March 2000
Governing Board Packet
TAHOE REGIONAL PLANNING AGENCY (TRPA)
TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

NOTICE IS HEREBY GIVEN that on Wednesday, March 22, 2000, 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 the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California. 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 Wednesday, March 22, 2000, commencing at 8:30 a.m., in the same location, the TRPA Finance Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) February month-end trial balance; 3) monthly report on mitigation fees; 4) revisions to TRPA FY 99-2000 operating budget; 5) resolution allocating FY 1999-2000 State Transit Assistance funds ($61,540) to Placer County for operating assistance of the Tahoe Area Regional Transit System; 6) resolution allocating FY 1999-2000 State Transit Assistance funds ($61,540) to South Lake Tahoe for operating assistance of the South Tahoe Area Ground Express; 7) amendment of FY 1999-2000 Tahoe OWP; 8) adoption of preliminary draft of the FY 2000-2001 Tahoe OWP; 9) Washoe County mitigation fund release (Bitterbrush Settlement) $325,000 for the Fairview/Incline Village Tourist water quality improvement project; and 10) member comments. (Committee: Neft, Heller, Galloway, Solaro, Bennett)

NOTICE IS FURTHER GIVEN that on Wednesday, March 22, 2000, during the lunch recess, in the same location, the TRPA Legal Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) Chambers Forest Health Enhancement Project show cause hearing; and 3) member comments. (Committee: Waldie, Sandoval, Miner, DeLanoy, Giles, Medina)

NOTICE IS FURTHER GIVEN that on Wednesday, March 22, 2000, in the same location, at the conclusion of the TRPA regular meeting, the TRPA Executive Director Committee will meet. The agenda will be as follows: 1) public interest comments (no action); 2) discussion and action on recommendation from the community screening committee; and 3) member comments. (Committee: Solaro, Waldie, Sandoval, Bennett, Alternates: Sevison and Galloway)

March 13, 2000

[Signature]

Jerry Wells
Acting Executive Director

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

North Tahoe Conference Center
8318 North Lake Boulevard
Kings Beach, California

March 22, 2000
9:30 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear. For agenda management purposes, approximate time limits have been assigned to each agenda item. All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated.

AGENDA

I. PLEDGE OF ALLEGIANCE (5 minutes)

II. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)

III. PUBLIC INTEREST COMMENTS - All comments are to be limited to no more than five minutes per person.

Any member of the public wishing to address the Governing Board on any agenda item not listed as a Project Review, Public Hearing, TMPO, Appeal, or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, Appeal, and Planning Matter items will be taken at the time those agenda items are heard. 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 (5 minutes)

V. APPROVAL OF MINUTES (5 minutes)

VI. CONSENT CALENDAR (see agenda page 3 for specific items) (5 minutes)

(adjourn the TRPA, convene the TMPO)

VII. MEETING OF THE TAHOE METROPOLITAN PLANNING ORGANIZATION (TMPO)

A. Public Interest Comments - All comments are to be limited to no more than five minutes per person.

B. Consent Calendar - Report on the TTD February 11 and March 10 Meetings (Recommended Action: Receipt) (5 minutes)

C. Amendment of the FY 1999-2000 Tahoe Transportation Overall Work Program (10 minutes)

D. Adoption of Preliminary Draft of the FY 2000-2001 Tahoe Transportation Overall Work Program (10 minutes)
(adjourn the TMPO, reconvene the TRPA)

VIII. APPEAL - This will be a closed session at 10:00 a.m. (90 minutes)

A. Appeal of Executive Director Personnel Decision

IX. ADMINISTRATIVE MATTERS

A. Resolution of Appreciation In Memory of Former APC and Board Member Wendell McCurry 11:45 a.m. time certain (10 minutes)

X. PUBLIC HEARINGS – 1:00 p.m. time certain

A. Amendment of Adopted Community Plans and Code Chapter 35 (Bonus Unit Incentive Program) and Other Related Amendments to Extend Allocation Deadlines for Residential Bonus Units, Tourist Bonus Units, and Commercial Floor Area to December 31, 2006 (15 minutes)

B. Amendment to the Air Quality Thresholds, Revisions to the Visibility Standards (30 minutes)

C. Amendment of Plan Area Statement 006, Fish Hatchery, and Plan Area Statement 005, Rocky Ridge, to Add Threshold-Related Research Facilities Under Public Service as a Permissible Use to Add Special Policy Language to Both Plan Area Statements (30 minutes)

D. Amendment of Plan Area Statement 009B, Dollar Hill, to Add Transfer of Multi-Residential Units Program, to Add Multi-Residential Incentive Program to the Special Designations, to Add Residential Bonus Units to the Plan Area; and to Add Special Policy #4 to the Plan Area; and Amendment of Plan Area Statement 028, Kings Beach Residential, to Decrease Available Residential Bonus Units (30 minutes)

XI. SHOW CAUSE HEARING

A. Chambers Forest Health Enhancement Project 3:00 p.m. time certain (45 minutes)

XII. PLANNING MATTERS

A. Presentation and Discussion on Implementation of Best Management Practices Retrofit Program (20 minutes)

B. Motorized Watercraft Studies Progress Report (20 minutes)

C. Presentation on Annual Water Quality Report (20 minutes)

XIII. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee (5 minutes)
B. Executive Director Committee (5 minutes)

XIV. REPORTS

A. Executive Director Monthly Status Report (15 minutes)

1. Work Program and Budget Update

2. Report on Welze/South Shore Estates, Multi-Family Subdivision, Douglas County APN 007-050-05, File Nos. 970883 and 980089


