercial, this site would not have had a residential development right associated with it consistent with Section 21.6 of the TRPA Code of Ordinances.

The applicants claim to commercial floor area appears to include outdoor storage areas. The TRPA definition of commercial floor area states, "Square footage of commercial floor area shall be calculated by reference to the gross square footage of floor area within the outer wall of a commercial building, not including stairwells and airshafts." Outdoor storage and parking areas are not considered commercial floor area. In addition, the majority of the area being claimed as outdoor storage was not considered land coverage in the 1993 land coverage verification portion of the banking application.

Based on lack of evidence provided by the applicants and the other items outlined above, staff denied the applicants' request to recognize commercial floor area on the subject parcels.

Appellants' Statement of Appeal: The applicants' representative, Mr. Dale Sare, submitted an appeal package which is separate from the Governing Board packet. This package was included in the mailing of the Governing Board agenda and packet. This appeal package includes a seven page Statement of Appeal which documents the applicant's version of the property history, background and conclusion. The package also includes numerous attachments. The appeal package does not contain any points of appeal other than the following:

The City of South Lake Tahoe has recognized 4,661 square feet of enclosed commercial area.

Attachment 2 of the applicants' appeal package includes an August 19, 1997, letter from Tim Donley, Code Enforcement Officer for the City of South Lake Tahoe (CSLT). This letter is a negotiated agreement that the CSLT reached with the property owners to provide abatement of a junkyard nuisance on the property and then acquire the property. TRPA staff was not present at the meeting. Staff contacted the CSLT to clarify how their staff calculated the commercial floor area. Mr. Tim Donley responded with a letter and diagram dated January 12, 1999, which is included at the end of this staff summary. The majority of the area identified as commercial floor area relative to the CSLT letter is outdoor storage which is not considered commercial floor area by TRPA rules. In addition, this outdoor area was not identified as land coverage in the 1993 TRPA file.

Staff is sympathetic to the CSLT's need to pursue every possible avenue to abate public health hazards on the property and acquire the land. However, these areas neither meet the TRPA definition of commercial floor area pursuant to Chapter 33 of the TRPA Code of Ordinances, nor was the applicant able to provide any documentation to verify the legal establishment of the commercial
uses and associated buildings. TRPA is not bound by this agreement and TRPA staff does not have the ability to negotiate the definition of commercial floor area or waive the need for evidence of legal establishment.

There are some other flaws to the CSLT's agreement. Item 3 of the letter states that the CSLT would retain three residential development rights. Only one residential development right remains on the property along with two existing residential units of use. However, if TRPA recognized commercial floor area on the property, the property would not contain any residential development rights.

The remaining portion of the Statement of Appeal contains the representative's view of the sequence of events regarding applications to TRPA. No new information is presented to support the legal establishment of commercial use, or that any of the buildings claimed as commercial floor area were legally constructed and existing after October 15, 1986. The Statement of Appeal states, "Numerous items were obtained regarding the mapping and historical use of the property" (page 5, paragraph 1, line 10). Staff is unclear as to what numerous items the applicants are referring. Besides the Assessor's information and utility records documenting residential uses, the only other information submitted was affidavits. As stated earlier in this staff summary, these affidavits reference the purchasing of materials at this site which staff does not dispute. However, these affidavits do not address the legal establishment of the commercial use, and therefore, are irrelevant.

Summary: In staff's and TRPA Legal Counsel's opinion, the applicant has not provided substantial evidence on which TRPA can recognize commercial floor area as legally established on these parcels.

Action Requested: Staff recommends denial of the appeal. To deny the appeal, the Governing Board must make a motion to grant the appeal, which motion should fail. (The vote required to grant the appeal is a 5/9 vote, five in the affirmative from California.)
March 4, 1998

Dale Sare
2269 James Avenue
South Lake Tahoe, CA 96150

COMMERCIAL FLOOR AREA VERIFICATION, APN 29-342-01 & 04/TRPA FILE #970835

Dear Mr. Sare:

I have completed a review of the above-referenced application with Rick Angelocci of our staff. In addition, Rick and his staff have researched previous TRPA files and other sources (utility, assessor, city) for information regarding the previous uses on the subject parcel. Rick has also discussed the matter with both City staff and City Council members.

As you are aware, there is an extensive history with regards to applications previously processed by the TRPA and City of South Lake Tahoe for the subject parcels. In late 1993, your client applied for verification of “two residences and associated accessory structures and coverage built in 1953.” The application included no mention of a commercial use on the property. In February, the agent for your client stated in writing that the two properties have been assessed for over 40 years as residential, again with no mention of a legally existing or previous commercial use. In a letter dated 3/8/94 from your client’s representative, there is a very brief mention that in the past a portion of the site was used as an “outside storage and display yard.”

In late 1995, your client applied to transfer a residential development right from the subject property. Again, the application failed to identify any existing or previous commercial use of the property. In early 1996, we received a letter from you stating that your firm was now representing the applicant and in that letter you mentioned that you had additional information regarding the commercial use of the property.

On January 19, 1996 an application for verification of commercial floor area was sent to you. Nearly twenty - three months later, on December 8, 1997, you returned the application on behalf of your client requesting verification of the commercial floor area for the subject parcels.

Planning for the Protection of our Lake and Land

59
Based upon the information contained in the previous files, research with the utility companies and discussions with local planning staff, I have made the following determinations with regards to commercial floor area on the subject parcels. As you are aware, there are several provisions in the TRPA Regional Plan which relate to our ability to recognize commercial floor area for the subject site. With regards to the storage yard, the Regional Plan and TRPA Code identifies areas such as this as “outside display and storage” and further defines such areas as accessory. Many commercial uses utilize outside storage and display of their merchandise. These include the many automobile dealers, nurseries, lumber yards, wood lots, christmas tree lots, hardware stores, and even the occasional “sidewalk sale.” The Regional Plan provides that these areas of outside display and storage are accessory in nature and do not constitute commercial floor area. With this in mind, We are denying any claim that the storage yard in the subject properties constitutes commercial floor area.

With regards to your assertion that some of the previous existing structures on the property, and some previously existing vehicles, including three trucks, one volkswagen bug, and one bus constitute commercial floor area I offer the following. Your application failed to provide any evidence that any structures on the property were used for commercial purposes, let alone under a legal permit. Further, I refer you to Subsection 38.2C of the TRPA Code which states, in part, that only such uses that legally existed on or after October 15, 1986 may be credited. You have submitted two letters from individuals stating that they purchased items prior to 1986, however, you have not provided any evidence (i.e., business license, tax receipts, submitted income tax forms) to show that the claimed commercial use was either legal or that it existed after October 15, 1986. Based upon such a lack of evidence, we are denying any claim for commercial floor area on the subject property.

For the record, your client represented in 1994 that recognition of residential units on the property by TRPA would result in the cleanup of the site. As you are aware, TRPA recognized the residential units in February, 1994, however, the site was not cleaned up until the fall of 1997. It is disturbing that your letter implies that the site was finally cleaned up based on your client’s good faith that the TRPA would recognize commercial floor area on the properties.
Sare Letter
3/5/98
page 3

If you should wish to appeal this decision, you must file a complete appeal application within 21 days from the date of this letter. Enclosed is an appeal application and a copy of Article XI from the TRPA Rules of Procedure which describes the appeal procedure. The appeal application filing fee is $355.

Sincerely,

James Baetge
Executive Director

cc: Charles Ebright
    John Graham
    Rick Angelocci
    Jerry Wells
    Yvonne Hoffman
    Tim Donley
    Gary Marchio
    Hal Cole
January 12, 1999

Rick Angelocci
Chief of Project Review
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, Nv. 89448-1038

Re: APN 29-342-01 (3766 Montreal) & APN 29-342-04 (1091 Fern)

Dear Rick,

In response to your letter on January 6, 1999 directed towards City staff, I am happy to explain below as to exactly how the figure of 4661 square feet of commercial floor area was arrived upon in the “Agreement in Principle”, also known as the Graham/Ebright agreement.

Basically, on July 28, 1997 Alex Woodley, Assistant Code Enforcement Officer, and I measured the premises indicated above (see attached diagram) and came up with a total figure of 3823 square feet of floor area. Of this total, 2867 square feet are actually included within an outside storage yard completely full of plumbing materials and other assorted items.

During a meeting on July 31, 1997 at Dale Sare’s office, both Mr. Sare and Mr. Graham felt the outside storage yard counts as commercial square floor area and stated such and further, felt the City’s figures were too low. Consequently, on that same date, John Graham, Alex Woodley, and I proceeded to the site and remeasured everything again (see attached drawing). This new measurement showed a total of 4661 square feet of which 3796 square feet was contained in the outside storage yard and this latter figure of 4661 square feet is the figure agreed to in the August 19, 1997 letter I wrote. Immediately following this measurement, Mr. Graham indicated he could provide maps and other documentation to perhaps prove an additional 2000 square feet of coverage existed (for a grand total of 6661 square feet) prior to the partial demolition of the site by the previous owner. As of the date of this letter, no further documentation has been submitted.

I hope this letter clarifies the methods used during the calculation of coverage and if there are any further questions, please do not hesitate to contact the undersigned.

Sincerely,

Tim F. Donley
Code Enforcement Officer

Cc: attachments
HOUSE 300

STORAGE YARD
contains 5 sheds of various sizes

525 - HOUSE
300 - HOUSE
376 - YARD
46.21
40 - SHED
40.61

MONTREAL

JOHN 7/31/97 CALCULATIONS
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PERMANENT PARCEL CONSOLIDATION AND DEVELOPMENT RIGHT
TRANSFER FROM A SENSITIVE PARCEL ("DEED RESTRICTION")

This declaration is made this 31st day of August, 1996, by
Charles B. Ebright II and Mary S. Ebright, husband and wife, and John S.
Graham, Jr. and Janice C. Graham, trustees of the John S. Graham, Jr. Family
Revocable Trust (hereafter "Declarants").

RECATS

1. Declarants are the owners of certain real property located in the
City of South Lake Tahoe, California, described as follows:

Lot 1, Block 3, of Pinewood Park Subdivision, filed July 19, 1926
in Book A of Maps at page 9 and as recorded in Book 4149, Page 191
on November 12, 1993 in the office of the El Dorado County
Recorder, State of California, and having Assessor's Parcel Number
(APN) 029-342-01 (hereinafter "Sending Parcel").

Lot 2, Block 3, of Pinewood Park Subdivision, filed July 19, 1926
in Book A of Maps at page 9 and as recorded in Book 4149, Page 191
on November 12, 1993 in the office of the El Dorado County
Recorder, State of California, and having APN 029-342-01
(hereinafter "Adjoining Parcel").

2. Declarants have received approval from TRPA on January 25, 1996 to
transfer one residential development right from the Sending Parcel to the
Receiving Parcel, described as follows:

Parcel 2 as shown on the Parcel Map No. 1050 filed in the office
of the Washoe County Recorder, State of Nevada, on February 13,
1980 as Document No. 657033 and having APN 122-100-10
(hereinafter "Receiving Parcel").

3. The above real property is located in the Tahoe Region as described
in the Tahoe Regional Planning Compact (P.L. 96-551, 94 Stat. 3233, 1980),
which region is subject to the Regional Plan adopted by the Tahoe Regional
Planning Agency ("TRPA") pursuant to the Tahoe Regional Planning Compact.

4. As a condition of the above approval and pursuant to the TRPA Code
of Ordinances, TRPA requires that the sending parcel be restricted in
accordance with Subsection 34.5.I of the TRPA Code, or be permanently
consolidated with the Adjoining Parcel, described above.
DECLARATIONS

1. Declarants hereby declare that the Sending Parcel described above is, and shall be, deemed by TRPA to have permanently transferred the residential development right assigned to the Sending Parcel as defined in Chapter 21 of the Code. The sending parcel is not eligible for a residential unit of use unless or until TRPA approves the transfer of a residential development right or an existing unit of residential development to the sending parcel, in accordance with the ordinances then in effect. Any such future transfer shall be evidenced by a recorded instrument approved by TRPA.

2. Further, Declarants shall, in lieu of an open space restriction pursuant to Section 34.5.1, cause the Sending Parcel to be permanently merged and consolidated with the Adjoining Parcel and that the Sending and Adjoining Parcels shall thereafter constitute a single project area for all purposes under the TRPA Code, including without limitation, land coverage, density, and use. The use of the resultant parcel shall be limited to one existing residential unit, and such accessory uses as may exist and as may be permitted by TRPA.

3. This Deed Restriction shall be deemed a covenant running with the land or as an equitable servitude, as the case may be, and shall constitute benefits and burdens to the parcels described above and shall be binding on the declarant and declarant’s assigns and all persons acquiring or owning any interest in the above-described parcels.

4. This Deed Restriction may not be revoked or modified without the prior express written and recorded consent to the TRPA or its successor agency, if any. TRPA is deemed and agreed to be a third party beneficiary of this declaration and as such can enforce the provisions of this declaration.

IN WITNESS WHEREOF, Declarants have executed this declaration on the day and year written above.

Declarants' Signatures:

Charles B. Ebright II

STATE OF Ca } SS.
COUNTY OF El Dorado

Dated: 8-21-96

On this 21st day of August, 1996, before me, personally appeared Charles Ebright II, personally known to me, or proved to me to be on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon their behalf of which the person(s) acted executed the instrument.

NOTARY PUBLIC
Mary S. Ebright

Mary S. Ebright

STATE OF CA

COUNTY OF El Dorado

On this 21st day of August, 1996, before me, personally appeared Mary S. Ebright personally known to me, or proved to me to be on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon their behalf of which the person(s) acted executed the instrument.

D. Musser
NOTARY PUBLIC

Dated: 8-21-96

John S. Graham, Jr., Trustee

STATE OF CA

COUNTY OF El Dorado

On this 21st day of August, 1996, before me, personally appeared John S. Graham, Jr. personally known to me, or proved to me to be on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon their behalf of which the person(s) acted executed the instrument.

D. Musser
NOTARY PUBLIC

Dated: 8-21-96
Deed Restriction APN 029-342-01
Charles B. Ebright II and Mary S. Ebright
John S. Graham, Jr. and Janice C. Graham
Page 4 of 4

Janice C. Graham, Trustee

Dated: 8-21-74.

STATE OF Ca ) SS.
COUNTY OF El Dorado

On this 21st day of August, 1996, before me, personally appeared
Janice C. Graham personally known to me, or proved to me to be on the
basis of satisfactory evidence to be the person whose name(s) is/are
subscribed to the within instrument, and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s) or the entity
upon their behalf of which the person(s) acted executed the instrument.

NOTARY PUBLIC

APPROVED AS TO FORM:

Tahoe Regional Planning Agency

Dated: 2/29/96

STATE OF NEVADA )
COUNTY OF DOUGLAS )

On this 29th day of February, 1996, before me, personally appeared
personally known to me, or proved to me to be on the
basis of satisfactory evidence to be the person whose name(s) is/are
subscribed to the within instrument, and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s) or the entity
upon their behalf of which the person(s) acted executed the instrument.

NOTARY PUBLIC

END DOCUMENT
January 4, 1999

Rick Angelocci  
TRPA  
P.O. Box 1038  
Zephyr Cove, NV 89448  

Re: Graham/Montreal Property  

Dear Mr. Angelocci:  

You informed me on December 30, 1998, that you were rejecting our client's request for recognition of commercial square footage. You stated that due to some comments made by my clients, that you were not willing to recognize said commercial square footage.  

You also informed me on that date, that we would be placed on the January TRPA Governing Board agenda. Please accept this letter as our formal request that the complete text of our appeal, along with photos, be included in the board member packet.  

Sincerely yours,  

LAW OFFICES OF DALE L. SARE, INC.  

Dale L. Sare, Esq.  
DLS/1b  
cc: client
January 6, 1999

Dale Sare  
2269 James Avenue  
South Lake Tahoe, CA 96150  

Re: Graham Appeal  

Dear Mr. Sare:

This is to confirm that the above-referenced appeal has been tentatively placed on the January 27, 1999 Governing Board meeting. Your letter of January 4, 1999 disturbs me that you believe I was unwilling to recognize commercial floor area on the subject property due to comments you made that I had received "marching orders" to approve your pending appeal. As I indicated when you made those comments to me, I had not and have not received any orders to approve your appeal either from the Executive Director or members of the Governing Board as you implied.

Let me make this perfectly clear to you. As you recall, I have worked diligently to resolve the issue of commercial floor area on the property and your appeal. I have repeatedly requested that you submit substantial evidence to support your appeal, beyond affidavits of sales. At our meeting on November 12, 1998 you stated that because you understood I had been directed to grant the appeal, nothing less than the recognizing the full amount was acceptable to you. I can appreciate your position, as I hope you can appreciate mine. Unfortunately, the information in the record does not provide me with enough evidence to recognize all of the commercial floor area requested. The Executive Director, Jim Baetge, concurs with this decision.

We will certainly include your statement of appeal with the Governing Board packet. The comments made by you at the November 12, 1998 meeting had no bearing on the decision to move the appeal to the Governing Board level. If the statements you have made that the Governing Board has already made up their mind to approve the appeal are true, then the appeal hearing should result in your favor.

If you have any questions or misunderstandings, don't hesitate to call.

Sincerely,

Rick Angelocci  
Chief of Project Review  

c: Jim Baetge
January 8, 1999

Rick Angelocci
TRPA
P.O. Box 1038
Zephyr Cove, NV 89448-1038

Re: Graham/Montreal

Dear Mr. Angelocci:

In response to your letter faxed to me on January 6, 1999, I must remind you that neither my clients nor I requested your intervention in this appeal process. We prepared a complete appeal to your staff's rejection of our request to acknowledge 4,600 square feet of commercial space located at 3766 Montreal.

In the appeal packet, we have demonstrated not only the fact that a commercial operation was grandfathered on the property, but there were in fact buildings that were being used for commercial purposes in 1988. We also included documentation from the City of South Lake Tahoe supporting that fact. To say that this matter was handled improperly by your staff and my clients from the beginning is a gross understatement. Notwithstanding that fact, we renovated and overcame the problems of the predecessor representatives as well as the original TRPA staff who handled this matter.

Once again, we did not request your intervention, however, you requested a meeting to compromise this appeal. I attended that meeting at your office on June 8, 1998. At that time you informed me that if we could further substantiate the 4,600 square feet of commercial square footage, you would review your files and documentation towards that same end.

On the 12th day of October, 1998 we mailed to you declarations signed by Charlie Carr, John Graham, and Brig Ebright. At our meeting of November 12, 1998 you informed me that you were under the impression that I would agree to settle for 3,000 square feet. You did not explain any actions you had taken to verify there was less than 4,600 square feet. I informed you that my clients had been advised that you had been directed to resolve this problem and unless there was substantial proof showing that there was not 4,600 square feet, I was directed to take it to the board where the appeal would be reviewed favorably. You stormed
from your office stating "Your clients better not ever threaten me again". I followed you from the office and asked you what you were referring to. You finally calmed down and couldn't give me a very good reason, however, you said that you would review the declarations and get back to me. I informed you that I had authorization to settle for 4,200 square feet of commercial square footage.

Approximately ten weeks passed without word. I phoned and left several messages, and finally I phoned on the 30th day of December 1998, you stated "Since your client will not accept less than 4,600 square feet, I cannot authorize the recognition of this square footage". I reminded you after that statement that I had told you at our last meeting that I was authorized to accept 4,200 square feet as a compromise. You indicated that you did not recall that fact. During this entire process, Mr. Angelocci, you have not informed me of one single act that you had taken to prove or disprove my client's position or work diligently on our file. It appeared while you were on the phone, that you were still upset for my client allegedly threatening you in some manner. Once again, I am at a loss at your change of attitude. Please enclose all three of the last letters in the appellate package.

Sincerely yours,

LAW OFFICES OF DALE L. SARE, INC.

Dale L. Sare, Esq.

DLS/1b

cc: client
October 12, 1998

Rick Angelocci
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV 89448-1038

Re: 3766 Montreal Avenue, South Lake Tahoe, California

Dear Rick:

Please find enclosed three additional declarations that further confirm the commercial square footage located at the above-referenced parcel. I have instructed my staff to set up a meeting between us so that we can bring this matter to closure.

As always, if you have any questions, please do not hesitate to call.

Sincerely yours,

Dale L. Sare, Esq.

DLS/1b
encl.

cc: clients
DECLARATION OF CHARLIE CARR

I, CHARLIE CARR, declare as follows:

1. That I have been a resident of South Lake Tahoe, California for fifty years;

2. That I am familiar with the property located at 3766 Montreal Avenue, South Lake Tahoe, California;

3. That I have reviewed Exhibit "A" to this declaration and find it to be a true and exact duplication of the buildings at the above location, that I specifically recall being in existence after 1986;

4. Specifically Buildings 3, 4, and 5 existed after 1986, and the front portion of the residence was used for commercial operations, as depicted in Exhibit "A";

5. The roofs and walls of these buildings were anchored on existing trees that were, in some cases, in the center or close to the center of these buildings;

6. Mr. Peter Walker constructed the roofs with long 2 x 4s, 2 x 6s, and 2 x 8s anchored to the walls and to the trees, then

//
//
//
//
//
covered with corrugated tin.

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct.

Executed this __ day of __________, 1998 at South Lake Tahoe, California.

[Signature]
DECLARATION OF JOHN GRAHAM

I, JOHN GRAHAM, declare as follows:

1. That I have been a resident of South Lake Tahoe, California for thirty-five years;

2. That I am the owner of the property located at 3766 Montreal Avenue, South Lake Tahoe, California;

3. That I have reviewed Exhibit "A" to this declaration and find it to be a true and exact duplication of the buildings at the above location, that I specifically recall being in existence after 1986;

4. Specifically Buildings 1, 2, 3, 4, and 5 existed after 1986, and the front portion of the residence was used for commercial operations, as depicted in Exhibit "A";

5. The roofs and walls of these buildings were anchored on existing trees that were, in some cases, in the center or close to the center of these buildings;

6. During the winter of 1986 buildings #1 and #2 collapsed and were replaced by a van and a bus;

7. The roofs and walls of these buildings were anchored on existing trees that were, in some cases, in the center or close to the center of these buildings;

8. Mr. Peter Walker constructed the roofs with long 2 x 4s, 2 x 6s, and 2 x 8s anchored to the walls and to the trees, then
covered with corrugated tin.

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of April, 1998 at South Lake Tahoe, California.

[Signature]
DECLARATION OF BRIG EBRIGHT

I, BRIG EBRIGHT, declare as follows:

1. That I have been a resident of South Lake Tahoe, California for fifty-two years;

2. That I am the owner of the property located at 3766 Montreal Avenue, South Lake Tahoe, California;

3. That I have reviewed Exhibit "A" to this declaration and find it to be a true and exact duplication of the buildings at the above location, that I specifically recall being in existence after 1986;

4. Specifically Buildings 1, 2, 3, 4, and 5 existed after 1986, and the front portion of the residence was used for commercial operations, as depicted in Exhibit "A";

5. The roofs and walls of these buildings were anchored on existing trees that were, in some cases, in the center or close to the center of these buildings;

6. During the winter of 1986 buildings #1 and #2 collapsed and were replaced by a van and a bus;

7. The roofs and walls of these buildings were anchored on existing trees that were, in some cases, in the center or close to the center of these buildings;

8. Mr. Peter Walker constructed the roofs with long 2 x 4s, 2 x 6s, and 2 x 8s anchored to the walls and to the trees, then
covered with corrugated tin.

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct.

Executed this 9 day of October, 1998 at South Lake Tahoe, California.

By: [Signature]
MEMORANDUM

February 10, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Map Showing Need for Water Quality Improvements Pursuant to Requirements of Chapter 37, Individual Parcel Evaluation system, Section 37.10.A., Installation of Water Quality Improvements in Vicinity of Parcels in El Dorado, Placer, and Washoe Counties

Proposed Action: To amend the official map delineating water quality improvements in the vicinity of parcels as set forth in the attached adopting ordinance (see Attachment A).

Staff Recommendation: Staff recommends the Governing Board conduct a public hearing and, if appropriate, adopt the amending ordinance (Attachment A) implementing the map amendments and their respective scores.

Advisory Planning Commission Recommendation: Staff will present the Advisory Planning Commission (APC) recommendation to the Governing Board during the staff presentation.

Background: At their October 1987 meeting, the Governing Board adopted the map, Need for Water Quality Improvements (2" = 1 mile), delineating water quality improvements in the vicinity of parcel. Preparation of this map was based upon field data collected during the summer of 1987 pursuant to Subsection 37.2.G of the Code of Ordinances:

37.2.G Need For Water Quality Improvements In Vicinity Of Parcel: The maximum score for need for water quality improvements in vicinity of parcel is 50 points.

(1) Preparation Of Map: TRPA shall prepare a map identifying areas within which the need for the water quality improvements listed in Table G-1 of the Technical Appendices is the same. The Lake Tahoe Basin Water Quality Management Plan (208 Plan) maps shall be used as a guideline for determining the level of improvements needed.

Areas shall be assigned point values in accordance with Table G-1 of the Technical Appendices. The points assigned shall be equal to the mathematical difference between 50 points and the total of the negative points received due to the combination of water quality improvements needed.

(2) Assigning Scores To Parcels: Each parcel shall receive the score assigned to the area, established under Subparagraph (1), above, in which the parcel is located.
G. Need For Water Quality Improvements in Vicinity of Parcel

TABLE G-1

<table>
<thead>
<tr>
<th>Needed Improvement</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>50</td>
</tr>
<tr>
<td>Revegetation</td>
<td>- 6</td>
</tr>
<tr>
<td>Rock-lined or vegetated ditches</td>
<td>- 8</td>
</tr>
<tr>
<td>Curb gutter or paved swales</td>
<td>- 8</td>
</tr>
<tr>
<td>Storm drain pipes</td>
<td>- 8</td>
</tr>
<tr>
<td>Retaining walls</td>
<td>- 4</td>
</tr>
<tr>
<td>Rock slope protection</td>
<td>- 4</td>
</tr>
<tr>
<td>Paved roads</td>
<td>- 8</td>
</tr>
<tr>
<td>Sediment basins</td>
<td>- 4</td>
</tr>
</tbody>
</table>

Since adoption of this map, numerous water quality improvement projects have been implemented within the Lake Tahoe Basin. As anticipated within the IPES system, one of the ways that a parcel's IPES score may be increased (37.10.A) is through "water quality improvements of the type considered in subsection 37.2.G are installed in an area, subsequent to TRPA preparing the maps in accordance with subparagraph 37.2.G(1)."

Upon implementation of these projects, "TRPA shall amend the map by increasing the point values identified in Table G-1 for the improvements installed. The scores received by parcels located in areas where point values are increased in this subsection shall be increased to reflect the new point value."

Amendments proposed by staff are intended to:

1. Account for water quality improvement projects implemented since 1997; and
2. Increase the point scores for those parcels affected by these projects pursuant to 37.10.A of the Code of Ordinances.
Discussion: The proposed amendments are based on field data collected during the fall and winter of 1998-1999. Point values were assigned according to the scoring criteria in Table G-1. Properties affected by the score increases were restricted to only those parcels immediately within the vicinity of the water quality improvement project.

To maintain the original intention of identifying and scoring areas within which the need for improvements are the same, the proposed amendments delineated several areas that are smaller than those identified on the official map. This reflects the fact that improvements often addressed portions of the originally mapped areas.