4. Status Report on Project Applications

5. Annual IPES/Land Capability Status Report

B. Legal Division Monthly Status Report (5 minutes)

C. Governing Board Members (5 minutes)

XV. ADJOURNMENT

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CONSENT CALENDAR

<table>
<thead>
<tr>
<th>Item</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>1. February Month-End Trial Balance</td>
<td>Receipt</td>
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<tr>
<td>2. Revisions to TRPA FY 99-2000 Operating Budget</td>
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<tr>
<td>3. Resolution Allocating FY 1999-2000 State Transit Assistance (STA) Funds ($61,540) to Placer County for Operating Assistance of the Tahoe Area Regional Transit (TART) System</td>
<td>Approval</td>
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<tr>
<td>4. Resolution Allocating FY 1999-2000 State Transit Assistance (STA) Funds ($61,540) to South Lake Tahoe for Operating Assistance of the South Tahoe Area Ground Express (STAGE)</td>
<td>Approval</td>
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<tr>
<td>5. Highland Village, Land Capability Challenge, 3205 North Lake Boulevard, Placer County APNs 93-160-36 and –67</td>
<td>Approval</td>
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<tr>
<td>6. Lira’s Market, Commercial Plan Revision, 2977 and 2981 Highway 50, Meyers, El Dorado County APN 34-270-49, File No. 990838</td>
<td>Approval</td>
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7. Dakin and Johnson, New Multiple-Use Pier, 8632 and 8634 Brockway Vista Avenue, Placer County APN 90-141-36 and -37, TRPA File #990651
Continued to **Pg 25**

8. Lake Tahoe Community College, Public Service Addition (Physical Education Building and Cafeteria), Al Tahoe Boulevard and College Drive, City of South Lake Tahoe, El Dorado County APN 25-041-10
Approval of **Pg 27**
Findings and Conditions

9. Washoe County, Mitigation Release (Bitterbrush Settlement) $325,000 for the Fairview/Incline Village Tourist Water Quality Improvement Project
Approval **Pg 29**

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 members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedure shall be as follows:

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

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

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

**Article 11(g) Public Law 96-551**

**Tahoe Regional Planning Agency Governing Board Members:**
- Chairman Larry Sevison, Placer County
- Vice Chairman Don Miner, Douglas County
- Kay Bennett, Carson City
- Jim Galloway, Washoe County
- Hal Cole, South Lake Tahoe
- Dave Solaro, El Dorado County
- Brian Sandoval, Nevada At-Large Member
- Dean Heller, Nevada Secretary of State
- Wayne Perock, Nev. Dept. of Conservation Appointee
- Drake DeLanoy, Nevada Gov. Appointee
- Jerry Waldie, Calif. Senate Rules Com. Appointee
- Leslie Medina, Calif. Assembly Sper. Appointee
- Joanne Neff, Calif. Gov. Appointee
- Terry Giles, Calif. Gov. Appointee
- Peter Chase Neumann, Presidential Appointee
REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Larry Sevison called the regular January 23, 2000, meeting of the Governing Board of the Tahoe Regional Planning Agency to order at 9:35 a.m., and asked Vice Chairman Don Miner to lead in the Pledge of Allegiance to the Flag.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Dr. Miner, Mr. Waldie, Mr. DeLanoy, Mr. Solaro, Ms. McElhany (for the Nevada Secretary of State), Mr. Cole, Ms. Bennett, Mr. Perock, Mr. Harper, Mr. Sandoval, Mr. Giles (present at 11:20 a.m. during discussion on item X.A.4), Mr. Sevison

Members Absent: Ms. Medina, Ms. Neft, Mr. Newmann

Chairman Sevison noted that a quorum of the Board members was present to act on all agenda items with the exception of consent calendar item 6 (Wallace Theater Corporation/Office Depot, City of South Lake Tahoe). The California delegation was one member short of the five needed to act on California projects.

III. PUBLIC INTEREST COMMENTS – none

IV. APPROVAL OF AGENDA

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

V. APPROVAL OF MINUTES

Mr. Perock noted that page 14 of the January 26 meeting minutes indicated he was present at the Legal Committee. He was not a member of that committee.

MOTION by Dr. Miner to approve the January 26, 2000, meeting minutes. The motion carried unanimously.

VI. CONSENT CALENDAR

Acting Executive Director Jerry Wells advised the Board it had sufficient members to act on consent calendar items 1, 2, 4, and 5 and should defer action on item 3 until after the Legal Committee noon meeting and on item 6 until five California members were present.

MOTION by Dr. Miner to approve consent calendar items 1, 2, 4, and 5.
Finance Committee Chairman Kay Bennett advised that the Finance Committee met earlier in the day and recommended approval of items 1, 2, and 4.

The motion carried unanimously.

(Following are items approved on the consent calendar:

1. January Month-End Trial Balance
2. Resolution Authorizing the Filing of Grant Applications and the Execution of Grant Agreements With the Federal Transit Administration for Federal Assistance Administered by the Federal Transit Administration (TRPA Resolution No. 2000-3)
3. Authorization to Spend Up to $20,000 From Shorezone Mitigation Fund for Completion of the Shorezone EIS
4. Appointment of Secretary and Staff Representative to Retirement Committee)

See page 15 of these minutes for action on items 3 and 6.

VII. PUBLIC HEARING

A. Amendment of Plan Area Statement 041, Incline Village, #3 to Reduce Density Requirement in Special Area #1

Associate Planner Peter Eichar distributed a map of the affected area and summarized the three-year history of previous Board actions on the Plan Area Statement (PAS). The site was a 7-acre parcel with one dwelling permitted. In 1997 an amendment was approved to allow multi-residential development on the property. Included with this amendment was a finding that any future project would include a transit stop, bike paths, pedestrian circulation pathways, home mail delivery, and a minimum of 8 units per acre. The zone change in 1997 allowed a 38 unit multi-residential project. Within a year, a request was submitted to reduce density below the 8 units per acre minimum requirement. At that time a 15 unit affordable housing building was proposed for the site; the request was to remove that building from the proposal and replace it with two duplexes (4 units). The site no longer met the 8 units per acre minimum requirement. The request was approved for 5.9 units per acre. The third action requested today would further reduce the density on the site from 27 units to 26 units. Mr. Eichar responded to Board member questions about the site and earlier actions by the Board.

Chairman Sevison opened the public hearing.

Ms. Janet O'Donnell, president of the homeowners of Lake Country Association, suggested this development was a great example of what could happen when a developer, TRPA and everyone worked together. The property owners preferred the lower density and wished to retain Lot 8 undeveloped as common area and as a gathering space for the homeowners. This lot also provided good snow storage in the winter. Eighty percent of the homeowners had contributed $230,000 to purchase the lot from the developer; the sale was currently in escrow. The owners wished to deed the property back to the Association’s common area, to be maintained by the homeowners.

Mr. Nick Sonder, with Smith Design Group, the original project architects, described the area in question.
Mr. Harper explained that any taxes owing or fees to IVGID on the property would have to be paid by the Association prior to the deed transfer.

**MOTION** by Dr. Miner to approve a finding of No Significant Impact. The motion carried unanimously.

**MOTION** by Dr. Miner to approve the Chapter 6 and Chapter 13 findings. The motion carried unanimously.

**MOTION** by Dr. Miner to adopt Ordinance No. 2000-1.

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 Plan Area Statement 041, Incline Village #3, to Amend the Required Minimum Density, and Providing for Other Matters Properly Relating Thereto

The motion carried unanimously. (Members present: Perock, Cole, Miner, Harper, Bennett, Waldie, McElhany, Sandoval, Solaro, DeLanoy, Sevison)

B. Amendment of Community Plans for Tahoe City, Kings Beach Commercial, Incline Village Tourist, Incline Village Commercial, Round Hill, Kingsbury, and Bijou/Al Tahoe to Add Threshold-Related Research Facilities as a Special Use Under Public Service

Senior Planner Coleen Shade explained the staff-proposed amendment to add threshold-related research facilities as a special use in seven Community Plan (CP) areas. The Advisory Planning Commission (APC) conducted a public hearing on the proposal and recommended approval. In 1998, TRPA added threshold-related research facilities to the use list in Code Chapter 18. The follow-up action at this meeting would locate threshold-related research facilities in specific CPs. Ms. Shade described the criteria used by staff in its identification of specific CP areas and explained that Chapter 18 described these facilities as public or non-profit research establishments primarily engaged in implementing social, political and scientific research relating to the environmental thresholds.

Ms. Bennett questioned why so many areas within CPs were identified as appropriate for research facilities.

Ms. Shade responded that the Agency was not anticipating research facilities to be built in all the identified CPs but rather that appropriate areas for such uses be identified. If the Tahoe Research Group or the Desert Research Institute, as examples, were looking for sites to construct research facilities, the appropriate locations were already identified. In March, staff would be bringing a request from the Tahoe Research Group for a Plan Area Statement amendment to permit a research facility outside one of these CPs. Chapter 18 required that the analysis for this proposed amendment address alternative locations.
Mr. Waldie suggested it was not appropriate to include social and political research as criteria for threshold-related facilities. Political positions had nothing to do with environmental thresholds.

Ms. Shade responded that politics were involved in many Tahoe Basin issues and was dealt with in a unique manner in the Basin. People studied the way that the Region worked towards attaining and maintaining thresholds. This was a very politically active community and process.

Mr. Wells explained that TRPA had nine adopted environmental thresholds. When the Board discussed the Chapter 18 amendments and threshold-related research facilities, it concluded that social and political factors were appropriate criteria because of research being conducted in that area as well as in the environmental area. That decision was made a year ago.

Mr. Harper suggested the Board was way off the topic in this discussion. The purpose of the amendment was to identify locations for threshold-related research facilities, not to amend Chapter 18 of the Code. Either Mr. Waldie’s concern needed to be discussed in the context of an amendment of Chapter 18 or the entire package should be continued for different notice.

Agency Counsel John Marshall concurred that Chapter 18 was not on the agenda for amendment. He also suggested the Board could not approve just a particular subset of the definition. The best approach, as suggested by Mr. Harper, would be to bring that particular issue back at a later meeting.

Chairman Sevison suggested that the discussion on Chapter 18 come back at a later meeting and that the Board move forward with the proposed amendments to the Community Plans.

Mr. Waldie concurred and reiterated that he wished to pursue whether the Board’s earlier decision to include political research was appropriate.

Ms. Shade reminded the Board of the recently established science advisory group which would be addressing a research plan for the Basin. The efforts of this group were directly related to threshold attainment. Any entity or party doing research in the Basin would likely be doing work through this science advisory group. This was a type of filter that would identify appropriate and needed research in the Basin.

No one from the audience wished to speak during the public hearing.

Chairman Sevison asked that in the next month or so Chapter 18 come back for review. At that time Mr. Waldie could raise his concerns again.

Mr. Wells explained that it likely would not be until April and would need first to be taken up by the Advisory Planning Commission.

MOTION by Mr. Harper to make a finding of No Significant Effect and to approve Chapters 6 and 13 findings. The motion carried unanimously.

MOTION by Mr. Harper to adopt Ordinance No. 2000-2.
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 Community Plan Areas: Incline Village Tourist, Incline Village Commercial, Kings Beach Commercial, Round Hill, Kingsbury, Tahoe City, and Bijou/Al Tahoe, to Amend the Permissible Use Lists Under Public Service in all Special Areas to Add Threshold-Related Research Facilities as a Special Use, and Providing for Other Matters Properly Relating Thereto.

The motion carried unanimously.

C. 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, Douglas County

Senior Planner Joe Pepi explained that the proposed action would amend the adopted map delineating improvements in the vicinity of parcels within Kingsbury Estates and Tahoe Village Erosion Control Project Area. The amendments would increase the water quality scores for vacant parcels in this area from 44 to 50 points. The Advisory Planning Commission unanimously recommended approval of the amendment.

Dr. Miner questioned the location of the boundary line as shown on the map in the packet materials. It was his understanding that the upper limit of the Basin’s boundary was South Benjamin, not further up along Tramway Drive, as shown on the map. He asked that this matter be continued for staff research or that the staff provide some clarification.

Mr. Pepi explained that the improvement work conducted by the County was done in this project area and was within the Basin. Most of the score changes occurred along Benjamin Drive.