<table>
<thead>
<tr>
<th>Number</th>
<th>Jurisdiction</th>
<th>Improvement Project</th>
<th>Existing Score</th>
<th>Proposed Score</th>
<th>Map #</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>El Dorado County</td>
<td>Angora Erosion Control, Phase II</td>
<td>16</td>
<td>50</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hekpa Erosion Control Project</td>
<td>24</td>
<td>50</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>City of South Lake Tahoe</td>
<td>Beecher-Lodi Erosion Control</td>
<td>30</td>
<td>50</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>Al Tahoe/Pioneer Trail/Bijou Creek Erosion Control</td>
<td>34</td>
<td>50</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>Placer County</td>
<td>Homewood Canyon Erosion Control</td>
<td>24</td>
<td>32</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>Total Cost: $108,822</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Washoe County</td>
<td>Ski Way Water Quality Improvement Project</td>
<td>44</td>
<td>50</td>
<td>7</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>Ponderosa Subdivision Erosion Control Projects</td>
<td>28</td>
<td>38,38,46</td>
<td>8</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>Country Club Divet Court Revegetation Project</td>
<td>44</td>
<td>50</td>
<td>9</td>
</tr>
<tr>
<td>9</td>
<td>Placer County</td>
<td>Ward Creek Debris Removal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td></td>
<td>Total Cost: $153,358</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td></td>
<td>Blackwood Creek Debris Removal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td></td>
<td>Total Cost: $4,684</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Douglas County</td>
<td>Agate Road Erosion Control Project, Phase II</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Cost: $4,503,000 (Commercial)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Cost: $43,906 (WQ scores updated 1997)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Elk Point Erosion Control Project</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total Cost: $130,983 (Commercial)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Water quality improvement projects completed during 1997 and 1998, which did not result in changes to water quality scores under IPES are listed below.
Memorandum to the Governing Board
Amendment of Map Showing Need for Water Quality Improvements Pursuant to
Requirements of Chapter 37
Page 4

Required Findings: The following findings must be made prior to adopting the proposed amendments:

Chapter 6 Findings

1. Finding: The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and Maps, the Code, and other TRPA plans and programs.

Rationale: The amendments are consistent with Chapter 37 of the Code of Ordinances. Subsection 37.10.A. anticipated the need for amendments and established the criteria for the related IPES parcel score increases.

2. Finding: The project will not cause the environmental thresholds to be exceeded.

Rationale: The amendments are consistent with the Regional Plan and will not cause the environmental thresholds to be exceeded.

3. Finding: Wherever federal, state, and local air and water quality standards applicable to the Region, whichever are stricter, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards.

Rationale: See findings 1 and 2 above.

4. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: For the reason set forth in the rationale for finding 1 above, these amendments better implement the Code and Regional Plan and will assist in the achievement and maintenance of the environmental thresholds.

Environmental Documentation: Staff proposes a Finding of No Significant Effect (FONSE) for these proposed amendments. These amendments implement the Regional Plan.

Required Actions: To adopt the amended map, the Governing Board must take the following actions:

1. Make a finding of no significant environmental effect and the Chapter 6 findings as set forth above; and

2. Adopt the attached implementing ordinance.

If you have any questions or comments regarding this agenda item, please contact Tom Sinclair at (702) 588-4547.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 99 --

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING
THE REFERENCE MAP FOR THE INDIVIDUAL PARCEL EVALUATION SYSTEM
RELATING TO THE NEED FOR WATER QUALITY IMPROVEMENTS; AND
PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

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

Section 1.00 Findings
1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as
amended, which ordinance relates to the Regional Plan of the Tahoe
Regional Planning Agency (TRPA) by amending the Individual Parcel
Evaluation System (IPES) reference may related to the need for water
quality improvements, in order to further implement the Regional Plan
pursuant to Article VI(a) and other applicable provisions of the Tahoe
Regional Planning Compact.

1.20 The Advisory Planning Commission (APC) conducted a noticed public
hearing on these amendments and recommended adoption of the
amendments. The Governing Board also conducted a noticed public
hearing at which oral and documentary testimony was received and
considered by the Board.

1.30 The Governing Board has determined that the amendments have no
significant environmental effect, and thus are exempt from the
requirement of an environmental impact statement pursuant to Article VII
of the Compact.

1.40 The Governing Board finds that, prior to the adoption of this ordinance,
the Board made the findings required by Chapter 6 of the Code and
Article V(g) of the Compact,

1.50 The amendments adopted by this ordinance continue to implement the
Regional Plan, as amended, in a manner that achieves and maintains the
adopted environmental threshold carrying capacities as required by
Article V(c) of the Compact.

1.60 Each of the foregoing findings is supported by substantial evidence in the
record.
Section 2.00 Amendment to the IPES Reference Maps

Subparagraph (1)(a) of Subsection 6.40 of Ordinance No. 87-9, as amended, is hereby further amended by the addition of the double underlined language to read as follows:

6.40 Reference Maps

(1) IPES MAPS: The IPES working maps include:

a) Need for Water Quality Improvements at the scale of 2” = 1 mile (October 1987), as amended by:

i) Exhibits 1 through 28, inclusive, attached hereto and dated October 1991,

ii) Exhibits 1 through 13, inclusive, attached hereto and dated May 4, 1994,

iii) Exhibits 1 through 12, inclusive, attached hereto and dated December 9, 1997,


Section 3.00 Interpretation and Severability

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

Section 4.00 Effective Date

Pursuant to Section 12.3, this ordinance shall become effective 60 days after the date of this adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held February 24, 1999, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Larry Sevison, Chairman
Tahoe Regional Planning Agency
EL DORADO COUNTY
WATER QUALITY IMPROVEMENT PROJECT
Angora Phase #2
IPES WQ IMPROVEMENT SCORE = 50

Exhibit 2
01-12-99
EL DORADO COUNTY
WATER QUALITY IMPROVEMENT PROJECT

HEKPA
IPES WQ IMPROVEMENT SCORE = 50
BEECHER/LODI
EROSION CONTROL PROJECT
IPES WQ IMPROVEMENT SCORE = 50
AL TAHOE/PIONEER
BIJOU CREEK EROSION
CONTROL PROJECT
IPES WQ IMPROVEMENT SCORE = 50
HOMEWOOD CANYON
EROSION CONTROL PROJECT

IPES WQ IMPROVEMENT SCORE = 32

Exhibit 6
01-20-99
COUNTRY CLUB/DIVOT COURT
REVEGETATION PROJECT
IPES WQ IMPROVEMENT SCORE = 50
MEMORANDUM

February 16, 1999

To: Governing Board

From: TRPA Staff

Subject: Amendment of Code Chapter 81, Water Quality Controls, to Provide for Minor Exemptions Related to the Prohibition of Certain Watercraft in the Tahoe Region

Proposed Action: In response to the Governing Board’s direction in January, staff has prepared three additional exemptions to the prohibition of watercraft propelled by two stroke engines. The exemptions are as follows:

1. Exempt any watercraft powered by an engine that has been certified as meeting EPA’s 2001 emission standard until October 1, 2001.

2. Exempt sailboats utilizing two stroke engines as auxiliary power until October 1, 2001.


Staff was directed to work with the representatives to prepare an ordinance amendment and a mitigation package which would result in a finding of no significant effect. The purpose of the amendment is to provide relief to certain members of the boating public and to settle the existing lawsuit. In addition, staff recommends a few minor technical corrections to the amended ordinance. The Governing Board is requested to consider the adoption of the proposed amendments.

Staff Recommendation: Staff recommends adoption of the 2001 amendment proposed in Attachment A with the following mitigation measures.

A. Mitigation for 2001 Exemption:

1. Increased Enforcement – TRPA will provide additional watercraft for enforcement. Currently, TRPA has one boat and six enforcement officers budgeted for the summers of 1999 and 2000. The addition of one more boat would increase the efficiency of enforcement. TRPA was estimating a 3 to 5% violation rate based on the Hagler Bailly survey. Staff believes that the doubling of watercraft dedicated to enforcement will reduce violation of the ordinance. At the very least, boaters will be less likely to
use non-complying watercraft if they see a TRPA enforcement vessel in the vicinity. An increased enforcement presence will also allow TRPA to cite more violations of the ordinance, and will serve as a deterrent to other potential violators. TRPA and the NMMA will add one additional watercraft for enforcement.

2. Increased Public Information: The Hagler Bailly survey indicated that 23% of the surveyed public were unaware of the June 1, 1999, prohibition. The NMMA has agreed to cooperate with TRPA to produce a brochure or mailer in order to increase the public awareness of the ordinance and other relevant marine engine and boating practices. Increased public awareness will likely increase compliance.

TRPA staff and the other plaintiffs have not been able to develop a mitigation program for the other two exemptions that can be implemented before June 1, 1999. Therefore, staff cannot recommend any further regulatory restrictions that would reduce fuel loading.

Analysis: At the January Governing Board meeting, TRPA reaffirmed its prohibition of two-stroke powered watercraft. See the non-underlined language in Attachment A for the current standard. At the meeting, some Governing Board members, the plaintiffs in the watercraft lawsuit, and some members of the general public raised the issue of exemptions. Generally, the issues are the cost to change engines, the unavailability of new engines, and the possibility of an insignificant impact from a selected group. The Governing Board directed staff to consider three temporary exemptions and to work with the plaintiffs to resolve the environmental impacts and the lawsuit.

As drafted, the proposal for the three exemptions uses the recently adopted language, but adds three exemptions to the June 1, 1999 prohibition of two-stroke powered watercraft as described below.

First, as to the availability of the new technology engines (e.g., four-strokes and direct injection two-strokes), review of the Technical Feasibility Section of the October 23, 1998 CARB Staff Report demonstrates the wide range of outboards available. As to PWCs, it appears that the direct injection Polaris Genesis model and the Tigershark TS1100Li model will be available this summer.

The fundamental problem is the conversion cost which can range between $500 for a small, used outboard to $10,000+ for a new, large outboard or PWC. To mitigate this impact, TRPA gave boaters two seasons to amortize and convert to the new technology. The second issue relates to small horsepower engines and auxiliary engines that use only small amounts of fuel. Based on the incomplete surveys of the 1998 Hagler Bailly Watercraft Survey and some factors from the June 1997 TRPA Motorized Watercraft Environmental Assessment, TRPA staff has attempted to present an estimate of 1998 boating usage by watercraft type. In general, the new information indicates that the use of outboards is less at Lake Tahoe than was previously estimated. The boating numbers from the survey are still being compiled and may need further adjustment; however, these estimates are adequate for analytical purposes. TRPA considered the following categories for three-year extensions from the prohibition.
Under 10 hp two-stroke carbureted outboard motors – Staff estimates that under 10 hp outboard two-strokes will account for 1.59% of the seasonal boating use in 1998 and will use 0.3% (5476 gallons) of the boating season fuel. However, as one can observe in the Table below, these engines account for 1.2% of the unburned soluble fuel discharged into the Lake. They are much less efficient on a horsepower basis than the larger motors and an order of magnitude more polluting than four-strokes. They result in 4.49% (247 gallons) of the MTBE discharged into the Lake. In addition, these engines cost much less than the larger engines to replace.

Auxiliary Two-Stroke Carbureted Outboards for Sailboats – Staff estimates that auxiliary outboard two-strokers for sailboats will account for 1.6% of the seasonal boating in 1999 and will use 0.016% (2477 gallons) of the fuel boating season fuel. The unburned soluble fuel discharge to the Lake is 0.5%. The hours of operation for sailboats are much shorter. Although sailboats will discharge one-half the amount of small outboards, the arguments regarding greater pollutant discharge per horsepower and less cost for small outboards apply here.

EPA 2001-2005 Certified Engines – This is a proposal by NMMA to allow the use of cleaner technology engines until October 1, 2001. This exception would have some effect on discharge loading since these engines are estimated to be 35% cleaner than the fleet average in 1997. TRPA staff has asked EPA and the manufacturers for an estimate of how many watercraft that are not four-stroke or two-stroke DFI would qualify. EPA is unable to provide this information directly. EPA did provide TRPA with a partial data on certification of engine families for 1998 and 1999. Based on that data TRPA staff estimates about 9% of the 1998 EPA list and 4% of the 1999 EPA list are 2001-2005 level engines. TRPA estimates assume the predominance of the new purchases with be four-stroke or DFI. However, with this option available there would be some purchases of the semi-clean 2001-2005 engines. Based on a 20 year life span and a small growth factor, TRPA further estimated that normally 6% of the fleet turns over each year and for 1999 about 13% of these purchases would be 2001-2005 certified watercraft. TRPA applied this combined percentage to the 1998 boating trips to establish the 470 trip estimate for the 1999 season. Finally, TRPA staff has recently learned that it may be possible to combine this exemption with the exemption provided in January for watercraft purchased in reliance upon Ordinance 97-12. The NMMA represents that the Bombardier personal watercraft purchased by certain concessionaires meets the EPA 2001 standard. Therefore, it may be more efficient to replace the exemption for crankcase injected watercraft with the EPA 2001-2005 exemption. This will permit operation of the Bombardier craft and all other crankcase injected watercraft that meet EPA 2001; crankcase injected watercraft that do not meet the EPA 2001 standard would be prohibited June 1, 1999. Staff will report on this possible combination of exemptions at the Governing Board meeting.

Water Quality Impacts: With respect to discharge loads, the Table below shows the estimated loads of gasoline constituents based on levels of boating activity in year 1999 for the two small engine exemptions. The addition of any of these exemptions is a significant deviation from the current standard that prohibits discharge commencing June 1, 1999. Without mitigation to reduce discharges, the addition of any of these exemptions deviates from the current standard that prohibits the use of watercraft that
discharge unburned fuel and oil from carbureted 2-stroke engines commencing June 1, 1999.

**Air Quality Impacts:** As indicated in the 1999 EA, air quality impacts, like water quality impacts, are estimated based on the number of gallons of fuel used by a particular watercraft. See Table 9 of 1999 EA. Any increase in air emissions would be proportional to the increase in the number of gallons of fuel used by the exempted watercraft. Therefore, the air quality impacts would be similar to the water quality impacts.

**Recreation Impacts:** Permitting the exceptions may result in a short-term increase in the number of boats operation on the Lake and would assist in providing more recreational opportunity for users of motorized watercraft. Given the number of watercraft affected by the proposed exemptions, TRPA staff does not believe that they will adversely impact users who engage in non-motorized recreation at Lake Tahoe.

Table 1. Summary of MTBE, Benzene and Toluene Discharge by Engine Type and Gallons of Gasoline Used Private Watercraft, 1999 Boating Season.

<table>
<thead>
<tr>
<th></th>
<th>Boat Trips</th>
<th>Fuel Used Gallons</th>
<th>Soluble Fuel Gal.</th>
<th>MTBE Gallons</th>
<th>Benzene Gallons</th>
<th>Toluene Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number &amp; Percent</td>
<td>Number &amp; Percent</td>
<td>Discharged Percent</td>
<td>Discharged Percent</td>
<td>Discharged Percent</td>
<td>Discharged Percent</td>
</tr>
<tr>
<td>Two-Stroke Under 10 hp Outboards</td>
<td>2634 1.6%</td>
<td>5476 0.4%</td>
<td>548 1.2%</td>
<td>237 4.5%</td>
<td>10 2.36%</td>
<td>54 2.78%</td>
</tr>
<tr>
<td>Two-Stroke Aux. Sailboats</td>
<td>2641 1.6%</td>
<td>2477 0.2%</td>
<td>248 0.5%</td>
<td>108 2.0%</td>
<td>4 1.07%</td>
<td>24 1.26%</td>
</tr>
<tr>
<td>2001 – 2005 EPA Cert. Watercraft (Not DFI or Four-Stroke)</td>
<td>467 0.3%</td>
<td>2148 0.1%</td>
<td>215 0.5%</td>
<td>30 0.6%</td>
<td>3 0.7%</td>
<td>17 0.9%</td>
</tr>
</tbody>
</table>

**Mitigation Measures:** The certified engine exemption and the small engine exemptions could reduce impacts to water quality to less than significant levels for the three year exemption period by:

- TRPA providing a three-year program to offset the three-year discharges such as prohibiting electronic fuel injected powered watercraft during this period.

**Add Non-DFI Fuel Injection Engines to the Prohibition** - Prohibiting the use of electronic fuel injection engines would result in a decrease in fuel loading equal to the outboards and the sailboats, however, that would be contrary to the January action.
Amendment of Code Chapter 81, Water Quality Control
To Provide for Minor Exemptions
Page 5

- TRPA enforcing restricted access of other watercraft during the period to offset the three-year discharges.

**Restrict the Use of Commercial Watercraft** – TRPA could limit the number and hours of use of commercial watercraft to offset the discharge. There is no agreement on this mitigation measure.

- TRPA and other agencies improve the level of enforcement to reduce fuel spills and reduce the use of unauthorized watercraft.

**Increased Enforcement** – Additional watercraft for enforcement. Currently, TRPA has one boat and six enforcement officers budgeted for the Summers of 1999 and 2000. The addition of one more boat would increase the efficiency of enforcement. TRPA was estimating a 3 to 5% violation rate based on the Hagler Bailly survey. The doubling of watercraft dedicated to enforcement may reduce this rate by 20% or result in a 1% reduction in soluble fuel discharged.

**Increased Public Information**: If all marine manufacturers mail a notice to their mailing lists of owners by the end of March, explaining the June 1, 1999 prohibition, this may assist TRPA educate the 23% who are not aware of the prohibition. This is not a direct mitigation measure and will be in addition to TRPA efforts. It is staff’s estimate that this may reduce the violations by less than 5% or result in a 0.25% reduction in soluble fuel discharged.

**Buy Back Programs** – Provide incentives to retire old technology, two-stroke engines. NMMA representatives have rejected this mitigation measure and it is beyond the control of TRPA.

**Fuel/Oil Discharge Prevention Program** – Provide special equipment for fuel facilities and provide oil sponges for bilges. It will take several years for TRPA to implement a regulatory program to address this need and the NMMA and the other plaintiffs have not volunteered to otherwise jump start it.

**Technical Corrections to January Ordinance**: In January, the Governing Board amended the 2-stroke ordinance by exempting watercraft whose engine “is certified by the Environmental Protection Agency as meeting the U.S. EPA 2006 standard or is certified by the California Air Resources Board as meeting the CARB 2001 standard . . . .” However, it appears that EPA and CARB technically do not certify engines as meeting a particular standard. The engine manufacturers contend that they certify the standard with which the engine complies. Therefore, staff recommends, upon confirmation of the manufacturers’ information, that the Governing Board adopt the following technical corrections to Code Section 81.2.E.3:

3. Any watercraft powered by a two-stroke engine whose engine is certified by its manufacturer the Environmental Protection Agency as meeting the U.S. EPA 2006 standard or is certified by the California Air Resources Board as meeting the CARB 2001 standard shall be exempt from the prohibition.
Findings: Prior to amending Chapter 81 of the Code of Ordinances, TRPA must make the following findings.

Chapter 6 Findings

1. **Finding:** The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and Maps, the Code, and other TRPA plans and programs.

   **Rationale:** The Regional Plan and the Compact require the protection of the water quality of the Region. The January 27, 1999 action by the TRPA to prohibit the use of watercraft powered by old technology two-stroke engines assisted in the protection of water quality. It has been demonstrated that with the mitigation package recommended by TRPA, the water quality impacts can be mitigated. These amendments further clarify the January 1999 action and assist in the implementation of the Regional Plan programs promoting outdoor recreation.

2. **Finding:** The project will not cause the environmental thresholds to be exceeded.

   **Rationale:** The purpose of these amendments is to provide temporary relief to certain members of the boating public while still protecting water quality, fisheries, wildlife, and recreation. These amendments are supported by mitigation measures to offset the three years of additional gasoline pollution to the lakes of the Region.

3. **Finding:** Wherever federal, state, and local air and water quality standards applicable to the Region, whichever are stricter, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards.

   **Rationale:** As described in this staff summary, the use of certain watercraft powered by two-stroke engines for a short period of time do discharge significant amounts of pollutants directly into Lake Tahoe; however, these small amounts may be mitigated by the programs listed in this staff summary.

4. **Finding:** The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

   **Rationale:** See findings 1, 2 and 3 above. The prohibition of watercraft powered by two-stroke engines (with exceptions for clean technology engines and exceptions with mitigation) provides for the attainment of water quality thresholds while allowing for recreation threshold goals of increased public recreation capacity.
Ordinance 87-8 Findings

1. Finding: That the amendment is consistent with the Compact and with the attainment or maintenance of the thresholds.

   Rationale: See Chapter 6 Findings.

2. Finding: One or more of the following:
   
   a) There is demonstrated conflict between provisions of the Regional Plan Package and the conflict threatens to preclude attainment or maintenance of thresholds;
   
   b) That legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code;
   
   c) That technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code;
   
   d) That the provision to be amended has been shown, through experience and time, to be counter-productive to or ineffective in attainment or maintenance of the thresholds;
   
   e) That implementation of the provision sought to be amended has demonstrated to be impracticable or impossible because of one or more of the following reasons:
      
      1) The cost of implementation outweighs the environmental gain to be achieved.
      
      2) Implementation will result in unacceptable impacts on public health and safety; or
      
      3) Fiscal support for implementation is insufficient and such insufficiency is expected to be a long-term problem.
   
   f) That the provision to be amended has shown through experience to be counter-productive or ineffective and the amendment is designed to correct the demonstrated problem and is an equal or better means of implementing the Regional Plan Package and complying with the Compact.

   Rationale: Finding c) is the most appropriate. Based on the rationales above, the amendments are a better means of implementing the Regional Plan Package and complying with the Compact.

Environmental Documentation: Staff prepared an Environmental Assessment for the January actions and expanded the analysis in this summary. Based upon the EA and
the analysis in this staff summary, staff proposes a mitigated Finding of No Significant Effect (FONSE) based on the Chapter 6 and Ordinance 87-8 findings shown above.

**Requested Action:** Staff recommends the Governing Board take the following actions:

1. Motion to make the required findings:
   a) Make a Finding of No Significant Effect (FONSE); and
   b) Make the Chapter 6 and 87-8 Findings.

2. Motion to adopt the attached Ordinance.

At the meeting, TRPA Legal Counsel will update the APC on the current status of the lawsuit. If you have any questions, please contact Gabby Barrett or John Marshall at 775-588-4547.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 99-

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING CHAPTER 81 OF THE CODE OF ORDINANCES RELATING TO THE REGULATION OF THE OPERATION OF MOTORIZED WATERCRAFT;

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

Section 1.00   Findings

1.10  The waters of Lake Tahoe Basin are uniquely pure and clear. These waters provide drinking water, recreational opportunities including swimming and boating, and habitat for fish and wildlife.

1.11  Recent monitoring efforts have detected petroleum products (including various pollutants) in Lake Tahoe and other lakes in the Basin. Petroleum-related pollutants found during summer months in Lake Tahoe and other lakes raises concerns regarding protection of human health and fish and wildlife.

1.12  The presence of these pollutants in the lakes of the Lake Tahoe Basin results from the use of motorized watercraft.

1.13  The use of watercraft powered by certain two-stroke engines results in the direct discharge to water of unburned fuel and oil. These types of motorized watercraft discharge petroleum-related pollutants at a rate that is an order of magnitude greater than discharges from watercraft utilizing other engine types.

1.14  Watercraft powered by these two-stroke engines operate on Lake Tahoe and other lakes in the Lake Tahoe Basin. Even though the use of watercraft powered by these two-stroke engines comprise a relatively small percentage of boating use on waters in the Lake Tahoe Basin, the operation of these watercraft are responsible for the large majority of petroleum-related pollutants discharged to water.

1.15  Current federal, state and local regulations will not result in any significant decrease in the discharge of petroleum-related pollutants in the near future because these regulations do not apply immediately and then only restrict sales of new engines. Pursuant to Article V(d) of the Compact, independent action must therefore be taken in order to further regulate the use of certain watercraft in order to curb the discharge of these pollutants to the waters of the Lake Tahoe Basin.

1.16  In light of the foregoing, it is necessary and desirable to amend TRPA Ordinance No. 87-9, as amended, by amending Chapter 81 of the Code of Ordinances in order to further implement the Regional Plan of the Agency, as amended, pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact, as amended.
Pursuant to Article V(a) of the Tahoe Regional Planning Compact, the Advisory Planning Commission ("APC") conducted a noticed public hearing on the proposed amendments to the Code of Ordinances. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.

TRPA has prepared the Motorized Watercraft Environmental Assessment, 1999. The provisions of this ordinance have been determined through the environmental assessment process not to have a significant effect on the environment, and thus are exempt from the requirement of an environmental impact statement pursuant to Article VII of the Compact.

The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Sections 6.4 and 6.5 of the Code of Ordinances and Article V(g) of the Compact. The Governing Board further finds that such findings are supported by substantial evidence in the record.

The amendments to the Goals and Policies and Code adopted by this ordinance continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.

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

Section 2.00 Amendment of Chapter 81 of the Code

Chapter 81, Subsection 81.2.E is hereby amended to read as follows:

81.2.E Prohibition of Certain Watercraft: Commencing June 1, 1999, the launching, mooring, or operation of all two-stroke engine powered watercraft within the Region is prohibited, except:

1) Any two-stroke engine powered watercraft whose fuel is directly injected into the cylinder shall be exempt from the prohibition;

2) Any watercraft powered by a two-stroke engine whose fuel is injected in to the crankcase prior to entering the cylinder and was purchased before January 27, 1999, shall be prohibited commencing October 1, 2001. (For purpose of this subsection, purchase shall include contract of purchase by owner or dealer entered into before January 27, 1999); or

3) Any watercraft powered by a two-stroke engine whose engine is certified by its manufacturer the Environmental Protection Agency as meeting the U.S. EPA 2006 standard or is certified by the California Air Resources Board.
Board as meeting the CARB 2001 standard shall be exempt from the prohibition.

4) Any watercraft powered by an engine that has been certified by its manufacturer as meeting EPA's 2001-2005 emission standard shall be prohibited commencing October 1, 1999.

Section 3.00 Interpretation and Severability

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

Section 4.00 Effective Date

This ordinance shall become effective 60 days after the date of its adoption.

PASSED and ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held February 24, 1999, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Larry Sevison, Chairman
Tahoe Regional Planning Agency
MEMORANDUM

February 8, 1999

To: TRPA Governing Board
From: TRPA Staff

SUBJECT: Al and Jane Duffield, Show Cause Hearing Regarding Unapproved Land Coverage, Unapproved Increase in Height of the Residence, Unauthorized Change in Natural Topography of the Project Area, Unapproved Tree Limbing and Tree Removal for View Enhancement, Unapproved Permanent Disturbance Within a Mapped Stream Environment Zone (SEZ), Destruction of Critical Wildlife Habitat, 703 Champagne Road, Washoe County APN 126-243-03

Property Owner: Al and Jane Duffield
Owner's Representative: Lawrence Hoffman
Location: 703 Champagne Road
Assessors Parcel Number: Washoe County 126-243-03
Agency Staff: Kim Johnson

(a) Nature of Violation

On May 23, 1997 TRPA Al and Jane Duffield were permitted to construct a home at 703 Champagne Road. TRPA review and approval of the New Single Family Dwelling (NSFD) allowed the Duffields the maximum allowable coverage and height. The residence as constructed is now in violation of 54 Sections of the TRPA Code or Ordinances, the TRPA Permit, Attachment R and degrades several TRPA Thresholds.

On August 19, 1998, Associate Environmental Specialist Kim Johnson posted a Cease and Desist Order at 703 Champagne Road in Washoe County, Assessors Parcel Number 126-243-03 for permanent disturbance within a designated SEZ. On August 29, 1998 Ms. Johnson sent a Cease and Desist Order via Certified mail #P 095 997 956 alleging the project was in potential violation of TRPA standards for coverage, height, alteration of natural topography, tree limbing and tree removal, and disturbance within a mapped SEZ. Ms. Johnson requested submittal of pertinent information to further her investigation of the potential
violations. Review of the aforementioned materials showed that construction of the residence at 703 Champagne Road resulted in the following:

Creation of 3,226 square feet of unapproved coverage, creation of 7,000 square feet of yard area associated with an unapproved fill slope, permanent disturbance within 6,753 square feet of mapped SEZ/wetland area, destruction of critical wildlife habitat, unapproved 5 foot increase in the residence height, removal of 57 trees for view enhancement, and excessive damage to residual vegetation.