Mr. Gordon Barrett, Chief of Long Range Planning, explained that the line on the map running along Tramway Drive was a rough approximation of the ridgeline. The ridgeline started at Tramway. Most of Summit Village was in the Tahoe Basin. This issue had come up numerous times in the past on plan amendments and parking problems. The map was accurate. South Benjamin was not the Basin boundary.

Dr. Miner suggested that the Board could approve the amendment; if there were a problem the matter could come back for reconsideration.

Mr. Wells suggested the action could be subject to verification of the line’s accuracy.

No one in the audience wished to comment in the public hearing.

MOTION by Dr. Miner to make the Finding of No Significant Effect and the Chapter 6 findings. The motion carried unanimously.

MOTION by Dr. Miner to approve the implementing Ordinance No. 2000-3.
Chairman Sevison read the ordinance by title:

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 Related Thereto

The motion carried unanimously.

VIII. PLANNING MATTERS

A. Report and Discussion on February 2 Workshop on Transit-Oriented Development, Urban Boundaries, and the Two-Step Subdivision Process

Associate Planner Peter Eichard presented the results of the January 5 meeting to discuss Transit-Oriented Development (TOD) findings, the two-step process, and urban boundary changes. Over 50 people had participated, and the group decided to break out into two working groups, one to address affordable housing, the other (a Design Development Group) to address the other issues. Additional meetings on these various topics had been held and others were scheduled for February 29, March 6 and March 15. Staff was hoping to wrap up the two-step issue and continue on with the urban boundary discussions. Affordable housing was tentatively scheduled for May APC and Board consideration, along with a laundry list of potential solutions and options for local governments. The affordable housing working group had been delving into criteria for determining fair share commitment to providing affordable housing.

Mr. Waldie asked how many two-step subdivision proposals were now in the TRPA pipeline and whether any of them would be subject to the recommendations coming to the Board in May.

Mr. Wells explained he knew of one or two small conversions of existing units. One, if not processed by the May date, would be subject to the new rules. One other was a boundary line adjustment which likely would not be directly affected.

Mr. Waldie questioned whether the Borelli South Shore Estates project, if it were still alive, would be subject to any changes made in the two-step process.

Agency Counsel John. Marshall responded that if and when the Board took action on the project it would be subject to the Code that was then in effect. If changes to the Code occurred before the Board’s consideration of the Borelli project, then the project would be subject to those amendments.

Mr. Harper questioned who would be getting information regarding the results of the working group’s efforts.

Mr. Eichard explained that the laundry list of options would be taken to each of the jurisdictions for their consideration. These meetings were open, public meetings.

Mr. Harper explained that Washoe County was concerned that there not be a competition between its efforts and those of this group. The Board previously gave very clear direction that the counties were each going to look at their own affordable housing
opportunities and come back to the Board with recommendations in May. Washoe County was putting significant resources into that effort and did not want to compete with the working group. The recommendations from the working group were not a part of the direction given by the Board and were not to be a litmus test of whether the County's proposals were sufficient to make the findings.

Mr. Eichar concurred. The solutions being offered by the working group were not a benchmark, rather they were alternatives for achieving housing.

Mr. Sevison noted that he earlier had suggested that employee housing be considered in conjunction with major projects, instead of identifying specific pieces of property for employee housing. He was concerned that there may be some projects currently being reviewed by TRPA that may be suitable to address employee housing. Was it possible to establish a policy in the short term so that these opportunities were not lost?

Mr. Wells responded that the Initial Environmental Checklist the staff used in reviewing project did require a determination on whether the project would impact affordable housing. There were not that many projects proposed by the major employers in the Basin; if these project did come forward, he would urge the Board to support conditions to address employee housing.

Ms. Bennett complimented staff for the conduct of the working group meetings and for the level of attendance and interest. She clarified that she was not, as suggested earlier, the chair of these meetings but rather attended as an interested Board member.

Mr. Wells clarified that staff was hoping to work independently with each of the local jurisdictions to develop individual sets of criteria. Hopefully there would be some agreement on those criteria when they were presented to the Board in May. The goal was for the Board to make the finding that each jurisdiction was meeting its fair share commitment to providing affordable housing. The finding was required for each jurisdiction if there were going to be further two-step subdivisions. The other issues staff was working on were the TOD findings, the urban boundary issue, and the two-step process in general. If there were to be amendments in these areas, staff would hope to bring those to the Board in May as well. That was staff's proposed schedule.

Chairman Sevison responded that this looked good.

IX. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

A. Finance Committee – all items approved on the consent calendar

B. Legal Committee – to be taken up after the lunch break

C. Environmental Improvement Program Implementation Committee

Dr. Miner noted that at the 8:30 a.m. EIP meeting staff had discussed expediting the EIP, the involvement of the scientific community, and the results of Mr. Hasty's Washington, D.C. trip.

Chairman Sevison suggested it would be well for each local representative and their staffs to meet with Public Involvement Coordinator Pam Drum to build some enthusiasm
for the EIP and to outline what needed to be done at the local level to implement the EIP process. This would improve the relationship tremendously between TRPA and the locals and would assist Pam with her workload. These were difficult issues, and without the support of each Board member and the locals the goals of the program would be hard to attain. Each Board member could do a lot for the program by showing enthusiasm and cooperation in achieving EIP implementation. It was important over the next month or two for each Board member to know what he or she could do.

Governmental Affairs Coordinator Pam Drum noted that the consultant work on Phase II of the Regional Revenue Study would be wrapped up within the next eight to ten weeks. The final report would follow. There would be some public meetings before the consultant completed his work. She would like to talk more on this with the Board members. The draft report would be widely circulated before it was finalized.

On the subject of the EIP, Dr. Miner suggested that any premature release of study findings caused confusion and unnecessary rumor. Although the local jurisdictions invited TRPA to provide them with updates, they did not want premature conclusions to be made. He did not want the Board to jump the gun without understanding completely what the issues were. Six-hundred projects within the EIP had been prioritized; $36 million from Congress had been requested for the top 12 projects for this year's funding. The rest of the projects would be prioritized as a part of the EIP update this summer. The Committee was hoping to include an implementation schedule for the top priority items.

Ms. Bennett agreed that it was important to focus on the most important projects first and that the effort not be scattered into a lot of little projects.