The above referenced items violate 54 Sections of the TRPA Code of Ordinances, five Special Conditions of the TRPA permit, 14 Standard Conditions (Attachment R.), and degrade TRPA Thresholds for Water Quality, Soil Conservation, Vegetation, Wildlife Habitat, Fisheries and Scenic Resources.

(b) Violation Resolution Issues/Legal Contentions:

On February 1, 1999 Al and Jane Duffield were issued a Notice of Violation by mail (Certified Mail #P 095 997 970) for the following violations of the Tahoe Regional Planning Agency (TRPA) Code of Ordinances or provisions of law (see copy attached as Exhibit A).

1. Creating land coverage that is in excess of the maximum allowable coverage of 7,845 square feet (sqft). Approximately 3,226 sqft of coverage was created without prior review and approval when three foot wide walkways were constructed around the property along with an increase in the dimensions of the residence. (Sections 4.7 and 20.3, TRPA Code of Ordinances).

2. Construction of a new single family dwelling which exceeds the maximum height of 42 feet by 5 feet. The residence now equals a total of 47 feet in height when measured from the lowest point of natural grade. The maximum allowable height of this structure with a 10:12 roof pitch and a 24% cross slope retained across the building site is 42 feet. The residence could not have been approved at the additional height. (Section 22.3, TRPA Code of Ordinances).

3. Construction of the new single family dwelling which causes a decrease in scenic quality standards when viewed from associated roadways and shoreline units. The residence has been constructed 5 feet over the approved height of 42 feet. Additionally, most of the native trees used for screening have been removed to enhance views of Lake Tahoe. The increase in height coupled with removal of native vegetation makes the residence visible from TRPA designated roadway and shoreline units. This decrease in scenic quality could not have been approved. (Sections 30.1.2A, 30.12.B, TRPA Code of Ordinances).


5. Creation of a fill slope greater than 2:1 which is inconsistent with Best Management Practices appropriate for stabilization. (Section 25.5.B, TRPA Code of Ordinances).

7. Grading resulting in a fill slope exceeding 20 feet in height without a subsurface report or slope stabilization plan. (Sections 61.2.A(9), 61.3, 61.4, TRPA Code of Ordinances).

8. Onsite redistribution of excavated earthen materials for creation of a fill pad, and within a designated SEZ setback, and SEZ/wetland area. TRPA could not have approved the onsite redistribution of excavated soil. (Sections 64.5(a), 64.5(b), 64.5(c), TRPA Code of Ordinances).

9. Creation of an unstable fill slope due to incorporation of materials not capable of proper compaction or otherwise not conducive to stability, and which has the potential for environmental impact. (Section 64.6.B (1), 64.B(2), TRPA Code of Ordinances).

10. Excavation within the project area resulting in damage to mature trees including root systems and hydrologic conditions of the soil. (Section 64.7.B.(2), TRPA Code of Ordinances)

11. Failure to maintain the natural topography of the project area due to unauthorized redistribution of excavated material. (Section 64.7.B(3), TRPA Code of Ordinances).

12. Unapproved disturbance of vegetation specifically designated on the site plan to be retained and protected during construction of the residence. (Section 65.2.A, TRPA Code of Ordinances).

13. Use of equipment of a size and type that was not restricted to the construction site boundary and led to excessive environmental damage. (Section 65.2.B, TRPA Code of Ordinances).

14. Removal of trees located further than six feet from the foundation without TRPA review and approval. (Section 65.2.E, TRPA Code of Ordinances).

15. Removal of 57 live trees greater than 6" diameter at breast height (dbh) without prior review and approval from either TRPA or the Nevada Division of Forestry (NDF). The 57 trees were removed for creation of an unapproved fill pad lakeward of the residence. Unapproved removal of the trees substantially enhanced views of Lake Tahoe (Sections 4.3.A(6) and 71.2, TRPA Code of Ordinances).

16. Removal of live limbs within the upper two thirds of the total tree height without prior review and approval by TRPA or NDF. This activity will potentially result in its death or disfigurement, or a significant increase in its susceptibility to insects or disease. (Chapter 2, and Section 71.2, TRPA Code of Ordinances).

17. Use of heavy equipment within the designated SEZ for tree removal. (Section 71.3.C (1), TRPA Code of Ordinances).
18. Creation of land coverage within a mapped SEZ area (Section 20.4, TRPA Code of Ordinances).

19. Unapproved creation of rock and pool gardens within a mapped SEZ resulting in permanent disturbance of 6753 square feet of wetland area. The disturbance also had a drying effect downstream of the disturbance due to interception and interference of subsurface water. (Section 20.4, TRPA Code of Ordinances).

20. Commencement of a project or activity within the boundaries of a stream environment zone without implementation of Best Management Practices. (Section 25.6, TRPA Code of Ordinances).


22. Grading within a zone of high ground water without first obtaining a subsurface investigation and/or report (Section 61.2.A(3), 61.3, TRPA Code of Ordinances).

23. Direct and indirect discharge of earthen materials to the waters of the Region. This discharge of soil materials is a direct result of excavation and filling within an SEZ without the use of approved erosion and siltation devices. (Sections 64.3.A, 64.3.B, 64.3.C, TRPA Code of Ordinances).

24. Interception and interference of groundwater as a result of excavation and placement of fill within a functioning SEZ/wetland. The aforementioned excavation resulted in interception and alteration of groundwater direction and rate of flow, withdrawal of groundwater and subsequent lowering of the groundwater table. (Sections 64.7.A(1)(a), 64.7.A(1)(b), 64.7.A(1)(c), 64.7.A(1)(d), 64.7.A(1)(e), TRPA Code of Ordinances).

25. Excavation in a mapped SEZ resulting in a reasonable possibility of interference or interception of a water table without a hydrologic report prepared by a qualified professional. (Section 64.7.B(1), TRPA Code of Ordinances).

26. Failure to minimize extent and area of excavation in order to avoid unnecessary soil disturbance. (Section 64.7.C, TRPA Code of Ordinances).

27. Work within the designated SEZ during times of the year when soil conditions were not dry and stable resulting in damage to soil and/or vegetation. (Section 71.3.C(2), TRPA Code of Ordinances).

28. Commencement of a project within the boundaries of an SEZ for activities other than habitat improvement, dispersed recreation, or vegetation management. Excavation and filling within this protected zone affected basic habitat requirements necessary for preservation and management of wildlife habitat and could not have been approved. (Section 78.2.A, TRPA Code of Ordinances).

29. Permanent disturbance within a mapped SEZ resulting in loss of a habitat component considered to be critical wildlife habitat. (Section 78.2.C(1), TRPA Code of Ordinances).
30. Unapproved commencement of a project within a mapped SEZ resulting in damaged nesting habitat of raptors and waterfowl, or fawning habitat of deer. (Section 78.2.C(2), TRPA Code of Ordinances).

31. Failure to preserve and manage wetlands for their ecological significance, including their value as nursery habitat to fishes, nesting and resting sites for waterfowl, and as a source of stream recharge. (Section 78.2.C(3), TRPA Code of Ordinances).

32. Artificial modification to a stream channel which physically altered the natural characteristics of the stream. (Section 79.2.B(1), TRPA Code of Ordinances).

33. Permanent disturbance within a mapped SEZ for creation of rock and pool gardens without any mitigation of significant adverse impacts to fisheries. (Section 79.2.B(4), TRPA Code of Ordinances).

34. Unapproved activity within an SEZ which failed to maintain adequate in-stream flow adjacent and downstream from the project area. (Section 79.2.B(6)(a), TRPA Code of Ordinances).

35. Introduction or re-entry of nutrients or sediment-enriched water to a wetland tributary, and commencement of a project requiring the diversion of stream water without mitigation of significant adverse impacts to the tributary. (Section 79.2.B(6)(b), TRPA Code of Ordinances).

36. Commencement of an unapproved activity within an SEZ which failed to mitigate adverse impacts to the tributary by protecting or restoring fish habitat, riparian vegetation or other relevant in stream values such as recreation, aesthetics, and wildlife habitat. (Sections 79.2.B(6)(d), 79.2.B(6)(e), 79.2.B(6)(f), TRPA Code of Ordinances).

The residence constructed at 703 Champagne Road is also in violation of the following Special and Standard Conditions of Approval, TRPA Groundwater Report, and TRPA Thresholds:

- TRPA Permit issued May 23, 1997 (signed by Al and Jane Duffield, June 3, 1997) Special Conditions 1, 3, 4, 5, 8
- TRPA Groundwater report issued January 31, 1997, Conditions numbers 1, 2, and 3. Al and Jane Duffield received a copy of this report.

Special Condition 2.1 of the TRPA permit issued on May 23, 1997 required that the permittee provide written authorization from the Forest Service authorizing access for construction across the 50' easement on U.S. Forest Service property. In response to this condition, the Forest Service issued a letter on July 18, 1997 providing the authorization requested in Special Condition 2.1. This letter further specified that vehicular access, parking, storage of building materials and supplies, installation of filter...
fencing, trenching for sewer and water, storage of any personal property, and **development of lawns and landscaping would not be allowed** within the 50' easement. However, the Duffields constructed pathways and rock and pool gardens within this protected area.

- The TRPA plans approved on May 23, 1997 indicate the presence of a 25' SEZ setback and SEZ, erosion control and vegetation protection fencing, notes on the plans for protection of trees located within 20' of the construction zone, and retention of 57 trees lost during construction. These plans were required to be onsite at all times. The SEZ setback was violated, erosion control and vegetation protection was not effective and trees were removed.

Construction of the residence at 703 Champagne Road has also resulted in degradation of the following TRPA Thresholds:

- Water quality (turbidity, water clarity, surface runoff, nutrient loads).
- Soil conservation (impervious surface, SEZ encroachment).
- Vegetation (meadow and riparian area).
- Wildlife habitat (waterfowl).
- Fisheries (stream habitat, instream flows, lake habitat).
- Scenic Resources (visible from designated roadway and shoreline units).

Al and Jane Duffield contend that they had no knowledge of the violations as they were occurring on their property. However, they signed and accepted the TRPA permit on June 3, 1997. The Duffields have noted the contractors misled them on the project and/or performed the illegal work without their authorization. The Duffields, however, have not taken legal action against the contractors for trespass into the SEZ and apparent timber theft. Nor are the contractors complaining about not being paid. The Duffields in fact have greatly benefited from the violations which occurred on their property, absent their input or knowledge.

TRPA contends the Duffields are solely responsible for the violations which occurred at 703 Champagne Road. They knowingly signed and accepted the permit and the extent of violations allowed to occur were specifically prohibited by TRPA. Their failure to ensure compliance with Regional environmental regulations designed to protect Lake Tahoe is willful and constitutes gross negligence.

A Waiver of the Statute of Limitations has been signed to allow negotiations up to March 1, 1999. However, during the meeting with Larry Hoffman on January 22, 1999, Mr. Hoffman noted that TRPA should proceed with the Notice of Violation and other judicial remedies as appropriate.

(c) Evidence:

At the Show Cause Hearing, TRPA Associate Environmental Specialist Kim Johnson will be available to answer questions or to clarify any of the facts reported therein. Also, associated written materials, photographs, and videos taken of the violation will be available for review.
(d) TRPA Legal Committee

The Board Legal Committee will hear the Show Cause Hearing at 8:30 a.m. on February 24, 1999, to review and clarify any legal issues. Since they will hear the matter on the same date as the Governing Board meeting, the Committee Chairperson will make a report of the Committee's determinations concerning this issue. A Waiver of Statute of Limitations has been signed up until March 1, 1999. Lawrence Hoffman, the Duffields legal counsel has indicated that they will not sign another Waiver and TRPA must file in court prior to that date.

e) Requested Action:

TRPA staff requests the Governing Board make the following determinations:

- Vote to affirm the Executive Director's determination of the violations outlined in Section "b" of this report, and to direct counsel to pursue judicial remedies concerning this matter.

If you have any questions concerning this agenda etc., please contact Kim Johnson at (775) 588-4547.
February 1, 1999

Lawrence L. Hoffman
Hoffman Law Offices
P.O. Box 7740
Tahoe City, CA 96145-7740

NOTICE OF VIOLATION AND VIOLATION REPORT, UNAPPROVED LAND COVERAGE, UNAPPROVED INCREASE IN HEIGHT OF THE RESIDENCE, UNAUTHORIZED CHANGE IN NATURAL TOPOGRAPHY OF THE PROJECT AREA, UNAPPROVED TREE LIMBING AND TREE REMOVAL FOR VIEW ENHANCEMENT, UNAPPROVED PERMANENT DISTURBANCE WITHIN A MAPPED STREAM ENVIRONMENT ZONE (SEZ), DESTRUCTION OF CRITICAL WILDLIFE HABITAT, 703 CHAMPAGNE ROAD, WASHOE COUNTY, APN 126-243-03

Dear Mr. Hoffman:

This Notice of Violation and Violation Report is being issued for the following violations of the Tahoe Regional Planning Agency (TRPA) Code of Ordinances or provisions of law:

1. Creating land coverage that is in excess of the maximum allowable coverage of 7,845 square feet (sqft). Approximately 3,226 sqft of coverage was created without prior review and approval when three foot wide walkways were constructed around the property along with an increase in the dimensions of the residence. (Sections 4.7 and 20.3, TRPA Code of Ordinances).

2. The house was constructed at five feet over the approved and maximum allowable height. Maximum heights of structures are determined according to varying roof pitch and building site cross slopes in Table A of TRPA Code Subsection 22.3. The house was approved and built with a 10:12 roof pitch over a 24% natural cross slope across the building site. Table A sets the maximum allowable height of the structure to not exceed 42 feet above natural grade. Section 22.2.B of the TRPA Code of Ordinances determines natural grade as the natural ground elevation of the existing ground surface prior to any disturbance of the site resulting from construction of the proposed improvements. The house was constructed at 47 feet above natural grade and this could not have been approved by TRPA.
3. Construction of the new single family dwelling which causes a decrease in scenic quality standards when viewed from associated roadways and shoreline units. The residence has been constructed 5 feet over the approved height of 42 feet. Additionally, most of the native trees used for screening have been removed to enhance views of Lake Tahoe. The increase in height coupled with removal of native vegetation makes the residence visible from TRPA designated roadway and shoreline units. This decrease in scenic quality could not have been approved. (Sections 30.1.2.A, 30.12.B, TRPA Code of Ordinances).


5. Creation of a fill slope greater than 2:1 which is inconsistent with Best Management Practices appropriate for stabilization. (Section 25.5.B, TRPA Code of Ordinances).


7. Grading resulting in a fill slope exceeding 20 feet in height without a subsurface report or slope stabilization plan. (Sections 61.2.A(9), 61.3, 61.4, TRPA Code of Ordinances).

8. Onsite redistribution of excavated earthen materials for creation of a fill pad, and within a designated SEZ setback, and SEZ/wetland area. TRPA could not have approved the onsite redistribution of excavated soil. (Sections 64.5(a), 64.5(b), 64.5(c), TRPA Code of Ordinances).

9. Creation of an unstable fill slope due to incorporation of materials not capable of proper compaction or otherwise not conducive to stability, and which has the potential for environmental impact. (Section 64.6.B (1), 64.B(2), TRPA Code of Ordinances).

10. Excavation within the project area resulting in damage to mature trees including root systems and hydrologic conditions of the soil. (Section 64.7.B.(2), TRPA Code of Ordinances).

11. Failure to maintain the natural topography of the project area due to unauthorized redistribution of excavated material. (Section 64.7.B(3), TRPA Code of Ordinances).

12. Unapproved disturbance of vegetation specifically designated on the site plan to be retained and protected during construction of the residence. (Section 65.2.A, TRPA Code of Ordinances).

13. Use of equipment of a size and type that was not restricted to the construction site boundary and led to excessive environmental damage. (Section 65.2.B, TRPA Code of Ordinances).

14. Removal of trees located further than six feet from the foundation without TRPA review and approval. (Section 65.2.E, TRPA Code of Ordinances).
15. Removal of 57 live trees greater than 6" diameter at breast height (dbh) without prior review and approval from either TRPA or the Nevada Division of Forestry (NDF). The 57 trees were removed for creation of an unapproved fill pad lakeward of the residence. Unapproved removal of the trees substantially enhanced views of Lake Tahoe (Sections 4.3.A(6) and 71.2, TRPA Code of Ordinances).

16. Removal of live limbs within the upper two thirds of the total tree height without prior review and approval by TRPA or NDF. This activity will potentially result in its death or disfigurement, or a significant increase in its susceptibility to insects or disease. (Chapter 2, and Section 71.2, TRPA Code of Ordinances).

17. Use of heavy equipment within the designated SEZ for tree removal. (Section 71.3.C (1), TRPA Code of Ordinances).

18. Creation of land coverage within a mapped SEZ area (Section 20.4, TRPA Code of Ordinances).

19. Unapproved creation of rock and pool gardens within a mapped SEZ resulting in permanent disturbance of 6753 square feet of wetland area. The disturbance also had a drying effect downstream of the disturbance due to interception and interference of subsurface water. (Section 20.4, TRPA Code of Ordinances).

20. Commencement of a project or activity within the boundaries of a stream environment zone without implementation of Best Management Practices. (Section 25.6, TRPA Code of Ordinances).


22. Grading within a zone of high ground water without first obtaining a subsurface investigation and/or report (Section 61.2.A(3), 61.3, TRPA Code of Ordinances).

23. Direct and indirect discharge of earthen materials to the waters of the Region. This discharge of soil materials is a direct result of excavation and filling within an SEZ without the use of approved erosion and siltation devices. (Sections 64.3.A, 64.3.B, 64.3.C, TRPA Code of Ordinances).

24. Interception and interference of groundwater as a result of excavation and placement of fill within a functioning SEZ/wetland. The aforementioned excavation resulted in interception and alteration of groundwater direction and rate of flow, withdrawal of groundwater and subsequent lowering of the groundwater table. (Sections 64.7.A(1)(a), 64.7.A(1)(b), 64.7.A(1)(c), 64.7.A.(1)(d), 64.7.A(1)(e), TRPA Code of Ordinances).

25. Excavation in a mapped SEZ resulting in a reasonable possibility of interference or interception of a water table without a hydrologic report prepared by a qualified professional. (Section 64.7.B(1), TRPA Code of Ordinances).
26. Failure to minimize extent and area of excavation in order to avoid unnecessary soil disturbance. (Section 64.7.C, TRPA Code of Ordinances).

27. Work within the designated SEZ during times of the year when soil conditions were not dry and stable resulting in damage to soil and/or vegetation. (Section 71.3.C(2), TRPA Code of Ordinances).

28. Commencement of a project within the boundaries of an SEZ for activities other than habitat improvement, dispersed recreation, or vegetation management. Excavation and filling within this protected zone affected basic habitat requirements necessary for preservation and management of wildlife habitat. (Section 78.2.A, TRPA Code of Ordinances).

29. Permanent disturbance within a mapped SEZ resulting in loss of a habitat component considered to be critical wildlife habitat. (Section 78.2.C(1), TRPA Code of Ordinances).

30. Unapproved commencement of a project within a mapped SEZ resulting in damaged nesting habitat of raptors and waterfowl, or fawning habitat of deer. (Section 78.2.C(2), TRPA Code of Ordinances).

31. Failure to preserve and manage wetlands for their ecological significance, including their value as nursery habitat to fishes, nesting and resting sites for waterfowl, and as a source of stream recharge. (Section 78.2.C(3), TRPA Code of Ordinances).

32. Artificial modification to a stream channel which physically altered the natural characteristics of the stream. (Section 79.2.B(1), TRPA Code of Ordinances).

33. Permanent disturbance within a mapped SEZ for creation of rock and pool gardens without any mitigation of significant adverse impacts to fisheries. (Section 79.2.B(4), TRPA Code of Ordinances).

34. Unapproved activity within an SEZ which failed to maintain adequate in-stream flow adjacent and downstream from the project area. (Section 79.2.B(6)(a), TRPA Code of Ordinances).

35. Introduction or re-entry of nutrients or sediment-enriched water to a wetland tributary, and commencement of a project requiring the diversion of stream water without mitigation of significant adverse impacts to the tributary. (Section 79.2.B(6)(b), TRPA Code of Ordinances).

36. Commencement of an unapproved activity within an SEZ which failed to mitigate adverse impacts to the tributary by protecting or restoring fish habitat, riparian vegetation or other relevant in stream values such as recreation, aesthetics, and wildlife habitat. (Sections 79.2.B(6)(d), 79.2.B(6)(e), 79.2.B(6)(f), TRPA Code of Ordinances).
The residence constructed at 703 Champagne Road is also in violation of the following Special and Standard Conditions of Approval, TRPA Groundwater Report, and TRPA Thresholds:

- TRPA Permit issued May 23, 1997 (signed by Al and Jane Duffield, June 3, 1997) Special Conditions 1, 3, 4, 5, 8


- TRPA Groundwater report issued January 31, 1997, Conditions numbers 1, 2, and 3. Al and Jane Duffield received a copy of this report.

- Special Condition 2.1 of the TRPA permit issued on May 23, 1997 required that the permittee provide written authorization from the Forest Service authorizing access for construction across the 50’ easement on U.S. Forest Service property. In response to this condition, the Forest Service issued a letter on July 18, 1997 providing the authorization requested in Special Condition 2.1. This letter further specified that within the 50’ easement (SEZ) vehicular access, parking, storage of building materials and supplies, installation of filter fencing, trenching for sewer and water, storage of any personal property, and development of lawns and landscaping would not be allowed. However, rock and pool gardens, and pathways were created within this mapped easement and led to 1,250 square feet of permanent disturbance.

- The TRPA plans approved on May 23, 1997 indicate the presence of a 25’ SEZ setback and SEZ, erosion control and vegetation protection fencing, notes on the plans for protection of trees located within 20’ of the construction zone, and retention of 57 trees lost during construction. These plans were required to be onsite at all times. The SEZ setback was violated, erosion control and vegetation protection was not effective and trees were removed without authorization.

Construction of the residence at 703 Champagne Road has also resulted in degradation of the following TRPA Thresholds:

- Water quality (turbidity, water clarity, surface runoff, nutrient loads).
- Soil conservation (impervious surface, SEZ encroachment).
- Vegetation (meadow and riparian area).
- Wildlife habitat (waterfowl).
- Fisheries (stream habitat, instream flows, lake habitat).
- Scenic Resources (visible from designated roadway and shoreline units).

Chapter IX of the Tahoe Regional Planning Agency (TRPA) Rules of Procedure (enclosed) outlines a procedure for resolving violations of the TRPA Compact, Regional Plan, or TRPA permits. This involves Notices of Violations and violation reports. The content of these items is specified in the Rules of Procedure and is explained below for your reference:
Section 9.6 NOTICE OF VIOLATION

(a) Nature of Violation

On August 19, 1998, Associate Environmental Specialist Kim Johnson posted a Cease and Desist Order at 703 Champagne Road, Assessors Parcel Number 126-243-03, in Washoe County for unapproved redistribution of excavated soil during construction of a 15,000-20,000 square foot New Single Family Dwelling (NSFD). Initial investigation indicated that 4-5 thousand cubic yards of soil material had been placed both downslope of the NSFD for creation of an unapproved fill pad, and illegally deposited within the adjacent SEZ/wetland for creation of pathways and a rock and pool garden. Much of the SEZ disturbance occurred within a mapped 50’ easement located on Forest Service property. Disturbance within the Forest Service SEZ was prohibited and this was specifically noted within a letter issued by the Forest Service on July 18, 1997.

While the NSFD at 703 Champagne Road was subject to specific requirements noted within a permit issued by TRPA on May 23, 1997, construction appeared to proceed unhindered and without respect to Regional environmental regulations designed to protect Lake Tahoe.

On August 29, 1998, Kim Johnson issued a written Cease and Desist Order (Certified Mail #P 095 997 956) and requested submittal of the following materials to assist with continued investigation of the alleged violations (all materials were to be made available to TRPA on or before September 15, 1998):

1. Site plan prepared by a Licensed Surveyor showing "as-built" contour lines at 2 foot intervals. This plan was to indicate SEZ setback, SEZ wetland area, landscaping, fill slopes, boulders, walkways, ponds, easements and property lines on the parcel.
2. A written report from a qualified professional detailing SEZ restoration.
3. A letter from Washoe County indicating that the fill slope in front of the residence could meet engineering requirements for stability.
4. A report from Washoe County Building Department indicating that the finished floor elevations and placement of the house were in compliance with the permit.
5. A letter from the U.S. Forest Service indicating their position on the unauthorized rock and pool gardens located within the mapped 50’ Forest Service easement.

For item #1 (Items are 1 – 5 listed above) as related to coverage, on September 15, 1998, TRPA received a site plan prepared by K.B. Foster Civil Engineering Inc. indicating the presence of 3’ wide walkways around the outer perimeter of the project area and within the SEZ. These walkways have been calculated to equal 2,403 square feet of unapproved coverage. Additionally, on October 24, 1998, TRPA received a supplemental “as-built” survey of the residence, driveway, and deck shadow area from TEAC Consulting Engineers for the project.
While the site plan approved by TRPA on May 23, 1997 approved 7,798 square feet of onsite coverage, the supplemental site plan submitted by TEAC Consulting Engineers showed a total of 8,668 square feet (for the residence, driveway and deck overhang). The combined additional coverage for the 3' walkways depicted by K.B. Foster (2,403 square feet) and construction of the home (823 square feet) resulted in 3,226 square feet of unapproved coverage. In accordance with Chapter 20 of the TRPA Code of Ordinances, this extra coverage could not have been authorized.

In relation to topographic changes, the site plan prepared by K.B Foster depicts the presence of an unapproved fill pad which extends out 39 horizontal feet from the residence and is supported by a fillslope extending out an additional 36 feet. The total area disturbed measures approximately 75 linear feet from the residence and resulted in removal of approximately 57 trees, and excessive damage to residual vegetation. Creation of the unapproved fill pad resulted in approximately 7000 square feet of yard area lakeward of the residence. TRPA could not have approved the pad and fillslope due to requirements to maintain existing natural features outside of the building site, excessive damage to residual vegetation and scenic impacts. For reference, the TRPA approved plans for the NSFD noted that all trees within 20 feet of the construction zone were to be protected.

In relation to SEZ disturbance, the site plan submitted by K.B. Foster shows that excavated soil material and thousands of tons of boulders were placed within a well delineated 25' SEZ setback and extended into 6753 square feet of wetland area directly south of the residence. The fill material was used to facilitate creation of walkways and rock and pool gardens. In addition to unauthorized deposition of fill material, trenching was performed within the meadow to intercept subsurface groundwater. The water was then channeled into man-made rock pools, and redirected as new stream courses. Alteration of the wetland meadow area and subsequent rerouting of the natural stream channel destroyed 6753 square feet of functioning SEZ. The disturbance within the SEZ also resulted in a drying effect downstream, thereby altering critical SEZ functioning outside of the 6753 square feet of obvious physical disturbance. Wetland areas are specifically protected due to their ecological significance as critical wildlife habitat to fishes and waterfowl, and stream recharge. Permanent disturbance within land capability 1b (SEZ) is prohibited.

For item #2, Al Duffield was required to restore the above referenced 6,753 square feet of disturbed wetland area prior to October 15, 1998 (TRPA grading season deadline). On September 15, 1998, TRPA received a plan for re-grading the area from K.B. Foster, and a narrative of the restoration project from Western Botanical Services Inc. Also, because much of the SEZ disturbance was located within a mapped 50' Forest Service easement, TRPA consulted with the Forest Service Lands Department to obtain permission to require Al Duffield to restore the wetland area on Forest Service property. On September 25, 1998 (in association with direction from the Forest Service), TRPA approved the restoration plan for the disturbed SEZ area. Subsequently, Al Duffield was required to post a $75,000 cash performance bond, and the SEZ was restored in accordance with the approved plan by October 3, 1998 (restoration was confirmed by Western Botanical Services Inc.). While the site has been restored to a more natural state, disturbance of 6,753 square feet of the SEZ will decrease natural functioning of the area for several years. This is evidenced by downstream changes to vegetation (drying) resulting from alteration of subsurface flow.
On September 25, 1998, Mr. Duffield was made aware that restoration of the disturbed SEZ did not release him from responsibility for payment of a monetary penalty associated with the unapproved SEZ disturbance and destruction of critical wildlife habitat.

For item #3 TRPA received a slope stability analysis from K.B. Foster in September of 1998 and a written Slope Stability Review from Marvin E. Davis, Consulting Civil Engineers in October of 1998. Mr. Davis' written geotechnical review of the fill pad and fillslope indicated that the embankment was not conventional and would not be recommended for construction from an engineering standpoint. The slope was not considered stable due to angle of repose, lack of internal drainage, loose rock material, and lack of vegetation.

For item #4 on September 15, 1998, K.B. Foster prepared a survey to note finished floor elevations at 703 Champagne Road. This survey indicated that the main entry floor had an elevation of 103.3' and the garage with a finished floor elevation of 101.1'. The plans approved by TRPA on May 23, 1997 indicate finished floor elevations for the main floor and garage as 98.6' and 96.0' respectively. The survey prepared by K.B Foster shows that the residence was constructed to measure over 47 feet in height when measured from the lowest point of natural grade. Section 22.2.B of the TRPA Code of Ordinances notes that "The natural ground elevation is the elevation of the existing ground surface prior to any disturbance of the site resulting from construction of the proposed improvements." Based upon Chapter 22 of the TRPA Code of Ordinances, the maximum allowable height for a structure with a 10:12 roof pitch and 24% cross slope equals 42 feet (as measured from the lowest point of natural grade). TRPA could not have approved this man-modified change in the lowest point of natural grade. Neither could TRPA have approved the residence at a height of 47 feet based upon the original contour lines submitted by the Duffields.

For item #5, On September 22, 1998, TRPA received a letter from Dave Marlow, Lands Officer at the U.S. Forest Service noting that the restoration plans had been reviewed by the Watershed Department and the Forest Service would allow TRPA to act as the lead staff for completion of the project.

In relation to removal of 57 trees for creation of the fill pad downslope of the house, TRPA was made aware of a tree removal permit issued May 16, 1997 by Rick Jones, Forester for the Nevada Division of Forestry. This permit indicates that 33 trees were marked for removal for insect, hazard, thinning and disease purposes (15 Jeffrey Pine and 18 White Fir). On January 13,1999, Kim Johnson spoke with Rick Jones who noted that the referenced 33 trees on the aforementioned permit included trees that had been marked in previous years. He noted that he and other NDF foresters had been on the property at 703 Champagne Road two or three times in the past and the permit issued in May of 1997 was a compilation of all trees marked on the property. The total size of the Duffield property equals five acres. Rick Jones said that while he marked a few trees for hazard near the foundation footprint, he did not mark very many in this area and would not have due to the TRPA plans detailing tree retention and scenic considerations. Based upon the plan provided by K.B. Foster, 57 trees designated on the approved TRPA site plan to be retained had been removed. Removal of the trees created a panoramic view corridor of Lake Tahoe from the Duffield residence. Likewise, the residence is now visible from the Lake.
Lawrence Hoffman
February 1, 1999
Page 9

As a result of the above referenced unapproved tree removal, increase in building height and man-made rock outcrop, the Duffield residence is now visible from Lake Tahoe, and Highway 28. The visibility of the residence causes a decrease in scenic quality standards outlined within Chapter 30 of the Code of Ordinances and affects attainment of scenic threshold standards. TRPA review and approval of the Duffield residence required that existing natural features outside of the building site be retained and incorporated into the site design to the greatest extent feasible. TRPA could not have made the scenic findings to have approved the project as it is built.

On November 10, 1998, TRPA sent a letter to Al and Jane Duffield noting that TRPA intended to require that all presently existing project violations to the TRPA Code of Ordinances, TRPA permit and Attachment R be abated. In particular, TRPA intended to require removal of the fill slope lakeward of the residence, modification of the roofline (height standards), and removal of all excess coverage. TRPA cautioned Mr. and Mrs. Duffield to proceed with the project at their own risk.

On November 25, 1998, TRPA received a letter from Lawrence Hoffman noting that all further correspondence should be addressed to him directly, as he was now acting in the capacity of Mr. and Mrs. Duffields' legal counsel. In his letter he noted the Duffield's were willing to work toward what he considered to be a "reasonable" settlement of the violations which occurred at 703 Champagne Road.

On December 22, 1998, TRPA sent Larry Hoffman a letter noting that due to the extent of the alleged violations, excessive environmental damage, and degradation of thresholds, TRPA found that a reasonable resolution included abatement of the violations of the Code of Ordinances and payment of a $500,000 monetary penalty. The extent of the environmental damage included violation of 54 Sections of the TRPA Code of Ordinances, TRPA Permit and Ground Water Report, 14 Standard Conditions of Approval (Attachment R.), and extensive degradation of several TRPA Thresholds.

On December 30, 1998 TRPA received a letter from Larry Hoffman noting that the proposal was unacceptable.

On January 22, 1999, TRPA met with Mr. Hoffman to work toward resolution of the numerous violations which occurred during construction of the NSFD at 703 Champagne Road. In summary, Mr. Hoffman contends that Al and Jane Duffield were simply misled by rogue contractors, and they themselves were unaware that TRPA environmental regulations were being violated during construction of their home. However, for reference, the violations (fill pad and SEZ disturbance) were distinctly prohibited within the TRPA permit issued May 23, 1997 and this permit was signed by both Al and Jane Duffield on June 3, 1997. The Special Conditions for the project which specifically addressed excavated materials, and were accepted by the Duffields as part of project approval, are as follows:

1. Special Condition #5 All excavated soil materials shall be hauled away from the site to a legally acceptable location. No fills, or recontouring, other than backfills for the cut-retaining structures, shall be allowed.
Lawrence Hoffman  
February 1, 1999  
Page 10

Permit approval continued:

2. Special Condition #8 Excavation equipment shall be limited to the foundation footprint to minimize site disturbance.

Al and Jane Duffield were also aware of the Forest Service letter (July 18, 1997) which authorized access across the 50 foot Forest Service easement for construction, but prohibited lawns or landscaping within the Forest Service easement (this included the SEZ/wetland area).

Mr. and Mrs. Duffield’s signatures on the TRPA permit are directly below the paragraph indicating Permittee’s Acceptance and states the following:

- I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all conditions of the permit and am responsible for my agent’s and employees’ compliance with the permit conditions.

The Duffields also received a copy of the TRPA Groundwater Report (January 31, 1997) which incorporated language to again note that fills and recontouring were not allowed on the property. This letter required TRPA to perform a site inspection following excavation of the foundation to verify that existing or historic groundwater was not intercepted. Language within the Groundwater Report is especially pertinent to the unapproved excavation within the mapped SEZ adjacent to the residence. Following discovery of the SEZ violation, TRPA was informed that the disturbance of 6,753 square feet within the SEZ was an effort to “fix” a seep in the meadow caused by removal of a tree stump. For additional reference, this same condition, requiring a site inspection following excavation, is duplicated within the TRPA permit dated May 23, 1997 (Special Condition #3). This inspection was never requested by the Duffields nor their agents and therefore never performed by a member of the TRPA Groundwater Technical Advisory Committee (GWTAC). Had the required inspection been performed, TRPA would have alerted the Duffields that the site was out of compliance with the TRPA permit. Steps to bring the project toward conformance would have been implemented at that time.

Mr. and Mrs. Duffield’s contention that they were misled by the contractors is questionable since all the contractors on the job are reputable and highly familiar with TRPA regulations. Standard Condition of Approval #16 (Attachment R), requires that the TRPA permit and final construction drawings be present on-site from the time construction commences until the final TRPA site inspection. The approved plans followed by the contractor specifically delineated the SEZ/wetland, and trees lakeward of the residence as protected areas. It is unlikely that the contractor removed the 57 trees, constructed a 7,000 square foot fill pad, or disturbed 6,753 square feet of wildlife habitat for rock and pool gardens, absent direction from the owners. In the event that discrepancies existed between the unapproved site disturbance and the approved plans, the Duffield’s as the Permittees, were obligated to verify any and all information with TRPA.
Al and Jane Duffield have indicated that the contractors (Gary Pulver, Pulver Construction), Dan Yori, (High Sierra Gardens) and Doug Aitken, (Fairway Excavation) are responsible for the egregious nature of the violations which occurred unbeknownst to them on their property. However, TRPA is unaware of any legal action the Duffields have taken against their agents and employees for the trespass into the SEZ’s wetland, and apparent timber theft. The Duffields have in fact benefited from the excessive violations on their property in the following ways:

1. The Duffields obtained panoramic views of Lake Tahoe due to a 5 foot increase in height of the residence and removal of 57 trees lakeward of the home.

2. Construction of the fill pad created 7000 square feet of yard area lakeward of the residence.

3. Failure to remove 4-5 thousand cubic yards of excavated materials from the site saved the Duffield’s thousands of dollars in trucking and disposal costs.

4. Disturbance within the SEZ resulted in 6,753 square feet of landscaping (rock and pool gardens) and pathways within this well delineated wetland.

5. Creation of 3,226 square feet of additional coverage facilitated access to the property and enlarged the residence.

(b) Correction of the Violation

The intent of the Rules of Procedure, Article IX, is to promote resolution of violations at the administrative level. In keeping with that intent, the resolution section of this letter includes a proposed settlement.

(c) Cease and Desist Order

A CEASE AND DESIST ORDER was posted on at the subject parcel on August 19, 1998, and a Cease and Desist Order was sent via Certified mail #P 095 997 956 on August 29, 1998.

The CEASE AND DESIST ORDER is still in effect and shall remain in effect until withdrawn by TRPA in writing.

(d) Show Cause Hearing

A Show Cause Hearing before the TRPA Governing Board has been scheduled for the February 24, 1999 Governing Board meeting. The Show Cause Hearing will be cancelled if a settlement is reached.
Section 9.6 VIOLATION REPORT

(a) Noticed Party:

Lawrence L. Hoffman
Hoffman Law Offices
P.O. Box 7740
Tahoe City, CA 96145-7740

Al and Jane Duffield
2189 Las Trampas
Alamo, CA 94507

(b) Provisions of the Tahoe Regional Planning Compact and the Regional Plan Package violated:

Article VI (a) (b) of the TRPA Compact, Public Law 96-551, 94 Stat. 3233 (1980)

Chapter 2, Definitions
Chapter 4, Project Review and Exempt activities, Sections 4.3.A(6), 4.7
Chapter 20, Land Coverage Standards, Sections 20.3, 20.4,
Chapter 22, Height Standards, Section 22.3
Chapter 28, Natural Hazard Standards, Section 28.3.B
Chapter 61, Special Information Reports and Plans, Section 61.2.A(3 & 9), 61.3, 61.4
Chapter 64, Grading Standards, Sections 64.3.A, 64.3.B, 64.3.C, 64.5(a,b,c), 64.6.B(1 & 2), 64.7.A(1)(a-e), 64.7.B(1 & 2), 64.7.B(3), 64.7.C
Chapter 65, Vegetation Protection During Construction, Sections 65.2.A, 65.2.B, 65.2.E
Chapter 71, Tree Removal, Sections 71.2, 71.3.C(1 & 2)
Chapter 78, Wildlife Resources, Section 78.2.A, 78.2.C(1,2,3)
Chapter 79, Fish Resources, Section 79.2.B(1), 79.2.B(4), 79.2.B(6)(a,b,d,e,f)

- May 23, 1997 TRPA Permit, Special Conditions numbers 1, 3, 4, 5, and 8
- January 31, 1997 Ground Water Report, Conditions 1, 2, and 3
- Associated TRPA approved site plan and elevations.
- TRPA Thresholds for Water Quality, Soil Conservation, Vegetation, Wildlife Habitat, Fisheries, and Scenic Resources.
(c) Statement of Facts

On August 19, 1998, Associate Environmental Specialist Kim Johnson posted a Cease and Desist Order at 703 Champagne Road in Washoe County, Assessors Parcel Number 126-243-03 for permanent disturbance within a designated SEZ. On August 29, 1998, Ms. Johnson sent a Cease and Desist Order via Certified mail #P 095 997 956 alleging potential violation of TRPA standards for coverage, height, alteration of natural topography, tree limbing and tree removal, and disturbance within a mapped SEZ. Ms. Johnson requested submittal of pertinent information to further her investigation of the potential violations. Review of the aforementioned materials showed that construction of the residence at 703 Champagne Road resulted in the following:

Creation of 3,226 square feet of unapproved coverage, creation of 7,000 square feet of yard area associated with an unapproved fill slope, permanent disturbance within 6,753 square feet of mapped SEZ/wetland area, destruction of critical wildlife habitat, unapproved 5 foot increase in the residence height, removal of 57 trees for view enhancement, and excessive damage to residual vegetation.

While the house located at 703 Champagne Road was subject to specific guidelines established by TRPA, construction appeared to proceed unhindered and without respect to Regional environmental regulations designed to protect Lake Tahoe.

The above referenced items violate 54 Sections of the TRPA Code of Ordinances, five Special Conditions of the TRPA permit, 14 Standard Conditions (Attachment R.), and degrade TRPA Thresholds for Water Quality, Soil Conservation, Vegetation, Wildlife Habitat, Fisheries and Scenic Resources.

Al and Jane Duffield contend that they had no knowledge of the violations as they were occurring on their property. However, they signed and accepted the TRPA permit on June 3, 1997. The Duffields have noted the contractors misled them on the project and/or performed the illegal work without their authorization. The Duffields, however, have not taken legal action against the contractors for trespass into the SEZ and apparent timber theft. Nor are the contractors complaining about not being paid. The Duffields in fact have greatly benefited from the violations which occurred on their property, absent their input or knowledge.

TRPA contends the Duffields are solely responsible for the violations which occurred at 703 Champagne Road. They knowingly signed and accepted the permit and the extent of violations allowed to occur were specifically prohibited by TRPA. Their failure to ensure compliance with Regional environmental regulations designed to protect Lake Tahoe is willful and constitutes gross negligence.

(d) Documentary Evidence:

Documentary evidence (photographs and videotapes) are in TRPA's possession and copies will be provided upon request or may be reviewed at the TRPA office.
(e) Proposed Resolution of Enforcement Action

The Tahoe Regional Planning Compact provides for substantial penalties for violations of TRPA ordinances or regulations.

Article VI of the Compact States:

Any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed $5,000 and an additional civil penalty not to exceed $5,000 per day, for each day on which 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.

As a means of resolving this matter, TRPA proposes the following resolution:

1. Payment of a monetary penalty to TRPA on or before April 15, 1999 of a minimum of $500,000 and,

2. Abatement of all existing violations of the TRPA Code of Ordinances, TRPA permit, and Attachment R.

(f) Governing Board Show Cause Hearing

A Show Cause Hearing before the February 24, 1999, TRPA Governing Board is scheduled for the meeting. The meeting commences at 8:30 a.m. and the hearing is not set for a certain time. A resolution of the violation prior to that date will cause the Show Cause Hearing to be cancelled.

Board action (as a consent calendar item) may be necessary to ratify a settlement of the violation. If you decide to pursue a settlement of the violation and a waiver of the statute of limitations, as outlined under Election to Pursue Settlement, the Show Cause Hearing will be stayed pending the outcome of the settlement efforts. Settlement of this matter, by acceptance of the above-proposed resolution or an alternative proposal agreed upon by the parties, is the preferred option.

(g) Response Date

A response to this notice must be received by the TRPA or deposited in the U.S. Mail, postage prepaid, addressed to the TRPA no later than 21 days (February 22, 1999) from the date of this letter (see Section 9.8 of the Rules of Procedure for the contents of a response - copy enclosed).
Section 9.10 ELECTION TO PURSUE SETTLEMENT

If the responding party wishes to pursue settlement of the enforcement action, the response to the Notice of Violation shall contain an express waiver of the statute of limitations in Article VI (j) (4) of the Compact, an acknowledgment that the Show Cause Hearing procedure will be stayed pending the outcome of settlement efforts, and an agreement to comply with the terms of any pending CEASE AND DESIST ORDER. Waiver of the statute of limitations shall be for a definite period of time, but not less than an additional sixty (60) calendar days. An election to pursue settlement shall not relieve the responding party of the requirement to comply with Section 9.9 of these Rules of Procedure in the event settlement is discontinued. For your convenience, a waiver form is attached. The waiver must not be for less than an additional sixty calendar days. The statute of limitations in Article VI (j) (4) of the Compact is sixty-five days, therefore the waiver must be effective, at a minimum, up to and including a period of one hundred and twenty-five days from the date of service of this notice. A waiver has been signed to allow negotiations up to March 1, 1999.

Should you have any questions I can be reached at 775-588-4547, 9:00 AM through 5:00 PM Monday through Friday, except during holidays.

Sincerely,

Kim Johnson
Associate Environmental Specialist

KJ/mmp

cc: James W. Baetge, Executive Director, TRPA
    John Marshall, TRPA Counsel
    Steve Chilton, AICP, Chief Environmental Compliance Division
    Al and Jane Duffield
    Gary Pulver, Pulver Construction Company
    Dan Yori, High Sierra Gardens
    Doug Aitken, Fairway Excavation

Enclosures: Public Law 96-551; Tahoe Regional Planning Compact
Article IX - Compliance Procedures, Rules of Procedure
Ordinance Sections
TRPA Permit
Attachment R.
Forest Service Easement Authorization
Ground Water Report
MEMORANDUM

February 11, 1999

To: TRPA Governing Board

From: Kathy Canfield, Project Review Division

Subject: Scope of Impacts for an Environmental Impact Statement (EIS) for Proposed improvements to Incline Park

Incline Village General Improvement District (IVGID) is the owner of the property identified as Incline Park. This property consists of the area bounded by North Lake Boulevard to the north, Southwood Boulevard to the west, Incline Way to the south and the Sierra Nevada College Lake Campus to the east. This area has been determined to be a single project area through previous TRPA/IVGID permits. Existing facilities within this area include Incline Middle School, associated ball fields, an IVGID maintenance center, tennis courts and the IVGID Recreation Center.

Several projects are currently being proposed within this project area including a new ice arena, an office building for the Parasol Foundation (a non-profit public service organization), enclosure of the existing tennis courts for year-round use, and additions to the Recreation Center for IVGID offices and conference facilities. In addition, discussions of the Third Creek and Incline Creek SEZ restoration project (part of the Environmental Improvement Program – EIP) will be discussed as a portion of each creek is located within the project area.

Although IVGID is the property owner, they are not the proponent of the ice arena or Parasol Foundation office building projects. Both of these projects have separate organizations working on their development. IVGID is acting as the coordinator for all the parties regarding the EIS development.

Because of all the above uses and their collective potential environmental impacts, TRPA is requiring an EIS be developed. Staff's initial concerns with these projects relate to floodplain, water quality, air quality and traffic issues. These concerns have been related to the applicant, however, the extent to which they will be addressed is a part of the scoping process. In addition, the range of project alternatives to be studied in the environmental document has not yet been determined.

KC/ AGENDA ITEM X.A.
The Advisory Planning Commission (APC) heard this item at their February 10, 1999 meeting. Several APC members commented on various issues including a discussion of Washoe County requirements and traffic concerns and impacts.

A representative of a housing development located across Highway 28 from the project area raised the issue as to why a proposed Skateboard Park within the project area was not included in the EIS. TRPA staff has initially accepted an application from IVGID to process the Skateboard Park independently from the other projects. Staff's determination is based on the fact that the main issues driving the need for the EIS (floodplain, water quality, air quality and traffic) are not major issues with the Skateboard Park proposal. The proposed skateboard area is not in the 100 year floodplain, is on high capability land, and no parking is proposed. Those reasons, along with the area being adjacent to Incline Middle School (the age group identified as one of the biggest user of the park) and on the pedestrian/bike way, led to staff agreeing to allow IVGID to submit the project application separately.

The review of this project has not commenced, and if issues arise that would necessitate the need for inclusion in the EIS, staff will require it. The Skateboard Park application will require Governing Board review and approval. The majority of the APC (7/9) agreed with staff's decision to not include the Skateboard Park in the EIS at this time.

Staff has also received a letter of concern from Mr. Roger Hill, an adjacent property owner. His letter is included with this staff summary for your review.

Staff requests that the Governing Board assist in the scoping of the EIS. In addition, staff is requesting that the Governing Board solicit public comments at the meeting. No action is required at this time.

A location map, draft outline and IEC are included with this staff summary for your review. The applicant will be present to provide a brief presentation of the project. If you should have any questions, please contact Kathy Canfield at (775) 588-4547.
DRAFT

A PRELIMINARY TABLE OF CONTENTS FOR THE
INCLINE VILLAGE RECREATION COMPLEX
ENVIRONMENTAL STATEMENT

We offer this preliminary Table of Contents as a means of establishing a scope of work and facilitating discussions as to the content of the EIS. It is based on our understanding of TRPA informational needs, and our meeting with TRPA on December 29, 1998.

It is our understanding that IVGID will be the “proponent” with regard to preparation of the EIS. For discussion purposes, we refer to those who are advocating a specific project element as “participants.” We acknowledge that IVGID is both a participant (you are advocating the conference wing and the covered tennis courts) and the proponent.

In places, we have annotated the table of contents. This serves to illustrate what would be addressed in that individual section and from whence we would derive information.

Chapter One - INTRODUCTION

1.1 Nature and Purpose of Project

This section will be developed based on information provided by the various participants.

1.2 Project Background

This section will provide a brief history of activities that have transpired on the Recreation Center site. To the extent that other, off-site locations are included in the project, the history of those locations also will be discussed.

1.3 Relationship to Other Projects

Other projects that would require consideration would be the Third Creek Environmental Improvement Project and the Incline Village Community Plan.

1.4 Report Organization
Chapter Two - PROJECT ALTERNATIVES

2.1 The Alternatives Identification Process

This section would describe how IVGID arrived at the slate of alternatives that are reviewed in the EIS. Critical here will be an understanding of how those alternatives were arrived at, and a listing of public meetings at which those alternatives were discussed.

2.2 Alternatives to be Evaluated

2.2.1 Alternative 1: No-Action

2.2.2 Alternative 2:

Aside from the No-Action Alternative, RCI will be dependent on IVGID to determine the nature and number of other alternatives. Presumably, there will be one alternative (Alternative 2) in which everyone gets everything they want. Aside from that, RCI will rely on IVGID to assist us in deciding the nature and number of "reduced" alternatives that will be reviewed. The budget we provided to IVGID on January 5, 1999, assumes that two reduced alternatives will be assessed.

2.2.3 Alternative 3:

2.2.4 Alternative 4:

2.3 Alternatives Eliminated From Detailed Consideration

2.3.1

2.3.2

2.4 Proponent Preferred Alternative

2.5 Relationship to Land Use Plans, Policies, and Regulations

Chapter Three - THE AFFECTED ENVIRONMENT

Air Quality - Using existing Washoe County and TRPA data, RCI will describe existing air quality resource conditions. When assessing impacts, the greatest emphasis will be placed on vehicle emissions and new stationary sources. An air quality model will not be required, per TRPA.
Cultural Resources - Cultural resource inventories have been completed of the existing recreation center parcel. If the project is restricted to that parcel, it may be possible to eliminate this resource issue from detailed consideration. If the project extends onto surrounding parcels, or if other non-adjacent parcels become tied into the project, then additional inventories may be necessary and it will be necessary to include this issue in the EIS. For planning purposes, we have assumed that no such inventories will be required.

Economics - Depending on the programs developed by the various participants, it may be possible to demonstrate that the proposed project would not have any real potential to affect local economic conditions. If impacts will occur, be they adverse or beneficial, then there will be a need to keep this issue in the EIS. Since economic considerations played so heavily in discussions regarding the Recreation Center (and especially the conference center associated with that project), it may be difficult not to address this issue. If included in the EIS, analysis will rely on existing TRPA and county socio-economic data, and on information provided by the various participants.

Hydrology and Water Quality - The emphasis in this section will be any potential for impacts to surface and ground waters associated with Incline and Third creeks. Available information provided by TRPA, the Corps of Engineers, FEMA, and individual participants will be relied upon during our analysis of this issue.

Land Coverage - Capability and current coverage data will need to be updated for all parcels to be included in the project area. Relocation issues will need to be reviewed in detail. Analyses will rely on existing TRPA data and information provided by the various participants.

Land Use - Land use in the area is controlled by the Incline Village Community Plan and Washoe County planning guidelines. Review will need to demonstrate compliance with all appropriate land use plans, regulations, and guidelines. Analysis will rely on data contained in existing community and county planning documents.

Noise - At issue is the potential for increased noise levels as experienced by adjacent property owners. Analyses will rely on existing local and site specific data, manufacturer provided data (on stationary devices), and a limited assessment of traffic data.

Population and Housing - Depending on the programs developed by the various participants, it may be possible to demonstrate that the proposed project would have no potential to affect populations and housing. If so, it may be possible to eliminate this issue from detailed consideration.

Public Services and Utilities - Analysis of these issues would be necessary if new lines are required that will cross sensitive areas (SEZ, flood plain, etc.), if they will need to be extended to the project area from off-site, or if will-serve orders have not or cannot be
issued due to limited capacity. If none of these conditions apply, it may be possible
to eliminate this issue from detailed consideration.

Recreation - Presumably, the project is proposed as the addition of new recreational
facilities and the amplification of existing facilities. If so, this section will address the
need for such new and enhanced facilities. Analysis will rely on existing industry data
and information provided by the various participants.

Soils - Unless excavation limits, groundwater interception, or erosion control becomes an
issue, it should be possible to deal with this issue at a very minimal level, or perhaps to
set it aside all together. It is our assumption that, as necessary, participants have
conducted soils/hydrology studies sufficient to meet the requirements of Chapter 64 of
the TRPA Code of Ordinances.

Stream Environment Zones, Wetlands, and Flood Plains - Areas assigned to each of these
designations will require special consideration during the analysis. That analysis will rely
on locational information provided by agencies and various participants.

Threatened and Endangered Plants and Animals - TRPA indicated that there may be a
need to address a certain species of frog. If so, it should be possible to limit this section
an analysis of impacts to that one species. If no impacts will occur in SEZ, then it may be
possible that we will not need to address this issue at all.

Transportation - Analysis of issues involving VMT, LOS, parking, pedestrian traffic, and
other transportation issues will rely on information provided by traffic consultants
retained previously by IVGID or other participants. Incorporation of this data would be
facilitated if RCI could be provided electronic as well as paper copies of the traffic study.

Vegetation - Unless tree removal, forest openings, or SEZ impacts are an issue, it should
be possible to deal with this issue at a very minimal level, or perhaps to set it aside all
together.

Visual Resources - Numerous viewpoints were discussed at our meeting with TRPA: a
view of the project area from the lake, from the Mt. Rose turn off, and from the Ski
Lodge. Unresolved was whether or not there would be a need to prepare simulations from
each of these locations, or whether the analysis of visual impacts could be conducted in
the absence of simulations. This needs to be resolved.

Wildlife - It is anticipated that this section will only need to address fisheries. It should be
possible to dismiss terrestrial wildlife as an issue requiring review.

Chapter Four - ENVIRONMENTAL CONSEQUENCES
Chapter Five - SUMMARY OF IMPACTS
Chapter Six - REFERENCES CITED
Chapter Seven - AGENCIES AND INDIVIDUALS CONSULTED
Chapter Eight - LIST OF CONTRIBUTORS
TRPA INITIAL ENVIRONMENTAL CHECK LIST

for

The Initial Determination Of Environmental Impact

Assessor Parcel Number(s) 127-040-07, 127-030-02, 15, 16

I PROJECT NAME AND DESCRIPTION: (use additional sheets, if necessary)

EIS for: Ice Arena
Parcels Foundation Office Bldg
Enclosure of existing tennis courts - yearround use
Recreation Center: Conference facilities
VNGID offices

II ENVIRONMENTAL IMPACTS:

The following questionnaire will be completed by the applicant based on evidence submitted with the application. All "yes" and "no, with mitigation" answers will require further written comments.