Mr. Sevison explained that the California Tahoe Conservancy used a pounds per dollar of sediment removed relationship to assist in weighing each project and setting priorities. It had worked pretty well.

Mr. Cole suggested that the buy-in would not happen until the results of the alternative revenue study were known. The effectiveness of this program was contingent on a private, local match. Until it was known where the funds would come from, it was hard for Board members to be flag wavers. Until the local match levels were known and the study was completed, the comfort level was not there yet. If Chairman Sevison was asking for more local assistance in how to implement the projects that would be fine. But absent knowing where the revenue would come from, he did not know how the members could push really hard. The EIP projects were great, and the whole Basin had bought into the concept.

Chairman Sevison explained that the EIPIC had suggested bifurcating the process to some degree where the scientists would focus on determining how best to do projects and the management people and engineers would focus on streamlining the review process. If there were a need to modify ordinances, that cold be done up front. He would like to see the projects processed in the most effective and streamlined way, and that could be expedited if the Board members would meet with their own staffs.

Ms. Drum explained that the Phase Two steering committee had conducted several successful meetings. There was not, however, a lot of representation from the local governments, even though they were on the committee. Perhaps the notices were
going to the wrong people. To help inform people, staff had offered to provide additional information or briefings to Board members and key staff people. The consultant's report was a feasibility analysis; presumably the consultant would provide good information and opinion on which options were the most feasible. Ultimately it was up to the steering committee to decide on the next steps when the consultant's work was done. That was where staff was encouraging discussions to become broader and to encompass as many people as possible.

Dr. Miner noted that there was an October deadline for 7,000 Priority One Watershed property owners to implement BMPs. This would have tremendous repercussions within the local community. The Agency was trying to implement an alternative revenue source program which potentially could involve everyone in the Basin. He hoped there was some anticipatory management process in place to deal with public education and outreach and how to work with these 7,000 property owners to implement BMPs.

Ms. Drum noted there would be a report on the BMP program later on the agenda.

X. REPORTS

A. Executive Director Monthly Status Report

1. Status Report on Project Applications

Mr. Wells explained there was a list of projects in the packet. The reason for those which had gone beyond the 120 days was primarily an inability of staff to review the sites because of weather conditions. Some were due to staff turnover and changes.

2. Status Report on Executive Director Personnel Decision

Mr. Wells noted there was a closed personnel discussion on this last month. With concurrence of the appellant and the ad hoc committee, he had decided to continue the matter for one month. It would come back in March.

3. Report on Welze/South Shore Estates, Multi-Family Subdivision, Douglas County APN 007-050-05, File Nos. 97083 and 980089

Agency Counsel John Marshall provided a history of the project, noting that in September 1999 the Board rejected the findings for the project. As discussed last month, the vote could have had two interpretations, one that the members had rejected the findings because the project was not in compliance with thresholds, the other that the level of environmental documentation was insufficient. It was possible that this latter interpretation could have been made because the Initial Environmental Checklist was insufficient and an Environmental Assessment (EA) would be sufficient. The staff did not inquire, nor did the Board provide direction, as to which interpretation was the appropriate one. Staff subsequently interpreted the vote as saying that the level of environmental review was what triggered the Board's rejection of the project. Based on this interpretation, staff began discussions with the applicant to determine the appropriate level of environmental review for the 26-unit detached project. When staff brought forward a discussion on scoping of the environmental document at the January Board meeting, the Board and staff discussed a preliminary issue whether the project, in fact, was dead or alive and whether staff could have made the interpretation of the vote
that it did — that the rejection was based on the level of environmental documentation and not on the substantive merits of the findings for the project. A number of motions were taken at the January meeting on the appropriate level of environmental review, but no affirmative vote to require a particular level of such review was approved. At the end of the January meeting, staff agreed to bring back to the Board a recommendation on whether the project was alive or dead. Subsequent to the January meeting, Mr. Borelli, the applicant, indicated to staff that he was going to be bringing back a substantially revised project, shifting from a 26-unit detached unit project to a five building, 26-unit attached design. The land coverage changes and changes relating to some of the issues raised in September would potentially be significant. Staff’s present position was that the September Board action denied the project, and the applicant would have to file a new application if he wished to continue. The applicant did not necessarily share that view, and staff was currently examining the practical consequences of determining whether the project was dead or alive, given the context that the applicant had now decided to substantially change his project. Under the Agency’s rules of procedure, if changes were made — even if the project were rejected within the year — the project could be brought back within the one-year period. What staff was trying to determine now was whether there were any practical consequences for the Board to determine, in fact, the status of the prior application. Staff would like the opportunity to work with the applicant to see if agreement could be reached that essentially the old application had passed away and that the applicant would file a new application for the revamped project. A major consideration in that discussion had to do with the big issue of what happened to the allocations the applicant had for the prior project. If the applicant and staff could not come to some agreement on the filing of a new application, staff would ask for a Board determination in March on whether the project was alive or dead. If some understanding could be reached that the applicant could file a new application, then the Board would not see the project until it worked its way through the system in the normal course with the normal 30/120 day review periods.

To a question on current status of the project, Mr. Marshall explained that staff felt the Board without further direction had killed the project in September. There may be a way to avoid bringing that question to the Board if, in fact, the applicant were willing to drop that earlier application and file a new one. If the applicant was unwilling to do that, then the situation was at loggerheads and the Board would need to resolve the question.

Mr. Waldie asked what the difference was between finding the project was dead and the applicant deciding he wanted to file a substantially different application. If the Board determined the project was dead today, the applicant would not be deprived of any right to come back tomorrow with a substantially different application.

Mr. Marshall explained that if the applicant were willing to file a new application then there would be no consequence to the applicant for the Board to determine that the project was dead.

Mr. Waldie asked what the adverse consequences would be of making the determination today. He questioned why the determination was being postponed.

Mr. Marshall responded that, in his opinion, this might be an unnecessary determination.