1 Land

Will the proposal result in:

a. Compaction or covering of the soil beyond the limits allowed in the land capability or Individual Parcel Evaluation System (IPES)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. A change in the topography or ground surface relief features of site inconsistent with the natural surrounding conditions?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

JANUARY 14, 1999
c. Unstable soil conditions during or after completion of the proposal?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

d. Changes in the undisturbed soil or native geologic substructures or grading in excess of 5 feet?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

e. The continuation of or increase in wind or water erosion of soils, either on or off the site?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

f. Changes in deposition or erosion of beach sand, or changes in siltation, deposition or erosion, including natural littoral processes, which may modify the channel of a river or stream or the bed of a lake?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

g. Exposure of people or property to geologic hazards such as earthquakes, landslides, backshore erosion, avalanches, mud slides, ground failure, or similar hazards.  

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

2 Air Quality

Will the proposal result in:

a. Substantial air pollutant emissions?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
b. Deterioration of ambient (existing) air quality?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

c. The creation of objectionable odors?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

d. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

e. Increased use of diesel fuel?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

3 Water Quality

Will the proposal result in:

a. Changes in currents, or the course or direction of water movements?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff so that a 20 yr. 1 hr. storm runoff (approximately 1 inch per hour) cannot be contained on the site?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
c. Alterations to the course or flow of 100-year flood waters?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Mitigation</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

d. Change in the amount of surface water in any water body?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Mitigation</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Mitigation</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

f. Alteration of the direction or rate of flow of groundwater?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Mitigation</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

g. Change in the quantity of groundwater, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Mitigation</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

h. Substantial reduction in the amount of water otherwise available for public water supplies?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Mitigation</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
i. Exposure of people or property to water related hazards such as flooding and/or wave action from 100-year storm occurrence or seiches?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

j. The potential discharge of contaminants to the groundwater or any alteration of groundwater quality?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4 Vegetation

Will the proposal result in:

a. Removal of native vegetation in excess of the area utilized for the actual development permitted by the land capability/IPES system?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. Removal of riparian vegetation or other vegetation associated with critical wildlife habitat, either through direct removal or indirect lowering of the groundwater table?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

c. Introduction of new vegetation that will require excessive fertilizer or water, or will provide a barrier to the normal replenishment of existing species?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
d. Change in the diversity or distribution of species, or number of any species of plants (including trees, shrubs, grass, crops, micro flora and aquatic plants)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

e. Reduction of the numbers of any unique, rare or endangered species of plants?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

f. Removal of streambank and/or backshore vegetation, including woody vegetation such as willows?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

g. Removal of any native live, dead or dying trees 30 inches or greater in diameter at breast height (dbh) within TRPA's Conservation or Recreation land use classifications?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

h. A change in the natural functioning of an old growth ecosystem?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
5  **Wildlife**

Will the proposal result in:

a. Change in the diversity or distribution of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects, mammals, amphibians or microfauna)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

b. Reduction of the number of any unique, rare or endangered species of animals?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Deterioration of existing fish or wildlife habitat quantity or quality?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6  **Noise**

Will the proposal result in:

a. Increases in existing Community Noise Equivalency Levels (CNEL) beyond those permitted in the applicable Plan Area Statement, Community Plan or Master Plan?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
b. Exposure of people to severe noise levels?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

c. Single event noise levels greater than those set forth in the TRPA Noise Environmental Threshold?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

7 Light and Glare

Will the proposal:

a. Include new or modified sources of exterior lighting?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. Create new illumination which is more substantial than other lighting, if any, within the surrounding area?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

c. Cause light from exterior sources to be cast off-site or onto public lands?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
d. Create new sources of glare through the siting of the improvements or through the use of reflective materials?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

8 Land Use

Will the proposal:

a. Include uses which are not listed as permissible uses in the applicable Plan Area Statement, adopted Community Plan, or Master Plan?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

b. Expand or intensify an existing non-conforming use?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

9 Natural Resources

Will the proposal result in:

a. A substantial increase in the rate of use of any natural resources?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

b. Substantial depletion of any non-renewable natural resource?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>
10 Risk of Upset

Will the proposal:

a. Involve a risk of an explosion or the release of hazardous substances including, but not limited to, oil, pesticides, chemicals, or radiation in the event of an accident or upset conditions?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

b. Involve possible interference with an emergency evacuation plan?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

11 Population

Will the proposal:

a. Alter the location, distribution, density, or growth rate of the human population planned for the Region?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

b. Include or result in the temporary or permanent displacement of residents?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

12 Housing

Will the proposal:

a. Affect existing housing, or create a demand for additional housing?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
b. Result in the loss of affordable housing?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

13 Transportation/Circulation

Will the proposal result in:

a. Generation of 100 or more new daily vehicle trip ends (DVTE)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. Changes to existing parking facilities, or demand for new parking?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

c. Substantial impact upon existing transportation systems, including highway, transit, bicycle or pedestrian facilities?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Alterations to present patterns of circulation or movement of people and/or goods?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

e. Alterations to waterborne, rail or air traffic?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
f. Increase in traffic hazards to motor vehicles, bicyclists, or pedestrians?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

14 Public Services

Will the proposal have an unplanned effect upon, or result in a need for new or altered governmental services in any of the following areas?

a. Fire protection?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

b. Police protection?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

c. Schools?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

d. Parks or other recreational facilities?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

e. Maintenance of public facilities, including roads?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>

f. Other governmental services?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>x</td>
<td></td>
</tr>
</tbody>
</table>
15 **Energy**

Will the proposal result in:

a. Use of substantial amounts of fuel or energy?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>□</td>
</tr>
</tbody>
</table>

b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>□</td>
</tr>
</tbody>
</table>

16 **Utilities**

Except for planned improvements, will the proposal result in a need for new systems, or substantial alterations to the following utilities:

a. Power or natural gas?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>□</td>
</tr>
</tbody>
</table>

b. Communication systems?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>□</td>
</tr>
</tbody>
</table>

c. Utilize additional water which amount will exceed the maximum permitted capacity of the service provider?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>□</td>
</tr>
</tbody>
</table>
d. Utilize additional sewage treatment capacity which amount will exceed the maximum permitted capacity of the sewage treatment provider?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

e. Storm water drainage?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

f. Solid waste and disposal?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

17 Human Health

Will the proposal result in:

a. Creation of any health hazard or potential health hazard (excluding mental health)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>

b. Exposure of people to potential health hazards?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>x</td>
</tr>
</tbody>
</table>
18 Scenic Resources/Community Design

Will the proposal:

a. Be visible from any state or federal highway, Pioneer Trail or from Lake Tahoe?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

b. Be visible from any public recreation area or TRPA designated bicycle trail?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

c. Block or modify an existing view of Lake Tahoe or other scenic vista seen from a public road or other public area?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

d. Be inconsistent with the height and design standards required by the applicable ordinance or Community Plan?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

e. Be inconsistent with the TRPA Scenic Quality Improvement Program (SQIP) or Design Review Guidelines?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
19 Recreation:

Does the proposal:

a. Create additional demand for recreation facilities?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. Create additional recreation capacity?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

c. Have the potential to create conflicts between recreation uses, either existing or proposed?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Result in a decrease or loss of public access to any lake, waterway, or public lands?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

20 Archaeological/Historical

a. Will the proposal result in an alteration of a significant archaeological or historical site, structure, object or building?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
b. Will the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

d. Will the proposal restrict historic or pre-historic religious or sacred uses within the potential impact area?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

21 Findings of Significance.

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California or Nevada history or prehistory?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time, while long-term impacts will endure well into the future.)

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>
c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environmental is significant?)

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>×</td>
</tr>
</tbody>
</table>

d. Does the project have environmental impacts which will cause substantial adverse effects on human being, either directly or indirectly?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>×</td>
</tr>
</tbody>
</table>

### III Certification

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

[Signature]

Signature of Person Completing this Form

1/29/99

Date

### Written Comments:

(use additional sheets as necessary)

Questions answered "yes" will be addressed in EIS
February 5, 1999

Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV 89448
Attention Kathy Canfield, Project Review Division

Subject:
APN 127-030-02, 15&16 127-040-07
For Sierra Nevada College and Incline Park-Incline Village

Dear Ms. Canfield:

Significant urbanization will occur on the single block bounded by North Lake Boulevard, Southwood, Country Club Way and Incline Way if the projects noted are built as proposed.

EIS one: Sierra Nevada Colleges Lake and Mountain Campus
Sierra Nevada College Lake Campus Modifications

EIS two: Incline Park
Ice Rink
Parasol Foundation
Addition of IVGID Offices and Conference Facilities to the existing Recreation Center
Tennis court enclosure
Skate Board Park (Planned for the corner of Southwood and North Lake Boulevard - not requiring an EIS but contributing to impacts)

I assume that the impacts represented by each EIS will be regarded by TRPA as cumulative and that subsequent public hearings will proceed in lock step. I am particularly concerned with the projects included in the Incline Park EIS as follows:

Native landscape and open space considerations.

The Ice Rink and the Parasol building and associated surface parking have very large footprints and will seriously deplete the native wooded environment on IVGID leased land. The pine forests are fast disappearing in the Incline Village as a result of development. In addition the construction of the Ice Rink, expansion of the Recreation Center and further development of the Lake Campus will preclude any chance for IVGID to preserve the last undeveloped segment of Incline Creek in its natural state. A recent study prepared for IVGID assessing “Riparian Areas, Water Quality, and Fisheries” states, “Due to urban development in Incline Village area, the total area of stream environment zone (SEZ) associated with these watersheds has been significantly reduced, altered or compromised. The concomitant increase in pollutant discharge through stormwater runoff has resulted in a decline in the overall quality of Incline Creek and Third Creek.” If private land owners are prevented from building in environmentally
sensitive stream zones, why should the Ice Rink be permitted to build in such close proximity to Incline Creek? The proposed EIS outline indicates that the matter of tree removal could be set aside. I cannot believe that this study would be responsible if it avoided this important issue. In light of the referenced study the EIS should address the deleterious effect added construction will have on Incline and Third Creek.

Architectural considerations

The Ice rink is a very large building and is sited in such a way that it is poorly juxtaposed to the existing Recreation Center, Incline Creek, Incline Way and the two residential complexes with which it would share a property line. The Ice Rink will be a community resource and because of its bulk and mission it should be located on and directly accessible from a major thoroughfare. Locating it remote from Incline Way behind the existing Recreation Center, which is planned to expand, is short sighted. Lastly, one corner of the Ice Rink is located little more than a car length from an existing residential community property line. The clash between a warehouselike scale of the Ice Rink and the residential scale of the existing Tahoe Racquet Club and Deer Creek cannot be condoned. Due to the Ice Rink size and bulk, it will negatively impact residential units sharing the common property line. Residents will lose view corridors, the forested setting and will be subject to increased noise from vehicles and facility operation. I suggest that the proposed EIS outline be expanded to include the impact on visual resources on the immediate residential community. Reference is made to traffic studies proved by others. It is important that any evaluation of this subject address traffic impacts that result from the projects noted above and as currently conceived.

Financial and adaptive reuse considerations

The lease terms that IVGID outlines in their letter of March 19, 1995 to the Incline Ice Foundation stipulates very specific financial requirements for the sponsor to meet. At this time the sponsor has not submitted to IVGID evidence of compliance for review. The Ice Rink will depend in (large) part on year round patronage to generate revenue to be financially viable. Ice rinks in Reno and Sparks and others possibly in Carson City and Truckee plus the planned nearby skateboard park represent competition for Ice Rink patronage. Further, the IVGID lease terms limit the fund raising events the Ice Foundation can sponsor in the proposed location. Suppose that the Ice Rink is built and then for whatever reason defaults. What then? Adaptive reuse becomes the issue. A large column free building that could easily become a community arena/fieldhouse does not make any sense in the location proposed. The same sort of inquiry about the financial viability of Parasol Building is also relevant. While there may be financial support to defray the buildings construction it must be determined if there is financial wherewithal to cover yearly operational costs in perpetuity. What happens if Parasol Foundation support dries up? If the mission of this project is to house community outreach groups it could be assumed that the beneficiaries may not be able to bear the burden of ongoing operational costs if at some point required. I suggest that comprehensive financial viability of the proposed projects be addressed in the proposed EIS outline best included under the discussion of "economics". One need only to be reminded of the tennis frenzy of twenty
years ago that has left as a legacy weed choked tennis courts in this area of Incline Village. The “we will build it and they will come” approach does not always work out that way.

**Urban planning considerations:**

There are voices in the Incline Village community yearning for a town center. All of the quasi public buildings that are components of this EIS are excellent candidates for such a town center complex. The town center could be a tightly organized complex of buildings, planned in such a way as to not require significant degradation of the existing forested and environmentally sensitive environment. This is also good planning because it would concentrate large public projects in a central location rather than having them sprinkled here there and everywhere which if continues is a formula for destroying the alpine character of the community. Concentrating large quasi public buildings in one location makes good sense because buildings, such as the Ice Rink or the Parasol building, that may eventually outgrow their original purpose, can be more easily recycled. *I suggest that this EIS include in chapter two under project alternatives the possibility of a town center that could accommodate the Ice Rink, Parasol Foundation building and IVGID offices and conference center.*

I request that TRPA continue to advise me about times and dates for subsequent public hearings. I appreciate being allowed to comment on this very important matter.

Sincerely,

Roger W. Hill
1155 Keeler Ave.
Berkeley, CA 94708

Copy

Board of Directors, TRC
Board of Directors IVGID
Rochelle Nason, Executive Director League to Save Lake Tahoe,

160
March 19, 1995

Mrs. Marla Gartrell
President
Incline Ice Foundation
P. O. Box 5083
Incline Village, NV 89450

Dear Marla,

On February 13, 1995, the Incline Village General Improvement District Board of Trustees approved the Incline Ice Foundation's request to use land adjacent to the Incline Village Recreation Center for the eventual construction of an indoor ice skating rink. This approval is subject to the following conditions:

1. Prior to the commencement of any site work or ground movement related to the construction of the ice rink facility, the Incline Ice Foundation (IIF) shall demonstrate to the District's satisfaction that it possesses the financial resources necessary to undertake and complete the construction of the proposed ice rink facility, including sufficient allowances or reserves for unforeseen contingencies which may come up during construction.

Such financial resources must be in the form of cash or equivalent securities. The latter shall include funds in bank accounts in the Foundation's sole name and under its sole control, irrevocable bank letters of credit which accrue to the benefit of the IIF, certificates of deposit in the name of IIF, or the like.

2. Prior to the commencement of any site work or ground movement related to the construction of the ice rink facility, the Incline Ice Foundation (IIF) shall demonstrate the financial feasibility of the long-term operation of the ice rink facility by completing a comprehensive, long-range business plan for the facility.

At a minimum, such business plan shall include a market assessment of the Reno/Lake Tahoe region from which customers will be drawn; a definition of facility operations and services to be offered, including pricing of these services; a facility marketing plan; a pro forma financial plan defining all sources and uses of funds (i.e., revenue sources, operating and capital expenditures, capital reserves, contingency funds, sources of working capital, etc.) necessary to fund the facility's operations for the twenty-year term of the property lease; and a statement and assessment of risks associated with the facility's operation, including an environmental impact assessment.
3. Prior to the commencement of any site work or ground movement related to the construction of the ice rink facility, the Incline Ice Foundation (IIF) shall demonstrate to the District's satisfaction that it possesses an adequate level of working capital to fund the first two years of the facility's operation, utilizing conservative estimates of revenues and expenses, including provisions for extraordinary start-up costs. Industry statistics shall be provided as benchmarks in order to demonstrate that actual and projected working capital levels are adequate to sustain the facility.

Such working capital funds must be in the form of cash or equivalent securities. The latter shall include funds in bank accounts in the Foundation's sole name and under its sole control, irrevocable bank letters of credit which accrue to the benefit of the IIF, certificates of deposit in the name of IIF, or the like.

4. Prior to the commencement of any site work or ground movement related to the construction of the ice rink facility, the Incline Ice Foundation (IIF) shall obtain, at its own expense, all necessary regulatory approvals for the construction of the ice rink facility. These approvals will include TRPA, Washoe County Building, Washoe County Planning, Washoe County Health, North Lake Tahoe Fire Protection District, IVGID, Environmental Protection Agency and any others that may apply.

The District shall assist the IIF with this effort wherever necessary and feasible.

5. Any and all costs and expenditures related to the planning, design, permitting, construction, operation and maintenance, etc., of the ice rink facility, except IVGID staff time which will be contributed in support of these efforts primarily undertaken by the IIF, will be borne directly by the IIF.

6. This letter of intent is subject to the completion of transfer of title on the requested land from Washoe County to District. This transfer is a condition of the intergovernmental agreement between Washoe County and IVGID regarding the Recreation Center construction, financing and operation.

7. Prior to the commencement of any site work or ground movement related to the construction of the ice rink facility, the Incline Ice Foundation (IIF) shall enter into a lease agreement for the subject District real property adjacent to the Incline Village Recreation Center.

Such lease agreement shall include, but shall not be limited to, the following terms:

**Term:** The initial term of the lease shall be a maximum of 20 years, with an option for the leasor to renew the lease, subject to District approval, for an additional 15 years. District approval shall not be unreasonably withheld.
Rent: The rent or lease fees shall, to the extent allowable by law, be nominal.

Encumbrance of property: The subject property shall not be pledged to secure a loan of any type. Further, there shall be no encumbrances against the structures situated on District property.

Security: The District shall be protected by means of a surety bond, or other security instrument, or cash deposit, against any and all mechanic or workman liens against the property during the course of construction, and throughout the term of the lease.

Reimbursement for Taxes and other Costs: The rink must be operated on a not-for-profit basis, unless the District is compensated for the income or property taxes, or other costs, which might come due as a result of the loss of existing governmental tax exemptions, resulting from such profit-oriented operation.

Indemnification and Insurance: The District shall be fully indemnified against any and all claims for liability or property damage resulting from construction and/or operation of the ice rink for the term of the lease. Such indemnification shall be secured with a policy of insurance in an amount required by the District, or by other means of security acceptable to the District, such as a letter of credit, surety bond or cash deposit.

It is anticipated that such insurance or other security shall be in an amount no less than $2,000,000.

Termination: This lease agreement may be terminated by the District for cause.

(The conditions which constitute cause for terminating the subject lease will be defined by the parties prior to its inception.)

Reversion or Removal: At the end of the term of this lease, or upon termination of this lease for cause, title to the ice rink facility shall revert to the District. At its sole option, the District may require that the IIF remove the ice rink facility from IVGID property and return said property to its natural state.

Further, the District may require that IIF establish a reserve fund, surety bond or other form of security to guarantee that IIF can perform on this condition, namely, the facility’s demolition and removal.

Maintenance Requirements: Upkeep and ongoing maintenance of the ice rink facility shall be of a level similar to and compatible with District facilities.
Capital Investments: The IIF shall develop and implement at its own expense on an annual basis, a long-range capital investment plan sufficient to maintain the ice rink facility in a condition acceptable to the District. Such condition requirements shall not be unreasonable and shall, generally, be similar to that maintained by the District for the adjacent Recreation Center.

Reserves: For claims and liabilities of IIF which potentially could revert to the District upon the cessation of the operation of the ice rink facility, the District may require that IIF establish and fully fund related accounting reserves. Such reserves may include reserves for obsolescence (i.e., depreciation), employee obligations (i.e., pensions, self-insurance funds), legal obligations (i.e., certain proven legal claims or judgment liabilities), etc.

(These claims or obligations will be initially defined prior to the inception of the lease with IIF. Most likely, however, the District would reserve the right to amend its definition of claims subject to this provision in the future.)

Access by General Public: In accordance with the terms of the District's intergovernmental agreement with Washoe County related to the Recreation Center, the ice rink facility shall be open to the general public. All rates and access conditions shall be subject to District approval.

Legality and Governmental Approval: Any lease entered into between IVGID and the Incline Ice Foundation shall be subject to any and all laws of the State of Nevada and the approval of necessary governmental agencies.

This letter shall serve as notice to all, that the Incline Village General Improvement District does intend to lease the property identified on Attachment 1 to the Incline Ice Foundation at a nominal yearly charge for the term specified, provided that all conditions are met and strictly adhered as agreed upon.

I would like to reiterate that, in my opinion, it would be very helpful to your cause if you were to convene a scoping meeting with all affected regulatory agencies as soon as possible. If I can be of further assistance, please call me at your convenience.

Yours Truly,

[Signature]

Douglas A. Doolittle
Director of Parks & Recreation

cc: Pat Finnigan
IVGID Board of Trustees
MEMORANDUM

February 11, 1999

To: Governing Board

From: Lyn Barnett, Project Review Division

Subject: Scope of Impacts for an Environmental Impact Statement (EIS) for Proposed Sierra Nevada College in Incline Village, APN 127-040-08, etc./TRPA File No. 990011

Sierra Nevada College is proposing to revise their future development plans for construction of a new college campus in Incline Village. In 1994, TRPA certified an EIS for a new college campus on a 20 acre parcel of land located at the intersection of North Lake Boulevard and Country Club Drive. The college, however, desires to significantly revise their long range development plans for the new campus. In addition, the college is proposing significant modifications to their existing campus and mobile home park. Please see the enclosed project description for more information. TRPA has determined that the proposed modifications will require the preparation of a new Environmental Impact Statement (EIS).

Staff requests that the Governing Board assist in the scoping of the EIS. In addition, staff is requesting that the Governing Board solicit public comments on the scope of the proposed EIS at their meeting.

On February 10, 1999, the TRPA Advisory Planning Commission held a similar meeting to scope the proposed EIS. The minutes of this meeting, however, were not available at the time this memorandum was being prepared. Comments from APC members were generally related to:

- Future student population levels and student housing issues,
- Scenic quality and community design issues,
- Traffic, parking and air quality issues,
- Issues relating to the loss of non-student housing due to the closure of the existing trailer park adjacent to the mountain campus, and
- Discussions regarding the adequacy of the proposed range of alternatives proposed for study in the EIS.

Oral and written comments were received by Mr. John F. McGuire, an adjacent property owner to the Lake Campus and representative for the Country Club Villas Homeowner’s Association. Mr. McGuire’s written comments are enclosed with this memorandum.
A project description, draft outline, environmental checklist and location map are also included with this memorandum for your review. The applicant will be present to give a brief presentation on the proposed project and the proposed environmental document at the Governing Board meeting. Please contact Lyn Barnett in the Project Review Division at (775) 588-4547 if you have any questions.
Sierra Nevada College
The Lake Campus Master Plan -
Mountain Campus Redevelopment - College Park Report
for
The Initial Determination of Environmental Impact APC Review

Sierra Nevada College is the state of Nevada’s only private four-year college or university. Liberal arts and residential in character, SNC is now in its 30th year of service to northern Nevada and the region. The college has two campus’s in Incline Village; the Lake Campus located on Country Club Drive near the Hyatt and the Mountain Campus located on College Drive. SNC is currently in the process of updating its master plan and revising its approved Environmental Impact Statement (1993) for full development of the Lake Campus.

THE COLLEGE

The curriculum includes a broad range of study opportunities in the arts, humanities, sciences, and business administration. In addition, the college offers a post-baccalaureate program in teacher education leading to certification in elementary or secondary education in either Nevada or California.

Besides the offerings at two campuses in Incline Village, the College provides undergraduate and teacher education programs in Elko, Fallon, Reno, and coming this spring, in Minden-Gardnerville.

SNC is a small, high-touch institution. This fall, 606 students are enrolled in a curriculum where the student-faculty ratio is only 13 students to each faculty member. Of our total student body, 358 are undergraduates and 248 are teacher education students. Although we predominantly serve this region, students come to Tahoe from 33 states and 12 foreign countries.

SNC, like all not-for-profit institutions of higher learning in the United States, is governed by a volunteer Board of Trustees, currently made up of 20 members. It is the Board, more than any other element of the college that has charted the future of the institution, including the overarching strategies related to this request.

Sierra Nevada College contributes in many ways to the well-being of its community. Over 1,000 non-degree-seeking students take courses annually through the division of Community and Continuing Education. The college, in fall 1997, launched a community lecture series called The Tahoe Forum, which is designed to bring major figures to the Tahoe basin to address major issues facing our democracy. Former President Gerald R. Ford initiated the series, and since then Smithsonian Institution Secretary I. Michael Heyman, and publisher Steve Forbes, have also appeared at the Forum. Other significant ways in which SNC serves the community include making facilities available for meetings to various community organizations and providing many special educational and cultural opportunities. In addition, for the past year and a half, the President of the College has chaired the community K-16 Council, an organization devoted to implementing new Nevada state standards and helping to develop schools second to none.
FACILITIES

As mentioned, SNC has two campuses in Incline Village, the Lake Campus and the Mountain Campus. These campuses are about two miles apart from one another. In addition, the College owns and manages an 89 unit mobile home park adjacent to the Mountain Campus. College Park provides much of the student housing for the College and the college owns over fifty percent of the mobile homes in the park.

College Park was acquired through cash and gifts by the College in 1982 with the express purpose of endowing SNC with an asset that would enable it to go forward with the goal of providing quality higher education in the liberal arts tradition to the region.

Other properties owned by the college include the MacLean Library and Teacher Education site located near the Mountain Campus at the corner of Village Blvd. and College Drive and three single family lots across from the Mountain Campus which are now used as a parking lot for about 100 vehicles and also the home of the North Lake Tahoe Demonstration Garden. See Existing Mountain Campus (Exhibit A) and Existing Lake Campus (Exhibit B).

RECENT MILESTONES / STRATEGIC PLANNING

In 1993, SNC prepared and received approval for an Environmental Impact Statement to increase the number of full time students (FTE) from 250 to 500 and approval for the development of the Lake Campus.

In 1995 the construction of two buildings on the Lake Campus, a residence hall for 52 students and a dining facility housing a dining hall, classroom and administrative space, commenced. In that same year, 999 Tahoe Blvd., the corner property of the site located at Tahoe Blvd. and Country Club Drive was acquired by the College, bringing the total acreage of the Lake Campus to about 20 acres.

In 1997, all funds necessary to start construction on the second residence hall were in place and construction on this building will start in May 1999. This building is designed to accommodate up to 124 students but is expected (at opening in the fall of 2000) to accommodate 90 to 100 students.

Also in 1997 and in early 1998, the leadership of the College reviewed its long term strategic planning for the next millennium. As a result of several meetings and a workshop in early 1998, it was decided that the master plan for the Lake Campus should be reviewed and that the College should attempt to consolidate most of its activities to the Lake Campus and reduce the impact and centralize the remaining activities on one parcel at the Mountain Campus. Several factors caused this decision: the acquisition of the corner site at the Lake Campus; the demographic trends for the State of Nevada and the growing need to provide higher educational
instruction to the state population and the College’s growth as a result of this demand; an opportunity to revise the Lake Campus master plan and orient the campus to the natural environmental assets of the site; maximizing the College’s assets and the positive economic realities of consolidating its two campuses.

Strategic planning for the two campuses includes:

- the build-out and move to the Lake Campus as the focal point for the undergraduate programs;
- maintenance of the Mountain Campus for auxiliary, graduate and community education programs;
- the relocation of the parking lot to the same side of the street as the Mountain Campus facilities and consolidation of this property;
- reservation of the library/teacher ed. site as future housing for faculty and married students;
- the close and sale of College Park, an 89-unit mobile home park;
- the sale of three single-family lots upon relocation of the parking lot;
- the increase of FTE to 1,000 students at the Lake Campus and TRPA approval through an EIS process for development to accommodate that number;
- revision of the existing Lake Campus Master Plan to reorient the campus to its natural environmental settings.

In 1998, 70 percent of the funds were raised for the next and most important building of the Lake Campus and the College, its library. The additional funds are currently being raised and planning for the library will begin upon approval of the revised EIS (based upon an updated master plan). See Lake Campus Site Options (Exhibits C and D).

THE PLAN

Lake Campus: The development of the Lake Campus facilities, as proposed in the Master Plan, will result in approximately 47 - 50% land coverage of the 20 acre site. The site contains land capabilities 6, 4 and 1b which collectively allow for approximately 28% land coverage. The impacts of coverage in excess of that allowed by the land capability system will be mitigated by transferring existing land coverage from the College’s property known as College Park located adjacent to the Mountain Campus on College Drive to the Lake Campus on Country Club Drive. Both sending and receiving parcels are located in Incline Village and in the same TRPA designated watershed area. See Proposed Lake Campus Master Plan (Exhibit E).

TRPA Code Section 20.3.B(3) allows for maximum land coverage (base coverage plus transferred coverage) on a parcel for public service facilities up to 50% of the project area, provided the parcel is located with in an approved community plan. The project site is located in the Incline Village Tourist Community Plan. In addition the coverage may be used only on the
project area located within land capability districts 4-7. The proposed land coverage for the project will be located in areas of high land capability, 4 and 6, and will not exceed the permitted 50% allowable land coverage.

Mountain Campus: Land coverage at the mountain campus will be decreased as a result of replacing six mobile homes with a parking lot. Existing land coverage in the area designated as 1b/SEZ will be removed, restored and revegetated in addition to land coverage and several compacted areas located in high land capability areas. As per the direction of Washoe County Development Review Department, the parking area fronting College Drive will be removed and landscaped.

The land coverage in excess of 30% from the three parcels where the existing Mountain Campus parking lot is currently located will be removed and banked. Banked coverage will either be transferred to the Lake Campus or sold for transfer elsewhere. See Proposed Mountain Campus (Exhibit F).

College Park: College Park is currently a mobile home park containing 89 spaces that is owned and managed by SNC. As part of the overall strategic plan to consolidate facilities and upon the opening of the next residence hall at the Lake Campus, the College will close the mobile home park and sell the property. The College plans to sell the property as a 65 townhome condominium site and reduce the density from 89 units to 65 units. As a result of this proposal, a portion of the existing coverage will be removed and banked for transfer as needed to the Lake Campus. The area where the land coverage will be transferred from in College Park will be restored and revegetated with Tahoe native plants. Much of the land coverage that is to be removed is located in land capability 1b, stream environment zone. Stream zone restoration will be proposed as part of the redevelopment of this parcel. See College Park Plan (Exhibit G).

The Master Plan provides for 750 - 800 FTE students at the Lake Campus and 200 FTE students at the Mountain Campus. The College is planning on housing 40-50% of the students at the Lake Campus, or approximately 350 - 400 students. Currently there are 47 students living at the Lake Campus and another building is slated to open in fall 2000 for an additional 100 students. Therefore additional housing for 150 - 200 students will be planned for.

Bonus Units to Provide Student Housing: In 1994 the College received approval to construct 4 residence halls for 200 students utilizing 80 residential bonus units. Campbell-Friedman Hall and the next residence hall will be constructed with this allocation. When the Incline Village Tourist Community Plan was adopted in April 1996 there were another 110 residential bonus units available. Since that date no projects have been approved by TRPA that utilized bonus units; therefore, there are still 110 bonus units available in that community plan.

TRPA assumes 2.5 persons per residential dormitory unit; therefore, the College will require an allocation of 60 to 80 residential bonus units from the pool of 110 bonus units for construction of the planned residential facilities for 150 to 200 additional students.
SCOPE OF ENVIRONMENTAL IMPACT STATEMENT II
FOR SIERRA NEVADA COLLEGE
LAKE CAMPUS  
(Revised 1/6/99)

TABLE OF CONTENTS

CHAPTER 1. INTRODUCTION
1.1 Brief Description of Project and Site History
1.2 Tahoe Regional Planning Agency Requirements
1.3 Purpose and Need
1.4 Notice of Preparation Process, Scoping, Public Input Process
1.5 Issues to be Resolved
1.6 Agency Involvement

CHAPTER 2. SUMMARY
2.1 Alternatives Description, Including the Proponent-Preferred Alternative
2.2 Summary Table: Impacts/Mitigation/Monitoring Utilize a matrix table similar to "STPUDALINE" EIS
   Executive Summary
2.3 Impact Comparison
2.4 Environmentally Preferred Alternative

CHAPTER 3. EXISTING CONDITIONS
3.1 Existing Facilities
3.2 Existing Student Population Current and 1993 EIS
3.3 Relationship to Neighborhood
3.4 Access

CHAPTER 4. PURPOSE AND NEED
4.1 Sierra Nevada College Project History
4.2 Purpose and Need for New Campus
4.3 Proposed Master Plan Components
   (L) Lake Campus
   (M) Mountain Campus Discuss future use/intensity and Demonstration Gardens.
   (C) College Park Discuss proposed project. Describe SEZ, Coverage, W/S, etc.
4.4 Proposed Student Population

CHAPTER 5. ALTERNATIVES
5.1 Alternatives Considered but Rejected
5.2 Alternatives Selection
   5.2(a) Alternative 1 / Not Project (Status Quo) College Park closes either way.
   5.2(b) Alternative 2 / Master Plan (Proponent-Preferred)
   5.2(c) Alternative 3 / Site Option
CHAPTER 6. SETTING IMPACTS/EFFECTS, MITIGATION MEASURES
6.1 Land Use
6.2 Soils and Geology
   6.2(a) Groundwater Depths (GWTAC)
6.3 Hydrology and Water Quality
6.4 Scenic Analysis and Community Design Ask Paul Nielson
6.5 Biotic Resources
   6.5(a) Vegetation
   6.5(b) Wildlife Review potential frog at Mountain Campus.
6.6 Traffic and Circulation
6.7 Air Quality
6.8 Noise
6.9 Cultural Resources
6.10 Recreation
6.11 Housing and Population
   6.11(a) Affordable Housing
     • What happens to Owner/Tenant occupied mobile homes and what are their
       housing opportunities and would they qualify?
     • Potential impacts on defacto affordable housing by removal of mobile homes
       and replacement with "Closed" bonafide affordable student housing.
     • Quantify how student vacancies will create potential replacement housing in the
       community.
     • Explain Nevada law and what SNC is proposing with relocation.
6.12 Public Services and Energy
   6.12(a) Water Service Project out total acre feet required and opportunities for
           acquisition.

CHAPTER 7. SIGNIFICANT IMPACTS
7.1 Significant Adverse Impacts Which Cannot Be Avoided
7.2 Relationship Between Local Short Term Uses of the Environment and the
    Maintenance and Enhancement of Long Term Productivity
7.3 Significant Irreversible and Irretrievable Commitment of Resources
7.4 Growth-inducing Impacts

CHAPTER 8. PROPOSED MITIGATION MEASURES
8.1 Detailed Summary of Mitigation Measures

180
APPENDIX  SECOND BOOKLET

A.  MONITORING PROGRAMS

B.  LIST OF PREPARERS

C.  PERSONS AND AGENCIES CONSULTED; SOURCES & REFERENCES

D.  LIST OF AGENCIES, ORGANIZATIONS & PERSONS TO WHOM DOCUMENTATION IS TO BE SENT

E.  TECHNICAL APPENDICES  Cover letters to complete reports on file @ TRPA
   E.1  Student Enrollment Records
   E.2  Hydrology Calculations
   E.3  Biotic
       E.3(a)  Revegetation Guidelines
       E.3(b)  Proposed Seed Mix and Application Rates for Revegetation Treatment Areas
       E.3(c)  Key to the Sensitive Species List
   E.4  Air Quality
   E.5  Noise
   E.6  Energy Alternatives
I. Project Name or Identification:

*Sierra Nevada College, Lake Campus Master Plan and Redevelopment of Mountain Campus and College Park*

II. Environmental Impacts:

The following questionnaire will be completed by the applicant based on evidence submitted with the application. All “yes” and “no, with mitigation” answers will require further written comments.

L: refers to Lake Campus  
M: refers to Mountain Campus  
C: refers to College Park

1. Land

   Will the proposal result in:

   a. Compaction or covering of the soil beyond the limits prescribed in the land capability system?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>L M C</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1.a. *Lake Campus:* The development of Sierra Nevada College's (SNC) Lake Campus as proposed in the Master Plan will result in approximately 47% land coverage of the 20 acre site. The site contains land capabilities 6, 4 and 1b which collectively allow for approximately 28% land coverage. The impacts of coverage in excess of that allowed by the land capability system will be mitigated by transferring existing land coverage from the College's property known as College Park located adjacent to the Mountain Campus on College Drive to the Lake Campus on Country Club Drive. Both sending and receiving parcels are located in Incline Village and in the same TRPA designated watershed area.

TRPA Code Section 20.3.B(3) allows for maximum land coverage (base coverage plus transferred coverage) on a parcel for public service facilities up to 50% of the project area, provided the parcel is located within an approved community plan. The project site is located in the Incline Village Tourist Community Plan. In addition, the coverage may be used only on the project area located within land capability districts 4-7. The proposed land coverage for the project will be located in areas of high land capability, 4 and 6, and will not exceed the permitted 50% allowable land coverage.
College Park: College Park is currently a mobile home park containing 89 spaces that is owned and managed by SNC. The College is proposing to change the use of the park from mobile homes to condominiums, and at the same time reduce the density from 89 units to 65 units. As a result of this proposal, a portion of the existing coverage will be removed and banked for transfer as needed to the Lake Campus. The area where the land coverage will be transferred from in College Park will be restored and revegetated with Tahoe native plants. Much of the land coverage that is to be removed is located in land capability 1b, stream environment zone. Stream zone restoration will be proposed as part of the redevelopment of this parcel.

Mountain Campus: Land coverage at the mountain campus will be decreased as a result of replacing six mobile homes with a parking lot. Existing land coverage in the area designated as 1b/SEZ will be removed, restored and revegetated in addition to land coverage and several compacted areas located in high land capability areas. As per the direction of Washoe County Development Review Department, the parking area fronting College Drive will be removed and landscaped.

The land coverage where the existing Mountain Campus parking lot is currently located will be removed and banked. Coverage in the amount of 30% from the three parcels will be banked for future residential use; excess banked coverage will either be transferred to the Lake Campus or sold for transfer elsewhere.

The applicant will prepare drainage reports and engineered calculations on all parcels for design and installation of temporary as well as permanent Best Management Practices (BMP’s) that will treat and infiltrate all run-off from a 20 year one hour storm.

b. Change in the topography or ground surface relief features of site inconsistent with the natural surrounding conditions?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

c. Unstable earth conditions during or after completion of the proposal?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1.c. All parcels: The applicant will install temporary as well as permanent BMP’s to stabilize earth conditions during and following completion of construction. Temporary measures will include vegetative protective fencing, filter fabric fencing to prevent run-off and sediment discharge, sprinkling unstable earth conditions for dust control to mitigate impacts to air quality, etc. Permanent measures include installation of treatment devices such as sand oil-grease separators to treat all runoff from parking areas in addition to construction of engineered drainage facilities that have the capacity to infiltrate all run-off from a 20 year one hour storm.
d. Changes in the soil or geologic substructures?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

ea. The continuation of or increase in wind or water erosion of soils, either on or off the site?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

f. Changes in deposition or erosion of beach sand, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of a lake?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

2. Air Quality

Will the proposal result in:

a. Substantial air emissions or deterioration of ambient air quality?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>C M L</td>
<td></td>
</tr>
</tbody>
</table>

2.a. *College Park:* The number of residential units in College Park will decrease from 89 to 65. Therefore, the number of daily vehicle trips (DVT) will decrease from 890 to 650; a reduction of 240 DVT.
Lake Campus: It is estimated that the proposed project will generate a significant increase (>200) in the number of daily vehicle trips generated to the site. However, the number of trips that will be generated to the Lake Campus will be offset by the decrease in the number of trips to College Park. As part of the project review process the applicant will prepare a technically adequate analysis of potential traffic and air quality impacts. To lessen air quality impacts from increased trip generation the applicant is proposing to implement the following mitigation measures:

* installation of pedestrian and bike trails that will link the campus to the community
* provide incentives for students and faculty to utilize the SNC shuttle service operating between the Mountain and Lake Campus's, including existing ridership data.
* provide incentives for users of the Campus to utilize the public transit system

e. The creation of objectionable odors?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>CM</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2.e. Lake Campus: A new laboratory will be provided as part of the Lake Campus facilities. The lab equipment will meet current State and Federal Emission Standards. The HVAC equipment proposed meets Federal Emissions Standards.

f. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Water

Will the proposal result in:

a. Changes in currents, or the course or direction of water movements?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
b. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff so that a 20 yr. 1 hr. storm runoff cannot be contained on the site?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3.b. Please refer to the response to question 1.c.

c. Alterations to the course or flow of 100-year flood waters?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LM</td>
<td></td>
<td></td>
<td>C</td>
</tr>
</tbody>
</table>

d. Change in the amount of surface water in any water body?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or tributary?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

f. Alteration of the direction or rate of flow of ground waters?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td></td>
<td></td>
<td>L</td>
</tr>
</tbody>
</table>

3.f. Lake Campus: A geotechnical report was previously prepared for the project area. Exploration of the subsurface materials across the site consisted of 15 test borings and 1 test pit. The information contained in this report and any additional analysis considered necessary will be utilized to avoid alteration of the direction or rate of flow of ground waters during the building design phase of the Master Plan.
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3.g. Please refer to response for 3.f. above. No additions or withdrawals through interception of an aquifer by cuts or excavations is proposed.

h. Substantial reduction in the amount of water otherwise available for public water supplies?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3.h. Lake Campus: It is anticipated that the build out of the Master Plan will result in a demand of approximately 15 af. of water. The College is currently in the process of purchasing 11 af. of water which will be transferred to the IVGID system. The Board of Directors of the Incline Village General Improvement District (IVGID) have approved reimbursement of the cost of obtaining the water rights incurred by the College. Therefore, there will be no impact on the amount of water otherwise available for public water supplies.

i. Exposure of people or property to water related hazards such as flooding and/or wave action from 100-year storm occurrence or seiches?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LM</td>
<td>C</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Plant Life

Will the proposal result in:

a. Removal of native vegetation in excess of the area utilized for the actual development permitted by the land capability system?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.a. Please refer to the response to question 1.a. Any coverage in excess of that allowed by the land capability system will be transferred from College Park where the coverage will
be removed, the area restored and revegetated with Tahoe native plants. The proposed master plan allows for the a large majority of the open space at the Lake Campus to retain as natural native vegetation. Only two small areas, an outdoor amphitheater and the quad in front of the residence halls, will be landscaped with a hardy species of native grasses. Other landscaping, mainly consisting of planting native tree will be proposed to screen buildings from view for the purpose of mitigating scenic impacts.

b. Removal of riparian vegetation or other vegetation associated with critical wildlife habitat?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>LMC</td>
</tr>
</tbody>
</table>

c. Introduction of new vegetation that will require excessive fertilizer or water, or will provide a barrier to the normal replenishment of existing species?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>M</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>LC</td>
</tr>
</tbody>
</table>

4.c. Lake Campus: The proposed master plan allows for the a large majority of the open space at the Lake Campus to retain as natural native vegetation. Only two small areas, an outdoor amphitheater and the quad in front of the residence halls, will be landscaped with a hardy species of native grasses.

d. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, micro flora and aquatic plants?)

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>LMC</td>
</tr>
</tbody>
</table>

e. Reduction of the numbers of any unique, rare or endangered species of plants?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MC</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>L</td>
</tr>
</tbody>
</table>

4.e. Lake Campus: The vegetation of the site was surveyed and mapped in 1992. At that time no threatened, endangered or sensitive plant species were found within the project site. In addition, no “old growth timber”, key stands of individual tree species of significance were identified within the site.
5. **Animal Life**

Will the proposal result in:

a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LM</td>
<td></td>
<td></td>
<td>C</td>
</tr>
</tbody>
</table>

5.a. **Lake Campus**: The proposed changes to the site will not alter the observed or predicted species mix for the property. The existing site exhibits sufficient disturbance to preclude those species which are sensitive to human presence.

b. Reduction of the number of any unique, rare or endangered species of animals?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LM</td>
<td></td>
<td></td>
<td>C</td>
</tr>
</tbody>
</table>

5.b. **Lake Campus**: The EIS that was prepared for the SNC Proposed New College Campus in 1993 identified one species as a concern. The Mountain Yellow-legged frog is a federal candidate species. However, it was found that the "There was no habitat which might be considered potential habitat for this frog in the SNC project site."

c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Deterioration of existing fish or wildlife habitat?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
6. Noise

Will the proposal result in:

a. Increases in existing noise levels?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6.a. Lake Campus: The only identified project related activity which may increase the TRPA noise level standards is related to increased roadway traffic noise long major arterials. It is anticipated that the increases in noise levels will not be noticeable and could be considered insignificant; however, the applicant will prepare a noise evaluation report as part of the project review process.

b. Exposure of people to severe noise levels?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>M</td>
<td>L C</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6.b. Lake Campus and College Park: Temporary noise impacts generated during construction can be mitigated by:

- Powered equipment and vehicles used during construction shall be equipped with adequate mufflers or enclosures at all times
- Construction activities or equipment with noise levels in excess of the CNEL or threshold level shall be limited to the hours of operation between 8:00 am and 6:30 pm.

No permanent severe noise levels are anticipated as part of these projects.

7. Light and Glare

Will the proposal produce new light or glare inconsistent with the surrounding area?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7. Lake Campus: To mitigate impacts of lighting or glare the proposed on site lighting, will be in compliance with the Signage, Parking and Design Standards and Guidelines for the Community Plans of Washoe County.
8. **Land Use**

Will the proposal result in a substantial alteration of the present or planned land use of an area?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LM</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. **Lake Campus:** The project site is located in Incline Village Tourist Community Plan and is designated for public service use. The Special Policies portion of the Community Plan states that Sierra Nevada College should provide student housing with their proposed campus expansion to this plan area.

**College Park:** The project site is located in Plan Area 41 Incline Village #3; land use classification, residential; special designation: multi-residential incentive program. This will be a change in land use within residential.

**Mountain Campus:** The project site is zoned public semi-public facilities (PSP) by the county.

9. **Natural Resources**

Will the proposal result in:

a. An increase in the rate of use of any natural resources?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. Substantial depletion of any non-renewable natural resource?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. **Risk of Upset**

Does the proposal involve a risk of an explosion or the release of hazardous substances including, but not limited to, oil, pesticides, chemicals, or radiation in the event of an accident or upset conditions?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MC</td>
<td></td>
<td></td>
<td>L</td>
</tr>
</tbody>
</table>
Will the proposal involve possible interference with an emergency evacuation plan?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11. Population

Will the proposal alter the location, distribution, density, or growth rate of the human population planned for the Region?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

12. Housing

Will the proposal affect existing housing, or create a demand for additional housing?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M</td>
<td>L</td>
<td>C</td>
</tr>
</tbody>
</table>

12. Lake Campus: The Master Plan provides for 750 FTE students at the Lake Campus and 250 FTE students at the Mountain Campus. The College is planning on housing 40-50% of the students at the Lake Campus, or approximately 400 students. Currently there are 50 students living at the Lake Campus, therefore additional housing for 350 students will be required. In 1994 the College received approval to construct 4 residence halls utilizing 80 residential bonus units. When the Incline Village Tourist Community Plan was adopted in April 1996 there was 110 residential bonus units available. Since that date no projects have been approved by TRPA that utilized bonus units; therefore, there are still 110 bonus units available in that community plan.

TRPA assumes 2.5 persons per residential dormitory unit; therefore, the College would require an allocation of 140 residential bonus units for construction of residential facilities for 350 additional students. The applicant will transfer in the additional 30 bonus units needed to house the additional 350 students on campus. It is assumed that this process would be completed as part of the project review process for each phase of development of the Master Plan.
The utilization of residential bonus units for student housing is explained in the following discussion:

The 1993 EIS that was prepared for the Lake Campus discusses the affordable housing study that was commissioned by the Tahoe Basin Association of Governments (TBAG) in September, 1991. A study was prepared in 1991 by Connerly and Associates, Is the TRPA Code Consistent with the Affordable Housing Goals in the Tahoe Regional Plan? This study identified a total of 11,391 affordable housing units in four distinct communities on the North Shore (Incline/Crystal Bay, Kings Beach, Sunnyside/Tahoe City, and Tahoe Vista). The study also recognized the need for increased housing available to lower income persons throughout the Basin.

In 1993, based on the Connerly study and the input of the community plan team, Romany Woodbeck, Washoe County planner at the time, identified three specific groups of typically lower income persons with specific housing needs in Incline Village. These are: employees, students and the elderly. The community planning process addressed these needs by allowing for the potential redistribution of available residential bonus units to those areas appropriate to provide housing for the three groups. PAS 048, the location of the Lake Campus, was envisioned as a receiving area for available additional bonus units to facilitate additional housing for student housing.

TRPA Code of Ordinances, Chapter 35

Chapter 35 of the TRPA Code assigns a maximum of 1,600 multi-residential bonus units to plan areas throughout the Basin. These bonus units may be approved for use only on parcels located in plan areas or community plans designated as eligible for the Multi-Residential Incentive Program. Furthermore all projects receiving multi-residential bonus units shall comply with the following criteria:

1. The proposed density shall not exceed the density limits set forth in the community plan.

The density for multi-person dwellings is 25 persons per acre in the subject community plan. The Lake Campus site is 18.44 acres permitting 461 persons. Approximately 400 are proposed.

2. Multi-family dwellings shall be designated in the plan area as an allowed or special use.

Multi-family and multi-person dwelling units are special uses in the community plan. The special use findings listed under TRPA Section 18.1.8 can be made for the proposed student housing.

3. The project shall be located within a plan area or community plan designated as eligible for the Multi-Residential Incentive Program.

The Incline Village Tourist Community Plan is designated for the Multi-Residential Incentive Program.

The College meets all of the criteria required to be eligible for multi-family bonus units. In fact, as part of the TRPA permit that was issued for construction of the first phase of the Lake Campus, 80 multi-family bonus units were allocated to the project to be used for student housing. Therefore, there is precedence of bonus units being allocated for this purpose.
13. Transportation/Circulation

Will the proposal result in:

a. Generation of 100 or more vehicle trips or in excess of 1% of the remaining road capacity?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

13.a. Lake Campus: The proposal will result in generation of 100 or more vehicle trips; however, the proposed Master Plan which calls for consolidation of the undergraduate programs at the lake campus, will decrease the existing traffic generated between the lake campus, where the undergraduates live, and the Mt. Campus, where the majority of the classes are held. Further, daily vehicle trips will be reduced at College Park by approximately 240.

This decrease in trips will help to offset the impacts that the increase in FTE students from 525 to 1,000 will generate. The proposed master plan will include measures to help reduce potential vehicle miles of travel in the Basin. These include:

1) providing additional student housing on campus and limiting use of vehicles for students who will live on campus in the dormitories. Campus housing will be provided for 40% of the FTE student population. This is a substantial increase above existing levels.

2) provision of a TART stop adjacent to the site; and

3) development of a path system which will link the site to surrounding pedestrian and bicycle facilities.

To help reduce VMT estimated to be generated by the facility, the following measures are presented to provide other options in developing a feasible program towards minimizing daily vehicle trips and vehicle miles of travel.

4) establish a ride-sharing program for faculty and staff to reduce commute trips

5) implement parking fees to help discourage single occupant vehicle travel to the site

In addition the applicant will contribute financially by paying an air quality mitigation fee in the amount of $20.00 per daily trip.

b. Effects on existing parking facilities, or demand for new parking?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
13.b. Lake Campus: The Master Plan proposes to increase the number of students to 1,000 FTE, which includes full and part-time students, which will be located at both the Mountain and Lake Campus’s. The county parking standard for colleges is .5 spaces per student; or 500 spaces for 1,000 students. The project proponent will provide adequate parking to accommodate the demand. The master plan calls for two, three story parking structures to be constructed at the Lake Campus in addition to some surface parking to accommodate temporary parking, loading and unloading, handicap parking, etc.

c. Substantial impact upon existing transportation systems?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>MC</td>
<td>L</td>
</tr>
</tbody>
</table>

13.c. Please refer to the response to question 2.a.

d. Alterations to present patterns of circulation or movement of people and/or goods?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

13.d. With the development of the Lake Campus, reduction of intensity at the Mountain Campus and reduction in density at College Park, current vehicle and people movement will occur.

e. Alterations to waterborne, rail or air traffic?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

f. Increase in traffic hazards to motor vehicles, bicyclists, or pedestrians?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>MC</td>
<td>L</td>
</tr>
</tbody>
</table>

13.f. Lake Campus: A network of sidewalks, and trails are proposed within the site with connections to the existing public pedestrian system.
14. Public Services

Will the proposal have an unplanned effect upon, or result in a need for new or altered governmental services in any of the following areas?

a. Fire protection?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

14.a Lake Campus: The Master Plan has been reviewed by the North Lake Tahoe Fire Protection District and found to comply with their standards and regulations.

b. Police protection?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

c. Schools?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Parks or other recreational facilities?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

e. Maintenance of public facilities, including roads?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LMC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
f. Other governmental services?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

15. Energy

Will the proposal result in:

a. Use of substantial amounts of fuel or energy?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

16. Utilities

Except for planned improvements, will the proposal result in a need for new systems, or substantial alterations to the following utilities:

a. Power or natural gas?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>

b. Communication systems?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LMC</td>
<td></td>
</tr>
</tbody>
</table>
c. Water?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>M</td>
<td>LC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16.c. Lake Campus: The applicant is in the process of acquiring the necessary water rights to accommodate the Master Plan. It is estimated that approximately 20 af of water will be necessary to meet the demand of full build-out.

College Park: The applicant has received approvals from IVGID, the water purveyor, to utilize the existing water services provided the new demand does not exceed the existing.

d. Sewer or septic tanks?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16.d. Lake Campus: See response to 16.c above. In addition, as per Art Johnson of IVGID utilities, the water treatment plant in Incline Village has capacity to accommodate the anticipated increased waste water.

e. Storm water drainage?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16.e. Lake Campus: The project will contain sufficient infiltration facilities on site to treat run-off from a 20 year one hour storm.

f. Solid waste and disposal?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MC</td>
<td>L</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16.f. Lake Campus: Independent Sanitation in Incline Village will collect and dispose of all solid waste produced at the Lake Campus. To lessen the impacts of solid waste recycling bins will be places adjacent to all waste receptacles.
17. **Human Health**

Will the proposal result in:

a. Creation of any health hazard or potential health hazard (excluding mental health)?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MC</td>
<td>L</td>
<td></td>
</tr>
</tbody>
</table>

17.a. *Please refer to the response to question 2.e.*

b. Exposure of people to potential health hazards?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MC</td>
<td>L</td>
<td></td>
</tr>
</tbody>
</table>

17.b. *Please refer to the response to question 2.e.*

18. **Aesthetics**

Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to the public view?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MC</td>
<td>L</td>
<td></td>
</tr>
</tbody>
</table>

18. *The project proponent will prepare a full scenic analysis including photographic simulations and written report that addresses the impacts of the proposed project as viewed from Highway 28, Mount Rose Highway and Diamond Peak. The project will not be visible from Lake Tahoe. Mitigation measures that will be implemented into design of the project include compliance with TRPA height standards for buildings, using earthtone colors and materials that conform to the design standards for the community plan as well as all exterior lighting and signage.*
19. **Recreation**

Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

20. **Archaeological/Historical**

a. Will the proposal result in an alteration of a significant archaeological or historical site, structure, object or building?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>L</td>
<td></td>
<td></td>
<td></td>
<td>MC</td>
</tr>
</tbody>
</table>

b. Will the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>L</td>
<td></td>
<td></td>
<td></td>
<td>MC</td>
</tr>
</tbody>
</table>

c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>LMC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

d. Will the proposal restrict existing religious or sacred uses within the potential impact area?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>L</td>
<td></td>
<td></td>
<td></td>
<td>MC</td>
</tr>
</tbody>
</table>
21. **Mandatory Findings of Significance.**

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California or Nevada history or prehistory?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>LMC</td>
</tr>
</tbody>
</table>

b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time, while long-term impacts will endure well into the future.)