Mr. Waldie asked what the consequences would be that were so adverse that the staff was not willing to make the decision today.
Mr. Marshall explained that if the Board determined that the correct interpretation of the September action was that the rejection was based on the environmental documentation, then the application would still be alive. That was the consequence of putting the decision to the Board.

Mr. Waldie explained that Mr. Marshall's decision at the last meeting was that the Board had killed the project and Agency Counsel would come back to the Board this month and so report. Had this been done, then it would seem that the applicant would have the right to come in with the new configuration in a substantially different project. He did not think there was ever the possibility that the Board's September and January actions did not kill the project.

Mr. Marshall explained that there were other members who disagreed with this position.

Dr. Miner commented that historically the Board's performance had always been through a process that first approved or did not approve findings. His motion was to make the findings; that motion did not gather enough votes to pass. Historically, after such a vote, the applicant would go away and work on something to improve the environmental findings. His motion did not address the project whatsoever. The interpretation of staff was perhaps a little overreaching in his mind that, based on some discussion, the project was dead, never to be revived. He did not believe that position was shared by all the Board members. He felt the process the Board needed to follow was the process that it had historically followed. If the Board did not approve the findings, the applicant and staff should work together to come up with a better document.

Mr. Marshall commented that there were two very strongly held positions on the Board—that the project was killed or that it was not killed. What he was attempting to accomplish was to avoid having the Board decide the issue. Rather than have the Board use a lot of time and energy wrestling with this issue, he was suggesting avoiding the difficult question, because there was a way to work with the developer to withdraw the application if it were, indeed, deemed alive. This would put aside the question and provide the opportunity to move forward with the revised project for Board consideration.

Chairman Sevison suggested that if there were no policy or procedure to deal with this kind of situation he would like to see one developed for the future. As more infill and intense NIMBY issues came forward, this situation was bound to happen again. He did not like to see the Board so bifurcated over the issue of the appropriate level of environmental review.

Mr. Marshall suggested that after the vote in September staff should have asked for clarification from the Board on what the vote meant. Was it a rejection of substantive findings or rejection of the level of environmental review? This was not done, and staff instead made an assumption. In the future, staff would seek clarification from the Board.

Mr. Waldie suggested he would drop this matter, because it was not on the agenda. He had thought until he had discussed this with Agency Counsel a few days ago that staff was going to come to the meeting to report that the project was dead. In the ensuing days, as had been pointed out, there was a division among the Board members and Mr. Marshall was apparently persuaded by one side, contrary to the position he had taken.
earlier. Nothing could be done about that at this meeting, since the matter was not on the agenda for action. Otherwise he would make a motion that the project was dead. He had never seen in his time on the Board a project that had stuck around as long as this one. It was killed in his view with issue after issue, yet it kept coming back in the desperate hope that there would be enough votes to pass it. The Board looked as awkward as it had ever looked on this issue and on this project.

Mr. Marshall disagreed with the characterization that his position had shifted. It had remained constant. The direction was to bring that position back. Staff made a determination that, rather than putting the Board through the exercise, staff could find a way to avoid having the Board make the determination and possibly end up in the same place.

Dr. Miner asked what would have happened in September if nothing had occurred after the Board’s failure on the findings. He questioned how many days after that action the application would die, if there were no further action after that one vote.

Mr. Wells explained that the precedent until this project was that if the environmental findings were not made the project was dead. There was precedent for that. In this case, however, staff made the interpretation that the denial was based on rejection of the level of the environmental documentation, because, as suggested by the minutes of the hearing, that was the primary issue. Staff would be seeking clarification of this in the future should similar votes occur. In the past, when Gary Owen, former Agency Counsel, was advising the Board, he would ask the Board to make the second vote and not stop at the findings vote. This raised the potential, however, of approving a project without making the findings. It could not be done.

Mr. Marshall explained it placed the Board members in a difficult position if they felt that all that was lacking for a project was adequate documentation, that the Board members wished the project to come back with additional documentation. He did not think this necessarily was the cleanest way to go. He preferred in the case of a rejection of findings to seek clarification on the Board’s reasons.

Chairman Sevison suggested there needed to be an automatic guideline should this occur again. It was appropriate in the future should the Board reject the level of environmental review that the process go on to the next step and the next level of environmental review. That should be the next automatic step.

Mr. Marshall responded that the problem with this approach was that some Board members may be voting to reject the findings because they felt that no level of environmental review was sufficient to make the finding of no significant environmental effect. In his opinion, the best approach should this occur again was to seek direction when the Board rejected the dual finding motion.

Mr. Harper suggested that this discussion related to a general policy determination and should not be conducted in the context of a specific project. Mr. Marshall was suggesting that the Board may not have to approach this particular project over that issue any longer, because the applicant was prepared to come back with an entirely new project. If that occurred, there should be a clear understanding that the applicant had withdrawn the current proposal and that there was not something lurking behind the new proposal. There should be no way to revive the earlier project.
Chairman Severson expressed a concern that the applicant may be encouraged to present a new project with a full environmental review when there may be a nucleus of Board members who did not wish to see any project developed on the property.

Mr. Marshall urged the Board to distinguish between the zoning on the property and the particular project. If the Board felt the zoning was incorrect and should be amended to preclude a residential development, the Board needed to provide staff with direction to come back with a plan amendment to accomplish that. In this area, the Board recently changed the zoning from Conservation to Multi-Family. He was sure Mr. Borelli did not harbor any illusions about the difficulty of getting a project through the process but that did not necessarily mean that there was a project that would be acceptable to the Board in some form — it may just not be the one Mr. Borelli wanted to bring forward.

(This was a status report item only. The Board took no action.)