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>LMC</td>
</tr>
</tbody>
</table>

c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environmental is significant?)

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>LMC</td>
</tr>
</tbody>
</table>

d. Does the project have environmental effects which will cause substantial adverse effects on human being, either directly or indirectly?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>No, with Mitigation</th>
<th>Data Insufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>LMC</td>
</tr>
</tbody>
</table>
III. Certification

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

(Signature of person completing this form)    1/0/97

PHILIP SINIFER
AGENT/APPLICANT

Date
IV. **Determination (To Be Completed by TRPA)**

**On the basis of this evaluation:**

The proposed project could not have a significant effect on the environment and a finding of no significant effect shall be prepared in accordance with TRPA's Rules of Procedure.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

The proposed project could have a significant effect on the environment, but due to the listed mitigation measures which have been added to the project, could have no significant effect on the environment and a mitigated finding of no significant effect shall be prepared in accordance with TRPA's Rules and Procedures.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

The proposed project may have a significant effect on the environment and an environmental impact statement shall be prepared in accordance with this chapter and TRPA's Rules of Procedure.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Signature of Evaluator and Title

Date
From: 50 Property Owners of Country Club Villas HOA

Tahoe Regional Planning Agency
Advisory Planning Commission
Wednesday, February 10, 1999 9:30 AM
North Tahoe Conference Center
Kings Beach, California

February 10, 1999

My name is John F. McGuire. I am a property owner at Country Club Villas at 198 Country Club Drive, located directly across the street from the Sierra Nevada College Lake Campus.

I'm here today representing the 50 property owners and the Board of Directors of the Association. I present this letter of authorization for your records.

Thank you to TRPA for the 1/27/99 property owner notice.

Country Club Villas Homeowners' Association supports Lake Campus, but we are very concerned with the dramatic changes in the new master plan.

In late 1994 and 1995 when many of us purchased our homes across from the proposed Lake Campus we had the opportunity to review the original master plan for the Lake Campus. The original master plan had an attractive entrance on County Club Dr. across from County Club Villas and the parking structures were positioned to the interior rear of the property. So in the intervening years of 1995/96/97, we have blissfully accepted the 93/94 master plan and presumed the project was proceeding on that course.

On 1/27/99, the TRPA notice was sent to us advising of this meeting. Fortunately, the letter stated "significant modifications to the development of Lake Campus are proposed under the revised plan." A map was attached, but it only designated the parcel, not the improvements.

Recognizing there must be more and to prepare ourselves adequately, I was able to obtain a copy of a 1/29/99 memo to interested parties that was far more extensive, over 34 pages, as compared to 4 pages sent to affected property owners.

A review of the proposed Lake Campus master plan (Revised 1998) indicated the new plan, while called a modification, was really a new plan.

On Friday, 2/5/99, the Bonanza featured a front page article stating the Incline Village Citizens Advisory Board, by a 3 to 2 vote, recommended a second residence hall, and the plan was to go to Washoe County Planning. It also stated TRPA had not approved the E.I.S.
We are totally opposed to going forward with a new residence hall until the overall master plan is thoroughly reviewed and affected property owners concerns addressed.

At a Friday, February 5, 1999 Country Club Villas Homeowners’ Association Board of Directors meeting, I raised my concerns and to my dismay, the Directors were totally unaware that the master plan had been changed so radically. The change which now includes two parking structures on Country Club Drive and opposite Country Club Villas as opposed to their previous interior location, is totally unacceptable. A parking structure for a college and resident students is essentially a 24 hour, 7 day a week facility, and to place it in such a primary location creates two prominent parking lots none of us ever anticipated when we reviewed the original master plan in 1994/95.

On February 5, 1999 a CCV Director visited the Lake Campus site. The model on display is still the original 1994 plan. I, too, visited both the Lake & Mountain Campuses and except on page 9 of the Sierra Nevada College magazine, Summer 1998, the new master plan is not displayed. No wonder our homeowners have not been aware.

Summary: I believe these facts support our position that we as affected property owners have not received sufficient disclosure of the new master plan to fully evaluate its impact. We request the comment period be extended until May 1, 1999, and that no piecemeal development of any structures be allowed to go forward until this process is completed.

I submit in writing the extension request.

Again, we support the Lake Campus as proposed under the original master plan. We do not support the revised plan.

Thank you.
MEMORANDUM

February 10, 1999

To: TRPA Governing Board
From: TRPA Staff
Subject: Notice of Preparation (NOP), Tahoe Keys Marina-Marina Master Plan Environmental Impact Statement (EIS)

Proposed Action: No formal action is proposed for this item at this time. Staff is requesting comments on the scope and content of the environmental document for the Tahoe Keys Marina – Marina Master Plan.

Staff Recommendation: Staff recommends that a public hearing be held to gather public input and comments on the scope and alternatives to be analyzed in the EIS.

Background: Marinas provide a major means of public access to Lake Tahoe. Seeing the Tahoe Basin from the Lake gives the viewer a very different and revealing perspective and appreciation of the area than from any viewpoint on land. A marina that is poorly designed, operated or maintained can detract from the community and be a source of environmental impacts not to mention a safety hazard.

The goal of all parties concerned with marina planning and operation is that marinas make a positive contribution to the Lake Tahoe environment and community. The environmental threshold for recreation is defined in the Recreation Element of the Goals and Policies which states that "it shall be the policy of the TRPA Governing Body in the development of the Regional Plan to preserve and enhance the high quality recreational experience...In developing the Regional Plan, the staff and Governing Body shall consider provisions for additional access, where lawful and feasible, to the shoreline and high quality undeveloped areas for low density recreational uses." In addition, the threshold also states that the "TRPA Governing Body in development of the Regional Plan to establish and ensure a fair share of the total Basin capacity for outdoor recreation is available to the general public".

Marinas can make an important contribution toward meeting the recreation threshold in ensuring that high quality recreational opportunities are available to the general public.

Section 54.12 of the TRPA Code of Ordinances outlines the development standards for Marinas in the Tahoe Region. Subsection 54.12.A states that applications for new marinas and major expansions of existing marinas shall include an EIS pursuant to Chapter 5 and a master plan pursuant to Chapter 16. At a minimum, the EIS shall assess potential impacts on beach erosion, prime fish habitat, water quality and clarity, and determine the public need for the project.
In 1990 TRPA adopted Marina Master Plan Guidelines. These guidelines state that any marina expansion of more than 10 slips or 10 buoys requires a TRPA approved master plan. Chapter 16 identifies a master plan as a project oriented plan. Adoption of a master plan is an amendment to the Regional Plan which has some very specific procedural requirements. The master plan, once adopted, becomes a supplement to the applicable plan area statement (PAS) or community plan (CP).

Proposed Master Plan and Environmental Process
The Tahoe Keys Marina contracted with Parsons-HBA to develop and draft the Master Plan. Listed as Master Plan Improvements in the document are:

- 150 additional boat slips
- 120 additional parking spaces
- 2800 square feet of additional commercial floor area
- 3000 square feet of additional indoor boat storage space
- boat racks to accommodate 130 additional boats

The environmental document in which these improvement will be analyzed will be an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR). TRPA will be the lead agency for the EIS and the City of South Lake Tahoe will be the lead agency for the EIR under CEQA.

A three-party contract has been signed between TRPA, the Tahoe Keys Marina and the selected consultant Brady LSA to facilitate the environmental process and draft the EIS/EIR. On January 21, 1999 a public scoping meeting was held to gather public input and comments on the scope of issues that should be analyzed in the environmental document (see exhibit A for a summary of the public comments). As part of the environmental documentation process this Notice of Preparation (NOP) will begin on February 17, 1999 and close on March 17, 1999. The purpose of an NOP is to gather input from both public and private entities regarding issues and concerns that should be addressed in the environmental document.

If you have any questions or comments regarding this agenda item please call Coleen Shade at (775) 588-4547. If you wish to comment in writing, please send all comments to:

Coleen Shade
Long Range Planning Division
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, NV 89448

CS/dmc
EXHIBIT "A"

TAHOE KEYS MARINA EIR/EIS
SUMMARY OF SCOPING MEETING COMMENTS

January 21, 1999
Tahoe Keys Marina Conference Room

☐ Realignment of Venice Drive = concern.
☐ Boat repair facility near water should not occur.
☐ What issues under water quality will be looked at?
☐ Improvements such as parking should be looked at.
☐ Boat traffic = major concern for marina.
☐ Need traffic control in marina.
☐ Boats speed and retaining walls deteriorating.
☐ Is parking to be near new boat slips?
☐ Size of boats getting larger and larger.
☐ Congestion and bulkhead deterioration = concern.
☐ Expansion of adjoining beach and harbor club ships = concern
☐ Boat congestion = problem.
☐ Boats speed; third bulkhead is deteriorating now due to wakes.
☐ Star clusters of docks shown on map are near lagoon and would make travel of boats difficult (nearest lake).
☐ Congestion = main issue.
□ Safety and noise are another concern.
□ Boat accidents = issue.
□ Wants diesel addressed in terms of air and water quality.
□ Adequacy of boat launch facilities and parking, including trailer parking.
□ Construction timing? Length? Number of seasons? Same time as Cove East?
□ Installation of bulkheads can be noisy.
□ Some people live on boats.
□ Access to marina limited during drought; channel gets too narrow.
□ Methodology for parking analysis needs explaining.
□ Current enforcement issues.
□ Are we to assume project going through?
□ At what point can marina expand its facilities?
□ What about construction that's been ongoing for last three years?
□ How are land surveys to be handled? No agreement re: land swap to date.
□ Size/density = issue. Will EIR address fewer than 150 slips?
□ Analysis of non-MBTE chemicals (toluene, benzene, PAH, etc.).
□ Additives from gasoline = issue.
□ Harbor is "disgraceful" and HOA wants to stop this. Visual impacts = concern.
□ What's procedure to stop the project?
□ Overcrowding = concern.
□ Master Plan = misleading and does not account for navigation.
□ Map doesn't show true size of boats.
- Does Coast Guard say anything?
- Slip layout = generalized.
- Scenic resources/aesthetic impacts (before and after project) are of concern.
- Sailing lagoon in East Channel may be impacted and this is waterfowl habitat site.
- Conservancy has received calls re: visual impacts of large barges and boats blocking condo owner views.
- Obstruction to views from boat sheds.
- Would project affect existing TKPOA wastewater treatment plant?
- Visual pollution of marina and storage areas.
- Heavy industrial activity though zoned for residential.
- Storage areas have a lot of "junk".
- Is there a vote by Tahoe Key POA?
- Is Operation Plan to be subject of EIR/S?
- Space for more vessels and new parking.
- Maintenance of facilities as related to water quality and storm water runoff.
- How do you determine how much pollution added by 150 boats?
- Additional buoys in lake need explaining.
- More mitigation possible such as helping with Cove East project or beefing up wastewater plant.
- Milfoil may be present at site.
MEMORANDUM

February 11, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Discussion on Movement of the Individual Parcel Evaluation System (IPES) Line in El Dorado and Placer Counties

Proposed Action: Staff requests the Governing Board review this report that is being presented to the Board for informational purposes and provide direction to the staff.

Staff Recommendation: Staff recommends the Governing Board approve the following work plan:

- Hold a Residential/208 Workshop Group meeting in March 1999
  1. Review Audit Results
  2. Review Buyout Agency Projections
  3. Group Recommendations
- Report Back to the GB in April 1999 with Group recommendations

Background: The primary issue is that the IPES line has never been lowered in El Dorado and Placer counties, although the GB has lowered the IPES line in Douglas County and Washoe Counties several times. Finding #2 (Vacant Lot Equation Percentage), has been the one that these jurisdictions have had the most difficulty meeting. Additional work is also needed to determine whether the jurisdictions are meeting Finding #3, which requires that the monitoring program for that jurisdiction is in place pursuant to Chapter 32 and the TRPA monitoring plan, and Finding #5 (level of compliance with conditions of project approvals within any jurisdiction is satisfactory). However, these two findings should not present as much of a challenge to the jurisdictions.

The TRPA Goals and Policies and the Code set forth the five findings which must be made for a jurisdiction for the IPES line to be lowered. Those findings are:

1. All parcels included in the top rank are otherwise eligible for development under the applicable state water quality management plan for the Lake Tahoe Basin (208 plans) and other legal limitations;

2. For any jurisdiction, the number of parcels having scores below the level defining the top ranked parcels, divided by the number of parcels in that jurisdiction that were identified as sensitive by TRPA on January 1, 1986, does not exceed the following percentages:
   (i) El Dorado County - 20 percent
   (ii) Placer County - 20 percent
   (iii) Douglas County - 33 percent
   (iv) Washoe County - 33 percent
3. The monitoring program for that jurisdiction is in place pursuant to Chapter 32 and the TRPA monitoring plan;

4. Demonstrable progress is being made on capital improvement programs for water quality within that jurisdiction; and

5. The level of compliance with conditions of project approvals within any jurisdiction is satisfactory.

The above findings are further defined in Volume I of the 1988 TRPA 208 Plan.

Discussion

Finding 2. Vacant Lot Equation: The "vacant lot equation" is the requirement that the number of parcels with IPES scores below the line (725 or less), divided by the number of parcels deemed sensitive (i.e., land capability districts 1, 2 and 3) on January 1, 1986 cannot exceed 20 percent in the California counties and 33 percent in the Nevada counties.

Numerator = Number of vacant parcels with IPES scores of 725 or less.

Denominator = Number of vacant parcels deemed sensitive (Bailey 1, 2 or 3) on January 1, 1986.

The current calculations are based on the December 1998 IPES inventory to which has been added unscored parcels which are mapped predominantly land capability 1-3 and parcels which purchased points within the last two years. The denominators are taken from a September 1986 memorandum to the Governing Board from William Morgan. The denominators are constant and do not change.

Vacant Lot Equation Issues for El Dorado and Placer Counties: The current Vacant Lot Equation Calculations for El Dorado and Placer Counties are based on the December 1999 IPES inventory, to which has been added unscored parcels which are mapped predominantly land capability 1-3 and parcels which purchased points within the last two years.

Placer County: 820/1667 = 49 percent

El Dorado County: 1234/4363 = 28 percent

(For informational purposes, the percentages presented in 1998 for the California counties were: Placer County - 927/1667 = 54 percent, and El Dorado County - 1339/4363 = 30 percent.)

At this point in time, El Dorado County is about 349 parcels away from meeting the 20 percent Vacant Lot Equation threshold, and Placer is 485 away. Due to the lack of progress in meeting the vacant lot equation on the California side, TRPA convened the Residential 208 Workshop Group to discuss the problem. A vacant parcel audit was commissioned for the summer of 1998 for the California side of the Basin. This audit was conducted to determine the reasons why there has not been movement of the IPES line on the California side of the Basin, with specific focus on the Vacant Lot Equation requirements listed in subsection 37.8.C in of the TRPA Code.

JP/dmc
The goal of the study was to identify parcels which could possibly be removed from the inventory of parcels below the line in Placer and El Dorado, to determine if these jurisdictions could meet or move toward meeting the required Vacant Lot Equation sensitive parcels threshold of 20 percent.

The methodology used was to cross-reference the inventory of below-the-line parcels in the two California counties with independent data-sets of Assessor Parcel Numbers (APNs). The information obtained from this audit along with data from the regular yearly parcel activity, will be used to complete the annual IPES database update.

After the completion of this audit, it was determined that a number of parcels were in categories that perhaps should be removed from the vacant lot inventory and have not been evaluated in detail in the past. If these parcels are found to be eligible for removal from the database, it could contribute to reaching the threshold for the vacant lot equation for these two jurisdictions. As part of this audit, three additional opportunities to reduce the inventory were identified. These are: 1) a group of 218 unscored parcels in both counties which are presumed to be “sensitive” and are automatically added to the below-the-line inventory, which inflates the numerator in the Vacant Lot Equation and increases the time required to meet the 20 percent threshold; 2) a group of 44 small “sliver” parcels, less than 3000 square feet in size, which are included in the below-the-line inventory; and 3) a group of smaller (less than 6,000 square feet in size) low scoring parcels which have common ownership and can be combined together or joined with larger high scoring parcels.

The categories, jurisdiction, and the rough number of parcels in the category are listed below:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of Parcels El Dorado County</th>
<th>Number of Parcels Placer County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inactive Parcels -(Not receiving a tax bill)</td>
<td>38</td>
<td>--</td>
</tr>
<tr>
<td>Parcel Consolidations</td>
<td>36</td>
<td>40</td>
</tr>
<tr>
<td>Local Agency Owned Parcels</td>
<td>6</td>
<td>--</td>
</tr>
<tr>
<td>U.S. Government Owned Parcels</td>
<td>2</td>
<td>--</td>
</tr>
<tr>
<td>Parcel Doesn't Exist</td>
<td>--</td>
<td>25</td>
</tr>
<tr>
<td>Unscored Parcels</td>
<td>112</td>
<td>96</td>
</tr>
<tr>
<td>Sliver Parcels</td>
<td>14</td>
<td>30</td>
</tr>
<tr>
<td>Small Common Ownerships</td>
<td>--</td>
<td>20</td>
</tr>
<tr>
<td>Total Possible Parcels</td>
<td>206</td>
<td>186</td>
</tr>
</tbody>
</table>

The consolidations could require that staff do a Reevaluation of the IPES score to determine if the score would increase to above the IPES line and thus make it eligible to be removed from the vacant lot equation numerator.

Unscored Parcels: Staff recommends that the group of unscored parcels be checked closely to see if they are actually eligible for scoring under IPES. Those found to be eligible would then be evaluated by the IPES team and given scores. By assigning them scores, the uncertainty as to whether they belong in the below-the-line inventory would be removed. This could potentially remove a large number of parcels from the inventory in these jurisdictions.
Due to their size, the "sliver" parcels have limited development potential, and it may be possible to demonstrate as a practical matter that they are substandard parcels for development purposes and should be removed from the inventory. This potentially reduces the number of parcels in the numerator of the Vacant Lot Equation by 33 parcels in Placer County and 11 parcels in El Dorado. If these parcels are deemed unsuitable for development and thus out of the inventory, one issue to address is the fate of their development rights. Under existing TRPA Code Language contained in subsection 34.3.A., parcels may transfer a building allocation if they are deemed to be unsuitable for development due to the inability of the parcel to meet TRPA or local government development standards. This code language could protect the development rights of parcel owners who had their property deemed to be unsuitable for development. Staff will work with the local jurisdictions and the Residential Workshop Group to determine if this approach is feasible.

Staff will evaluate the potential through incentives or other methods to consolidate small low scoring parcels either with other low scoring parcels, larger high scoring parcels or developed parcels, in order to remove them from the below-the-line inventory. This proposal needs to be discussed further with the local jurisdictions and the Residential Workshop Group.

Vacant Parcel Acquisition Programs: Both the U.S. Forest Service (USFS) and the California Tahoe Conservancy (CTC) have land acquisition programs in the Tahoe Basin. In the past (1990) the USFS has acquired up to 139 parcels in El Dorado County and 53 in Placer County. But since that year the rate of acquisitions has fallen greatly, down to just 4 parcels in 1998. Similarly, the rate of yearly acquisitions by the CTC has decreased, but not by as large an amount. In 1998, the CTC acquired about 50 parcels in the two jurisdictions. An increase in the combined number of acquisitions per year by each of the acquisition agencies, to an annual rate of 100 parcels in each jurisdiction, will also assist in meeting the parcel retirement goal.

Staff has developed this work plan for additional review of the IPES vacant lot inventory in El Dorado and Placer Counties to identify opportunities for removal of parcels from the below-the-line inventory in these two jurisdictions, toward the goal of removing additional parcels from the below-the-line inventory and eventually meeting the 20 percent vacant lot equation threshold required to meet this threshold. Staff will make this activity a part of the work program for the rest of this and the next fiscal year and a report will be made to the Governing Board this summer on the progress made in this effort.

If adequate progress cannot be made to reach the 20 percent vacant lot equation percentage through these activities, it may be necessary to look at initiating an amendment process for the 208 Plan with regard to the vacant lot equation process for the two California jurisdictions.

If there are any questions regarding this staff summary, please contact Joe Pepi at (702) 588-4547.
MEMORANDUM

February 11, 1999

To: TRPA Governing Board

From: Joe Pepi, Soil Conservation/SEZ Program Manager

Subject: Report on Flood Plain Map and Related Code Requirements

Proposed Action: Based on public comment at the January Governing Board meeting, staff was directed to report on the status of Flood Plain mapping and TRPA Project Review. No action is requested at this time.

Flood Plain Issue: The speaker, Mr. Gilanfarr, stated there was a need for private project proponents to have the ability to submit revised floodplain delineations. The speaker stated that the U.S. Army Corps of Engineers was not responsive to needed corrections to their maps.

Response: The Tahoe Regional Planning Agency (TRPA) is responsible for review of projects and other planning activities regarding the management and protection of floodplains and wetlands in the Tahoe Basin, which are included in stream environment zones or SEZs. Chapter 28 of the TRPA Code of Ordinances directs staff to review proposals for additional development in the 100-year floodplain to prevent property damage and protect public health. This Chapter prohibits additional development, grading or filling of lands within the 100-year floodplain. The floodplain is defined in the TRPA Code as the "Intermediate Regional Flood as established by the USACE", the limits of 100-year flood where established by the USACE, or the limits of the Federal Emergency Management Agency (FEMA) 100-year Flood Insurance Program Maps.

In January 1990, TRPA requested that the U.S. Army Corps of Engineers (USACE) complete a floodplain study of certain specified watersheds. The results of this floodplain study was sent to TRPA in February 1991, included maps showing the 100-year floodplains and the study limits for each stream studied. These floodplain maps were based on approximate studies, which included normal depth computations, if appropriate, and these computations where verified and adjusted, if necessary, during filed inspections. Although the flood elevations were not shown on these maps because the required data is not available from this type of study, it is possible to determine practical flood plain boundaries based on terrain features and drainage areas.

Information on floodplain boundaries is also contained on Federal Emergency Management Agency (FEMA) maps. In same cases, there are differences in the delineation of the 100-year floodplain between the USACE 100-year floodplain maps and the FEMA maps. The ACE has stated to TRPA staff the communities participating in the FEMA flood insurance program are encouraged by FEMA to use the best available
information in regulating development of floodplains. The 1991 USACE approximate studies are considered to be the most accurate information on the floodplains in the areas for which they were completed.

A number of issues have come up regarding floodplain location in the Incline Village area of Washoe County, Nevada. Two watersheds which are tributary to Lake Tahoe, Third Creek and Incline Creek, are of specific concern due to development and current SEZ restoration project proposals in these watersheds. The projects proposed SEZ restoration projects are currently within the floodplain delineated in the USACE Approximate Studies.

Since the USACE floodplain approximate studies were completed, questions have been raised with regard to the process for reviewing the floodplain boundaries delineated in these studies. The USACE does have such a process, and has utilized it several times in the last 8 years including, most recently, a number of times in late 1998 (see attached letter). In cases where the USACE receives a request to review the 100-year floodplain boundaries, the agency will reexamine study files, including hydrologic, topographic, and hydraulic data used in making the original determination and send a member of their staff to make a visit to the site. This process is ongoing, and is part of the USACE Flood Plain Management Services Program, under general planning assistance.

However, due to development changes and increased interest in the community of Incline Village, Nevada, TRPA is working with USACE to initiate a new detailed hydrologic study of this area by March 1999. This data will be used to reassess floodplain management and for SEZ restoration planning throughout this community. This more detailed information is provided for any of these areas, that information will supersede the 1991 study.

If you have any questions, please contact Joe Pepi, at (775) 588-4547.
MEMORANDUM

February 11, 1999

To: TRPA Governing Board

From: Joe Pepi, Soil Conservation/SEZ Program Manager

Subject: Report on Flood Plain Map and Related Code Requirements

Proposed Action: Based on public comment at the January Governing Board meeting, staff was directed to report on the status of Flood Plain mapping and TRPA Project Review. No action is requested at this time.

Flood Plain Issue: The speaker, Mr. Gilanfarr, stated there was a need for private project proponents to have the ability to submit revised floodplain delineations. The speaker stated that the U.S. Army Corps of Engineers was not responsive to needed corrections to their maps.

Response: The Tahoe Regional Planning Agency (TRPA) is responsible for review of projects and other planning activities regarding the management and protection of floodplains and wetlands in the Tahoe Basin, which are included in stream environment zones or SEZs. Chapter 28 of the TRPA Code of Ordinances directs staff to review proposals for additional development in the 100-year floodplain to prevent property damage and protect public health. This Chapter prohibits additional development, grading or filling of lands within the 100-year floodplain. The floodplain is defined in the TRPA Code as the "Intermediate Regional Flood as established by the USACE", the limits of 100-year flood where established by the USACE, or the limits of the Federal Emergency Management Agency (FEMA) 100-year Flood Insurance Program Maps.

In January 1999, TRPA requested that the U.S. Army Corps of Engineers (USACE) complete a floodplain study of certain specified watersheds. The results of this floodplain study was sent to TRPA in February 1991, included maps showing the 100-year floodplains and the study limits for each stream studied. These floodplain maps were based on approximate studies, which included normal depth computations, if appropriate, and these computations where verified and adjusted, if necessary, during filed inspections. Although the flood elevations were not shown on these maps because the required data is not available from this type of study, it is possible to determine practical flood plain boundaries based on terrain features and drainage areas.

Information on floodplain boundaries is also contained on Federal Emergency Management Agency (FEMA) maps. In same cases, there are differences in the delineation of the 100-year floodplain between the USACE 100-year floodplain maps and the FEMA maps. The ACE has stated to TRPA staff the communities participating in the FEMA flood insurance program are encouraged by FEMA to use the best available
information in regulating development of floodplains. The 1991 USACE approximate studies are considered to the most accurate information on the floodplains in the areas for which they were completed.

A number of issues have come up regarding floodplain location in the Incline Village area of Washoe County, Nevada. Two watersheds which are tributary to Lake Tahoe, Third Creek and Incline Creek, are of specific concern due to development and current SEZ restoration project proposals in these watersheds. The projects proposed SEZ restoration projects are currently within the floodplain delineated in the USACE Approximate Studies.

Since the USACE floodplain approximate studies were completed, questions have been raised with regard to the process for reviewing the floodplain boundaries delineated in these studies. The USACE does have such a process, and has utilized it several times in the last 8 years including, most recently, a number of times in late 1998 (see attached letter). In cases where the USACE receives a request to review the 100-year floodplain boundaries, the agency will reexamine study files, including hydrologic, topographic, and hydraulic data used in making the original determination and send a member of their staff to make a visit to the site. This process is ongoing, and is part of the USACE Flood Plain Management Services Program, under general planning assistance.

However, due to development changes and increased interest in the community of Incline Village, Nevada, TRPA is working with USACE to initiate a new detailed hydrologic study of this area by March 1999. This data will be used to reassess floodplain management and for SEZ restoration planning throughout this community. This more detailed information is provided for any of these areas, that information will supercede the 1991 study.

If you have any questions, please contact Joe Pepi, at (775) 588-4547.
February 15, 1999

To: TRPA Governing Board

From: TRPA Staff

Subject: Appointment of Nevada and California Lay Members to the Advisory Planning Commission (APC)

Background: The two-year term of California lay member Leo Poppoff on the Advisory Planning Commission expires the end of February. Mr. Poppoff has expressed an interest in remaining on the APC. His appointment came at the recommendation of Placer County.

Ms. Candi Rohr has submitted her resignation from the APC as a Nevada lay member effective February 1, 1999, for health reasons and the need to limit her commitments for the next year or two. Her appointment came at the recommendation of Douglas County and would have run through the end of August 1999.

Recommendation: The staff recommends that the Board take action on these appointments to the Advisory Planning Commission.

For you information, following is the current status of lay member appointments on the APC:

**California**
- Jim Haen
- **Leo Poppoff**
- Kevin Cole

**Term Expires/Expired**
- August 1999
- **February 1999**
- October 2000

**Nevada**
- Bob Jepsen
- Paul Morgan

**Term Expires/Expired**
- June 1999
- November 1998
- vacancy

**Bistate**
- Jay Kehne (NRCS)
- Merle Lawrence (TTD)

**Term Expires/Expired**
- March 1999
- July 1999

jf  

AGENDA ITEM XI.A.

221
MEMORANDUM

February 2, 1999

To: TRPA Governing Board
From: TRPA Staff

The 3-Year Strategic Plan for FYs 1998-2001 and the Program of Work for FY 1998-99 was presented to the Governing Board for approval in June 1998 along with the Agency’s annual budget.

The Program of Work contains over 300 specific milestones, which are scheduled for completion within the fiscal year. The Program of Work is reviewed by staff on a monthly basis throughout the fiscal year to monitor work progress in accordance with the assigned work tasks and completion schedules, and to make any necessary adjustments.

The attached spreadsheet outlines the status of the 68 milestones that were due to be completed during the first half of the current fiscal year (July 1 – December 31). In summary, 58 of these milestones were completed and 10 were deferred until later in the fiscal year.

If you should have any questions or comments regarding this status report, please contact Jerry Wells, Deputy Executive Director, at (775) 588-4547.
<table>
<thead>
<tr>
<th>Division</th>
<th>Decision Date</th>
<th>Due Date</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>TTRA</td>
<td>10/03/89</td>
<td>10/15/89</td>
<td>Complete (W/O and SEZ)</td>
</tr>
<tr>
<td></td>
<td>10/03/89</td>
<td>10/15/89</td>
<td>Develop complete Final Plan</td>
</tr>
<tr>
<td></td>
<td>08/99</td>
<td>10/00</td>
<td>Develop EIP data system work plan</td>
</tr>
<tr>
<td></td>
<td>08/99</td>
<td>09/00</td>
<td>Meet with NDOT/County to identify funds for loop/exitway</td>
</tr>
<tr>
<td></td>
<td>03/99</td>
<td>03/00</td>
<td>Report to NDOT/County to identify funds for loop/exitway</td>
</tr>
<tr>
<td></td>
<td>06/99</td>
<td>07/00</td>
<td>Complete 97/98 Annual Report</td>
</tr>
<tr>
<td></td>
<td>06/99</td>
<td>07/00</td>
<td>Submit TDA/TTA for fiscal audit/preview grant application to EIP for real time monitoring</td>
</tr>
<tr>
<td></td>
<td>03/99</td>
<td>04/00</td>
<td>Submit TDA/TTA for fiscal audit/preview grant application to EIP for real time monitoring</td>
</tr>
<tr>
<td></td>
<td>06/99</td>
<td>07/00</td>
<td>Submit TDA/TTA for fiscal audit/preview grant application to EIP for real time monitoring</td>
</tr>
<tr>
<td></td>
<td>03/99</td>
<td>04/00</td>
<td>Submit TDA/TTA for fiscal audit/preview grant application to EIP for real time monitoring</td>
</tr>
<tr>
<td></td>
<td>03/99</td>
<td>04/00</td>
<td>Submit TDA/TTA for fiscal audit/preview grant application to EIP for real time monitoring</td>
</tr>
<tr>
<td>Description</td>
<td>Due Date</td>
<td>Division</td>
<td>Party</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>----------</td>
<td>----------</td>
<td>-------</td>
</tr>
<tr>
<td>Expand grazing-related BMP monitoring (6-13)</td>
<td>15</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Review Project &amp; Write Permit for Toul CK, SEZ Restoration LRPD</td>
<td>16</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Complete IFC Database Audit</td>
<td>15</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Quarterly Progress Report</td>
<td>14</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>School Source Water Assessment and Protection Program Committee</td>
<td>14</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Maintainance and meeting WG thresholds and meeting WG Committee</td>
<td>14</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Coordinate local units of government towards improving WG Committee</td>
<td>14</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Maintain an updated 5-year list of projects aimed at WG Committee</td>
<td>14</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Release NV 319(h) Grant Workshop to match revised CA 319(h) COMP</td>
<td>11</td>
<td>COMP</td>
<td>N/A</td>
</tr>
<tr>
<td>Submit FY 99/00 &amp; 00/01 Strategic/Budgeting/Work Program LRPD</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Complete (meetings ongoing)</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Attend partnering meetings</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Identify grants available for WG program implementation LRPD</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Research/evolve amendment to CB</td>
<td>12</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Complete Regional Plan</td>
<td>12</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Complete Land Capability Report</td>
<td>12</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Develop 3 Pary ES Control</td>
<td>12</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Complete FPRs for ES Connector</td>
<td>12</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Conduct CANV Other Lakes Monitoring</td>
<td>12</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Develop Prototype RLM Model</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Initial Threshold Monitoring</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Control USGS for Prototype</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Integrate RTMWA Process</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Scooping of RLM Workshop</td>
<td>11</td>
<td>LRPD</td>
<td>N/A</td>
</tr>
<tr>
<td>Due Date</td>
<td>Description</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>-------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>COMP Complete Due to 03/99</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>Issue seasonal grazing exceptions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>Create cereal program needs database.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>Create cereal program planned project database.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>Evaluate Chapter 26 results to RTM.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>Complete data development plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/09/99</td>
<td>Present findings from 98 NWE Study to GB.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Complete studies submitted to States.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Complete FY 99/00 and FY 00/01 special studies budget.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Complete manual monitoring of special interest species.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Present revised regulation regarding endangered species.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Conduct oversize breeding season surveys.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Conduct fish habitat studies in prime fish habitat.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Analyze potential code of oceanic areas impacts revisions for COMP.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Implement some of QSG and other vegetation thresholds.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>07/99</td>
<td>LA PD Establish CBE National Advisory Committee.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/99</td>
<td>TDA Data FY 99/98 STA NOS and To Claims.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/99</td>
<td>TDA Data Comprehensive with TMS.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/99</td>
<td>TDA Data Complete QSG analysis #3.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/98</td>
<td>TDA Data Conduct vehicle limiting movement closures.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/98</td>
<td>TDA Data and CTO process implementation of new grazing BMP's.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/98</td>
<td>TDA Data Addressed with landowners in four Creek grazing pastures.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/98</td>
<td>TDA Data Acquiesce SEZ seamless.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/98</td>
<td>TDA Data Evaluate soil/groundwater conditions on publicly.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/98</td>
<td>LA PD Hwy. 50 Atarco SEZ.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/98</td>
<td>LA PD Focus Waterfowl Group to develop plan for Upper Trinity Focus.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/98</td>
<td>LA PD Complete project description with NRECS &amp; Upper Trinity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>02/99</td>
<td>Division Due Date for Comments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Element Work</td>
<td>Description</td>
<td>Due</td>
<td>Division</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
<td>-----</td>
<td>----------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Element Work**

**Description**

**Due**

**Division**

**Comments**

**Date**

**Complete**

---

228

**Element Work**

**Description**

**Due**

**Division**

**Comments**

**Date**

**Complete**

---

228
MEMORANDUM

February 11, 1999

To: TRPA Governing Board

FROM: TRPA Staff

SUBJECT: Resolution Establishing the Tahoe Metropolitan Planning Organization (TMPO) and the TMPO Board of Directors

Proposed Action: The Governing Board is requested to act on the attached resolution establishing the Tahoe Metropolitan Planning Organization (TMPO) and the TMPO Board of Directors.

Staff Recommendation: Staff recommends that the Governing Board endorse the resolution establishing the TMPO and the TMPO Board of Directors.

Background: In October 1998 the TRPA Governing Board approved Resolution #98-13 recommending that the Governors of California and Nevada designate TMPO as the Metropolitan Planning Organization (MPO) for the Lake Tahoe Region, pursuant to Title 23, Section 134 of the United States Code. In addition, Resolution #98-13 also recommended to the Governors that the 14 voting members of the TRPA Governing Board and a voting member of the Lake Tahoe Basin Management Unit of the United States Forest Service serve as the Board of Directors of the TMPO. The Governing Board approved Resolution #98-13 with the understanding that additional implementation actions would be necessary to establish the TMPO. Today’s action is one such implementation action. It provides the enabling action in order for the TMPO to take subsequent implementation actions.

It should be noted that subsequent to TRPA Resolution #98-13, the Governors of California and Nevada designated the TMPO in letters addressed to the Federal Highway Administration (FHWA). Governor Miller of Nevada requested in subsequent correspondence with FHWA that the TMPO designation be contingent upon completion or adoption of programming actions required of all MPOs.

Discussion: In order to have a fully functioning TMPO, several steps are required. Today’s action by the TRPA, pursuant to the actions by the two Governors and by virtue of Title 23, Section 134 of the United States Code, establishes the TMPO. Today’s action also provides TRPA’s fourteen voting members, along with one voting member of the LTBMU, the authorization to act as members of the TMPO Board of Directors.
The Resolution today is necessary to provide the TMPO Board with the authority to take actions on certain matters required by MPOs. For example, the TMPO will be required to execute a Memorandum of Understanding (MOU) with Caltrans and NDOT regarding the activities and funding of the TMPO. Another example is the Public Participation Plan required for each under federal law for each MPO. This plan will be presented to the TMPO at a later date.

If there are any questions, please contact Richard Wiggins at (702) 588-4547.
TAHOE REGIONAL PLANNING AGENCY
RESOLUTION NO. 99-___

A RESOLUTION ESTABLISHING THE TAHOE METROPOLITAN PLANNING ORGANIZATION

WHEREAS, in October 1998 the Tahoe Regional Planning Agency approved Resolution 98-13 recommending the Governors of California and Nevada designate the Tahoe Metropolitan Planning Organization (TMPO) as the metropolitan planning organization for the Lake Tahoe Region, consistent with the proposed structure; and

WHEREAS, the TRPA Governing Board further resolved that the fourteen voting members of the TRPA Governing Board consent to serve, with one voting member of the Lake Tahoe Basin Management Unit of the United States Forest Service, as the proposed Board of the TMPO; and

WHEREAS, Governor Wilson of California and Governor Miller of Nevada in letters to the Federal Highway Administration, designated the TMPO in accordance with provisions of Title 23, Section 134 of the United States Code; and

WHEREAS, the designation by the Governors of California and Nevada provided the authority to create the TMPO but did not establish the TMPO; and

WHEREAS, additional TRPA Governing Board actions are required to implement the TMPO, in order for the TMPO to take the necessary actions to adopt documents and programs required by Title 23, Section 134 of the United States Code.

NOW THEREFORE BE IT RESOLVED by the Tahoe Regional Planning Agency that the Tahoe Metropolitan Planning Organization is hereby established as a metropolitan planning organization under Title 23, Section 134 of the United States Code.

BE IT FURTHER RESOLVED that the fourteen voting members of the TRPA Governing Board, and one voting member of the Lake Tahoe Basin Management Unit of the United States Forest Service, shall serve as the Board of Directors of the Tahoe Metropolitan Planning Organization.

PASSED AND ADOPTED this 24th day of February, 1999, by the Governing Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

____________________
Larry Sevison, Chairman
Tahoe Regional Planning Agency
MEMORANDUM

February 16, 1999

To:         Governing Board Members
From:       John L. Marshall, Agency Counsel
Subject:    Request for Authorization to Make Rule 68 Offer in Suitum v. TRPA
            and to Approve Partial Settlement of Attorneys’ Fees

Through this memorandum, I propose that the Governing Board authorize our
outside counsel to make an offer to Mrs. Suitum under Rule 68 of the Federal
Rules of Civil Procedure of up to to $305,000 (exclusive of attorneys’ fees). I
also request that the Governing Board approve a settlement of claims of the
Pacific Legal Foundation to attorneys’ fees in the same case.

Settlement negotiations with Mrs. Suitum have reached an impasse.
Conditioned on Governing Board approval, TRPA has offered Mrs. Suitum
$305,000 for her property (not including any claims for attorneys’ fees). This
amount exceeds the maximum likely award of damages at trial. However, when
coupled with costs that TRPA might incur if it continues to litigate the case, the
amount is justifiable. Through her attorneys, Mrs. Suitum has rejected this offer,
leaving her last offer at $355,000. Our outside counsel and I feel strongly that
Mrs. Suitum’s final position significantly exceeds what she might recover at trial.
Therefore, in our calculations, the costs of settlement at that level (both in this
litigation and its effects on other cases) outweigh any benefits gained.

Since the case will now proceed to trial, TRPA must posture itself to minimize its
potential liability. Rule 68 of the Federal Rules of Civil Procedure provides a
device to limit TRPA’s exposure to future litigation costs. Under Rule 68, a
defendant may offer that judgment be entered against it for a specified amount
(the offer remains open for 10 days). If the plaintiff rejects the offer (or lets it
lapse) and then does not recover more than that amount at trial, the plaintiff
cannot recover any costs incurred after the date of the offer. In other words, a
rejected Rule 68 offer in Suitum would cut off all claims for attorneys’ fees and

JLM/
2/16/99

AGENDA ITEM NO. XII.B.1

233
costs incurred after the date of that offer, if the Court awards Mrs. Suitum an amount equal to or less than the amount of the offer.

For the purposes of approval by the Governing Board, a Rule 68 offer involves two distinct decision points. First, under the rule, TRPA must be willing to have judgment entered against it (i.e., admit liability to Mrs. Suitum for the “taking” of her property). While this concession would mark the first time TRPA would have been found to have “taken” property in violation of the 5th Amendment, it is mitigated by the fact that Judge Reed’s decisions in the summary judgment motion in this case and his recent decision in the TSPC case raises serious concerns that he may rule for Mrs. Suitum.

In the Suitum summary judgment order, Judge Reed held that Mrs. Suitum’s transfer of development rights could not be considered when determining whether TRPA had denied her “all economically viable use” of her property. The court determined that TRPA could avoid liability only if a competitive market existed for her land left in its natural state. In his subsequent order in TSPC, Judge Reed found that a competitive market for similar lots did not exist even though TRPA offered evidence of sales of such lots to government buyout programs, neighbors, and investors/speculators. Although we believe that the market in Suitum can be distinguished from TSPC, Judge Reed may have foreshadowed his likely ruling against TRPA. Thus, at this time we believe that the opportunity to cut off litigation costs outweighs the potential downsides to an offer conceding liability.

The second decision inherent in a Rule 68 offer is the appropriate dollar amount (Rule 68 strategy: the higher the amount offer, the more likely a rejected offer will be greater than the amount recovered). In Suitum, the measure of damages has already been set as the value of the property at the time of the taking (without the challenged regulations in place) plus interest to the date of judgment. As noted above, our prior offers to Mrs. Suitum have essentially maximized what we believe her recovery could be under this formula (by taking her appraiser’s 1990 valuation and applying a generous interest rate). For the purposes of this offer at this time, we recommend offering Mrs. Suitum up to $305,000 plus costs accrued to date. Note that “costs accrued” may be substantial because they may include attorneys’ fees. Unfortunately, plaintiffs’ attorneys (Messrs. Hoffman and Cashel) have withheld all information regarding a ballpark estimate of fees to date. At a minimum, though, the fees claimed must be reasonable (something we can negotiate or litigate). Furthermore, if Judge Reed rules in favor of Mrs. Suitum, TRPA will probably have to pay her attorneys’ fees in any event.

I therefore recommend that the Governing Board approve the proffer of a Rule 68 offer of judgment to Mrs. Suitum in the amount not to exceed $305,000 together with reasonable costs then accrued.

JLM/
2/16/99
I also request that the Governing Board authorize a tentative settlement of $85,000 reached with the Pacific Legal Foundation ("PLF") for its claim for attorneys' fees incurred in this case. PLF represented Mrs. Suitum in the United States Supreme Court. PLF asserts that it has documented $135,000 in actual fees but through negotiations with our outside counsel has agreed to accept $85,000 in settlement. PLF will likely recover at least $85,000 in fees given the probable finding of liability for Mrs. Suitum and the relative reasonableness of its request. In light of these circumstances, we recommend that the Governing Board approve the tentative settlement for $85,000 for PLF's successful efforts on behalf of Mrs. Suitum in the Supreme Court. We do not feel that settlement with PLF at this time will prejudice the case.
February 11, 1999

BY FAX AND PRIORITY MAIL  
(775) 588-4527

Mr. John Marshall  
Agency Counsel  
TAHOE REGIONAL PLANNING AGENCY  
Post Office Box 1038  
Zephyr Cove, NV 89448-1038

RE: Duffield Matter

Dear John:

The purpose of this letter is to reply to your February 9th letter and the Agency's other recent communications regarding the Duffield matter, as well as to set the record straight on key points. This is not intended to be a Response To Notice Of Violation within the meaning of Sec. 9.8 of the Agency's Rules, and should not be interpreted as such.

1. Notice Of Violation: On February 1st, the Agency served on the undersigned a Notice Of Violation setting forth a lengthy litany of purported violations. Our clients take very serious exception to each of those purported violations, and are prepared to prove in the appropriate forum based on the evidence that those alleged violations are simply not supportable. We also take particular exception to the nature and tone of the document which represents a not too subtle effort to "throw the book" at our clients. As you are aware, the facts involved deal with three or four discrete issues. Yet to read the charging document, it is readily apparent that the laundry list prepared by the Agency was an attempt to fly-speck every conceivable crevice of the Agency's Regulations, and was intentionally done to make it appear that there was a great deal more at stake than what is actually involved -- a clear effort to magnify out of all reasonable proportion the rather limited matters that should be on the table for resolution.

I also need to express my personal dismay as to certain portions of that Notice. Frankly, I am most disturbed by the purpose-
ful and unwarranted misstatements and lack of professionalism it reflected. At p. 9, it is boldly claimed that during the settle-
ment session it was stated: "Mr. Hoffman contends that Al and Jane Duffield were simply misled by rogue contractors...". As you
know, that is simply not true -- such a statement was never made by
me, nor would I have ever made it, and it is beyond me how a staff
member could include such a statement in a formal Agency document.
Further, at p. 11, the Notice goes on to say that "Al and Jane Duffield have indicated that the contractors [listed by name] are
responsible for the egregious nature of the violations which
occurred unbeknownst to them on their property". Again, another
boldfaced and purposeful misstatement. Frankly I am most offended
that the Agency would allow such unprofessional and deceitful
statements to be included in a formal Agency document, particularly
one the Agency staff knows will go to the Governing Board and quite
likely to the court. That is simply unconscionable, and it has
made any further negotiations to resolve this matter extremely
problematic.

In view of the foregoing, I am personally asking that you
promptly intervene and cause an Amended Notice Of Violation, along
with an appropriate apology, to be prepared and issued as quickly
as possible setting the record straight. That kind of hogwash has
absolutely no proper place in such an Agency document, and the
record needs to be corrected immediately.

From a professional standpoint, I also need to again stress to
you, as I did at the outset of the settlement meeting, that any
such settlement discussions, no matter what is said at the settle-
ment table, have absolutely no reason being reported in a formal
Agency document, particularly one likely to go to court. If, in
the future, I cannot be assured that such settlement discussions
will be properly confined, then I am personally going to find it
very difficult to engage in any such future settlement discussions
with TRPA.

In brief, I think you will understand that I am outraged at
the content of the Notice of Violation and the manner in which the
Agency has handled it, and am looking to you to take the necessary
corrective steps. I very much trust that you were not personally
involved, although I am asking that you ensure that the Agency now
proceeds in the proper manner and undertake the necessary
corrections.

2. Show Cause Hearing: In the Notice Of Violation, it is
indicated that a Show Cause Hearing before the TRPA Board has been
scheduled for February 24th. Given our concern that that Show
Cause Hearing cannot possibly now be undertaken on a level playing
field, and given the fact that several Board members have already
been "briefed" by staff on the alleged violations and at least one
member of the Board has already been taken to the site and briefed separately by staff, it simply does not seem possible to obtain a truly fair, quasi-judicial hearing based only on the evidence presented at the hearing. Further, as I have previously advised, to address the laundry-listing of charges put forward by the staff and to properly put on the evidence and examine all the witnesses will likely take several days at a minimum, particularly given the need to undertake thorough cross-examination of the Agency witnesses. It therefore seems virtually impossible to conduct a fair and proper "show cause hearing" in the brief time available on the Board's usual crowded calendar.

Normally, we would be prepared to recommend to our clients that they avail themselves of the opportunity to be heard by the Governing Board. However, given the way this matter has been put together by the staff and handled to date, we believe the entire process has been so tainted that it is not now possible to have a proper and impartial hearing before the Board.

Accordingly, we will not be filing a Response. Pursuant to Rule § 9.8(b), therefore, "the Executive Director shall cancel the Show Cause Hearing" and proceed with an enforcement action as he deems appropriate. We understand that that will likely involve the filing of a civil complaint, and that is unfortunate. However, under the circumstances we believe the court is now the only appropriate forum within which to have this matter resolved, unless as suggested below, there is receptivity to considering the use of a highly-qualified professional mediator. However, should that not be agreed to, then in order to keep this matter moving forward promptly, we will not be amenable to any further extensions of the 65-day statute of limitations.

3. Cease And Desist Order: By your Fax letter dated February 5th, you also forwarded to me a new "Cease and Desist Order" directed to Al and Jane Duffield. We believe the filing of that second Cease and Desist Order is also an entirely inappropriate abuse of the Agency's authority, and was only done as obvious retribution for our failure to reach a settlement with you on the unwarranted terms demanded. As you are aware, and as the Notice Of Violation indicates, the Agency issued an earlier Cease and Desist Order on August 19, 1998. As soon as it was received this last Summer, and although we then disagreed that any violations had occurred, our clients' representatives nevertheless met with Agency staff and reached agreement on the steps to be taken to address the Agency's concerns. Thereafter, our clients promptly undertook in good faith everything they said they would do. The Agency then inspected that work, and then authorized our clients to proceed with their continued construction activities by its letter dated September 25, 1998. At that time, an additional $75,000 "security"
was also posted so that the Agency was fully protected, and that security remains on file.

Absolutely nothing has changed since that time which warrants the filing of a second Cease and Desist Order, including the new demand that "no further construction activities [are] to take place on the property". As I have personally advised you, and as you saw during your inspection last week at the site, all current work on the site is limited to inside the house, primarily trimming out the interior of the house, and has absolutely nothing whatsoever to do with any of the purported violations.

Accordingly, even if the Agency had the power by its Rules to grant itself the power to issue such a Cease and Desist Order, which I believe is certainly legally questionable, it appears to me to be a clear abuse of authority to now attempt to "shut down all work" as some kind of retribution for not having agreed to what we believe to be a totally unwarranted settlement demand. This is particularly the case where there is simply no showing that this second Cease and Desist Order was at all required by any activities that have taken place on the site since the first Cease and Desist Order was issued and promptly resolved last Summer.

We hasten to add that the Permit issued by the Agency is, in our judgment, a valuable property right of our client, and cannot be summarily revoked by the simple magic of a Cease And Desist Order. Frankly, we believe that any actions taken by the Agency to try to summarily stop our client from proceeding under its lawful Permit are fraught with legal risks to the Agency, and urge you to reconsider that course of action.

Further, in spite of my telephone conference with you on Monday, you then took it upon yourself personally to contact Mr. Gary Pulver, the lead contractor for our clients. He, of course, is not a noticed party either under the Notice Of Violation or the Cease and Desist Order, but is the contractor hired by our client. The purpose of your telephone conference with him was apparently not too subtly to threaten that if he proceeded to continue to do work under his contract with our client, he may be at risk. Again, I find that to be entirely inappropriate.

In any event, as I advised you by my telephone message yesterday, our clients, Al and Jane Duffield, have and are assuming all responsibilities for this matter, and are the only properly noticed parties in connection with these proceedings.

4. Status of Contractors: So that there is no further confusion, I again stress that neither Mr. Pulver, Mr. Yori, or Mr. Aitken are, or have been, named as a party in these enforcement proceedings by TRPA. Only our clients, Mr. and Mrs. Duffield, have
been named, and they are assuming responsibility for all actions taken on their behalf by their contractor. Most importantly, I am expressly representing at least Mr. Pulver and Mr. Yori in connection with any claim arising from this matter, and any further communications to them regarding this matter should be directed to the undersigned. I will be in touch with Mr. Aitken shortly, and will then advise you as to him as well.

5. Litigation: Clearly, we are very reluctant to invite litigation. However, given the way the Agency staff has proceeded in this matter, it appears that a court of law is the only fair forum in which to have the issues properly and impartially addressed, to undertake the appropriate discovery, to have all the witnesses testify under oath, and to have the matter heard and resolved by a neutral third party based only on the evidence. Should such litigation ensue, I will work cooperatively with you, or the counsel the Agency retains to handle this matter, in facilitating that litigation in an orderly way, and particularly in proceeding with the necessary and prompt discovery.

Further, should the Agency believe a final effort at pre-trial resolution is appropriate, we are amenable to considering the use of a truly well-qualified and experienced professional Mediator to meet with the parties, and to try to work towards a pre-trial resolution. There are only a limited number of Mediators we believe could be utilized, and of course each are expensive. Nevertheless, my clients are willing to fund the necessary costs of such a mediation if there is a willingness by the Agency to pursue that course of action, provided we can agree on the Mediator and work out the necessary ground rules to include Board involvement. Of course, at a later point in time in the litigation, that is also an option that can be considered. If, however, you and your client believe there is merit to considering this suggestion for a final effort at pre-trial resolution, I will be pleased to discuss it with you.

In closing, I want you to understand that we feel quite emphatically that the allegations and charges that have been alleged by the Agency in the Notice Of Violation documents are simply not supported by the evidence. To the contrary, this was a large and complex project that is being undertaken by very experienced and competent professionals and contractors, and in my judgment, the testimony and evidence will show that they did their job properly. They certainly had no reason or anything to gain by intentionally getting crosswise with TRPA. If there are, in fact, any technical violations of the Agency's Rules, in our judgment they were either inadvertent or of a minor nature, and simply do not warrant the kind of extraordinary overkill response that has been given to this matter.
Mr. John Marshall, Agency Counsel
February 11, 1999
Page 6

Quite candidly, we have reluctantly concluded that our clients have been improperly singled-out apparently because of the size and cost of their project to somehow make our clients "an example", and we find that particularly disturbing in the absence of any solid and unimpeachable testimony or evidence that our clients, or their contractors, knowingly proceeded in a manner to violate TRPA's Regulations.

Lastly, I again urge you to promptly address and clear that air on the issues I have raised in the first part of this letter, as those matters cannot be left unanswered. While I am prepared to give you the benefit of the doubt, if those matters are not promptly addressed and corrected as requested, they will most likely seriously impair our future professional working relationship -- a consequence I truly hope can be avoided.

Finally, should this matter be reported to the Board with supporting staff documents including the Notice of Violation and Cease and Desist Order, then I request that a copy of this letter also be included in the packet provided to the Board.

Sincerely,

[Signature]
Lawrence L. Hoffman

LMM:jbc

cc: Mr. and Mrs. Al Duffield
Mr. Jim Baetge
Mr. Steve Chilton
Ms. Kim Johnson
Mr. Gary Pulver
Mr. Dan Yori
Mr. Doug Aitken
Mr. Mike Thomas