Acting Executive Director Jerry Wells distributed a map showing Priority 1 Watershed areas where BMPs were to be implemented by October 2000. In March the staff would provide the Board with a more formal presentation on the BMP retrofit program being coordinated with the Resource Conservation Districts. In response to Board member questions about what notice was provided to affected property owners, Mr. Wells updated the Board on previous notice and on what was anticipated this spring and summer. BMP retrofits on residential properties were required by the Code in all watersheds. The ordinance required that by October of 2000 all properties within Priority 1 Watershed areas should be retrofitted with BMP improvements. In 1997, the Board changed the required compliance date from 1999 to October 2000. The October 15, 2000, date applied to Priority 1 Watersheds; the Priority 2 date was 2006, and Priority 3 was 2011. These changes added a significant amount of time to achieve compliance. The RCDs were working in partnership with TRPA in this effort. The first basin wide mailing to Priority 1 property owners was in 1996, when over 7,000 targeted six-page mailers were sent advising of the dates. There also had been over 175 community BMP presentations to various homeowner groups around the Basin, both by TRPA and RCD staffs. Over 6,000 "windshield" site evaluations had been done by TRPA to look at properties in the field. A "Tahoe Landscape" informational insert was placed in local mailboxes during the spring and summer of the last four years. This educational booklet addressed the advantages of BMPs. Additionally, IVGID had been active in informing its residents of the requirements. Most of Incline and Crystal Bay were in the Priority 1 area. There had been a lot of media coverage, and a community survey some time ago indicated that the general public was quite knowledgeable on the subject. Much of Incline, which was Priority 1, was primarily new development and under TRPA permit. BMPs were required as a part of these permits. Staff did not anticipate a big need for retrofitting in Incline. The effort would be fairly focused. In Douglas County, the Priority 1 areas were focused in the Zephyr Cove and Cave Rock areas. A low interest loan program had been developed in California where individual property owners could work directly with their banks for loans to get the work done. Another mailing was planned for spring this year to all Priority 1 property owners. A guide to landscaping at Tahoe was being published through UNR Extension this spring, and numerous neighborhood meetings were being scheduled this spring and summer targeting affected residential areas. TRPA was scheduled to receive a $400,000 three-
year grant specifically for the BMP retrofit program to assist with staffing needs. From this grant, TRPA hoped to fund another position for the California RCD, similar to what was done on the Nevada side. TRPA staff had 2.5 person years devoted to this program and had recently entered into an agreement with AmeriCorps to have 75 percent of a new person’s time devoted to this. TRPA had prepared internally a BMP retrofit program public outreach plan for 2000 focused on how TRPA intended to get the word out to the public this spring and summer.

While she spoke in favor of what had been done, Ms. Bennett expressed some concern that, as TRPA and others were attempting to marshal community resources and buy-in for local revenue-generating programs, TRPA not take a heavy-handed approach with individual property owners if BMP retrofit were not completed by October 2000. At the March meeting, she would like the Board to provide staff with direction whether there should be a grace period so the public could become better informed and work on voluntary compliance. When there was resolution on the revenue generation study, some of the local revenues could possibly be accessed by local property owners in this program.

Mr. Wells agreed that the key to this was working with the RCDs to alleviate a heavy-handed, threatening approach. The homeowners were receptive to the RCDs involvement in this, because they were non-regulatory agencies. The more they could be used, the better.

Mr. Severson noted that wood burning and fireplace regulations came into play at point of escrow when properties were sold. He asked if it was possible to doing something similar with the BMP retrofit program.

Mr. Wells responded that this was discussed previously but was not supported by the Board. TRPA did have the ability to pursue a violation approach if it wished for non-compliance after October 15. That had not been the approach on this retrofit program, and staff was using a more educational, user-friendly approach. He recommended that this continue.

Mr. Severson suggested that if the Board did not wish to make these retrofits an escrow requirement it may be a disclosure element. Property owners should be notified as a part of disclosure that the requirements were imminent, and owners would be required to install BMPs.

Mr. Harper explained that one of Washoe County’s concern with the notice was that, even though there may be individual site assessments, property owners were not advised specifically of what they were obligated to do and what assistance was available. He would like to see some kind of grace period for those who were willing to retrofit their properties and who had made a legitimate effort to comply but who could not meet the timeline. He would agree with a more forceful approach only for those property owners who ignored the notice and requirement.

Governmental Affairs Coordinator Pam Drum explained that the point of sale possibility was raised in 1991. The BMP retrofit program was a result of the 1991 Threshold Evaluation Report, when it was determined that getting BMPs installed on private properties through the permit process was not going to get the job done quickly enough. There needed to be a reach out to those property owners who were not likely to come in
for any kind of a permit. TRPA discussed this with the real estate community at that time and had received very adamant opposition to the point-of-sale proposal. In the meantime, the real estate community had been very helpful in assisting with the distribution of thousands of homeowner guides to improving water quality. This was a six-page BMP brochure that many real estate agents used to meet their disclosure requirements. What the brochure said about enforcement was that TRPA was relying heavily on voluntary compliance and TRPA would give property owners a reasonable amount of time in which to react and respond to the requirements. After this point, TRPA would be on the lookout for problem properties, properties which presented a visible problem. Even then, the brochure called for TRPA to make a special effort to work with the property owner to resolve or fix the problem. The BMP brochure, which was available at local building departments, also included a do-it-yourself site assessment.

Prior to the lunch recess, Chairman Severson asked that the Board act on Consent Calendar Item 6, since the necessary California quorum was present.

Consent Calendar Item 6. Wallace Theater Corporation (Office Depot), Commercial Modification, 1043 and 1053 Emerald Bay Road, City of South Lake Tahoe, El Dorado County APNs 23-430-21 and -36

MOTION by Dr. Miner to approve consent calendar item 6. The motion carried unanimously. (Members present: Miner, Harper, Bennett, Waldie, McElhany, Giles, Sandoval, Solaro, DeLanoy, Perock, Cole, Severson) Members absent: Medina, Neft)

The Board meeting recessed for a lunch break from 12:10 to 1:10 p.m. The Legal Committee met during the lunch break.

Consent Calendar item 3. – Phillips, Resolution of Enforcement, Grading Violation, Placer County APN 94-223-09

MOTION by Dr. Miner to approve the recommendation of the Legal Committee. The motion carried unanimously. (Members present: Harper, Bennett, Waldie, McElhany, Giles, Sandoval, Solaro, DeLanoy, Perock, Miner, Severson) (Members absent: Cole, Medina, Neft)

X. REPORTS (continued)

B. Legal Division Monthly Status Report

Agency Counsel John Marshall brought the Board up to date on several items: 1) TRPA was now being represented by one law firm in its inverse condemnation takings cases; and 2) the agenda did not contain a discussion on proposed IPES system changes, because a working group was meeting on February 24 to discuss the issues; staff would update the Board at a later meeting.

C. Governing Board Members

Mr. Perock advised that the Nevada Oversight Committee had a good meeting on February 18 and was receptive to the EIP. There was some indication that the Committee would like to meet with its counterpart in the California legislature in an effort
to achieve more coordination between the states. The next Oversight meeting was scheduled for March 31, at which time the Committee would be preparing recommendations for presentation to the Nevada Legislature.

Mr. Giles apologized to the Board for his schedule and the difficulty with him being at some of the previous Board meetings. This morning he was up at 4 a.m. to be at the meeting on time; his delay was due to problems with the airplane.

Mr. DeLaney advised he was still working on the Round Hill research facility concept, and U.C. Davis, UNR, and the Desert Research Institute had signed a written agreement. It looked like things were moving forward to get private funds for the site.

Ms. Bennett commented on the success of the recent Nevada Oversight meeting and her suggestion for an allocation to the counties for a revolving loan fund to accomplish BMP retrofits - similar to what was available in California. TEAM Tahoe was scheduled to met on February 29 to select a consultant for the beach access plan. The TAN group was involved as were local high school students. She had attended a recent affordable housing meeting and was pleased with how it was proceeding.

Mr. Waldie commented that he had looked into the issue raised earlier by member Terry Giles regarding the ability of the California Senate Rules, the California Assembly Speaker, and the California Governor to appoint alternates to the TRPA Board. The Senate Rules Committee had obtained a legal opinion from the Legislative Counsel Bureau noting that the Assembly and the Senate Rules were able to appoint alternates. The question of the gubernatorial appointees was not as clear and would require a compact amendment. He had asked Senator John Burton to select such an alternate for his position. Although Senator Burton had not responded as of last week, he felt confident the appointment would move forward comfortably.

Agency Counsel John Marshall commented there was some difference of opinion on this issue, given the failure of Congress to ratify the amendments for the Speaker and Rules alternates. Staff would need to pursue this further. The issue of an alternate for the Nevada at-large member came up at an earlier Nevada Tahoe Regional Planning Agency (NTRPA) meeting, and Pam Wilcox, staff for the NTRPA, was going to ask the Nevada Attorney General to look into it. A status report on these efforts should be brought to the Board in the next month or two.

Mr. Waldie asked that any legal opinion contrary to the one he had obtained be provided to him.

Mr. Giles explained he had been working with the California Governor's Office to get alternates. He would provide TRPA staff with the name of the person on the Governor's staff assigned with that task. It was his understanding a Governor-appointed alternate would take legislative action.

Dr. Miner, a member of the Nevada Tahoe Conservation District as well as the TRPA Board, advised that the NTCD recently received a $17,000 grant from TRPA to assist with implementation of the BMP retrofit program. Whatever TRPA could do as a Board to get more money to assist with this program would be appreciated. Typically, site retrofits cost between $300 and $500, and the more that was done to implement small projects, the more there would be community support.
Mr. Cole commented on the earlier discussions regarding the IPES program and the need to find creative incentives for sensitive lot owners to sell. This would lead to lowering of the IPES line and acceleration of the program. His proposal, which was originally brought up in 1996, would increase allowable coverage on urbanized residential sites to something like 50 percent, the same as for commercial sites. This additional coverage would have to come from a sensitive hydrologic area. This would create a new market and a new value for these lands and would provide for urban infill. He would like to get staff assistance in preparing a proposal for the Board in the next few months. He had discussed this briefly with California Deputy Attorney General Dan Siegel, and he had expressed some interest in it. Such a proposal would require a 208 Plan amendment. When he and former Board member John Upton brought this up in 1996, it was put on a slow track 208 amendment list along with other amendments and had been languishing since then. If implemented, it would accomplish several goals. It would increase demand for acquisition of sensitive lots. Lot owners would not have to pay $10,000 to $15,000 for entire lots if all they needed was 200 or 300 square feet of coverage. These hundreds of potential purchasers would give the program a real boost. This proposal would accelerate the BMP retrofit program. There now was not much incentive for people to retrofit, and many 50-year-old houses were accessed by dirt driveways. Parking pads could not be expanded and cars were parked in the dirt because the maximum 30 percent coverage had already been achieved. If property owners could buy extra coverage, it could be used on the condition that the entire residential site would be brought up to standard. The proposal would encourage redevelopment of existing residences over development of vacant lots. Many former summer-only vacation homes were now being occupied year-around. Many were small and were not able to expand under current rules. These units were often rented out and languishing, particularly in the South Shore area. He would like to see some incentive for these owners to upgrade their properties and bring them into compliance. Many of these units had illegal parking on the dirt, storage sheds, and illegal additions and decks. A program to offer 300 to 400 square feet of coverage for these properties would encourage compliance and BMP retrofits. There was little downside. He asked the Board to authorize staff to work with him to make a formal presentation to the Board.

Mr. Marshall explained that Mr. Cole’s proposal was on a list of items that were being worked through as part of the major 208 Plan update. It was a question of work load allocation. The IPES issue was pulled out from that overall update and would also require a 208 Plan amendment. It was a question of whether this proposal was worth splitting off as another issue to treat on a different track. This would require staff to refocus on a new, isolated task; reassignment of staff was a Board decision. This proposal was controversial and would not be an easy thing to work through. He had not discussed this yet with the California AG’s office or the League to Save Lake Tahoe to see if they felt this was something that could be moved through relatively easily. If it ran into objection, it would not be an easy process. Staff’s position was to keep it with all the other issues that would be discussed with the major 208 Plan update.

Mr. Cole explained that one of the reasons he had gotten on the TRPA Board was to pursue this issue. While land coverage had been a holy grail for a number of years, he felt it was time to look at it in terms of its effect on the total watershed and not just one small parcel. He would like an hour or so for Board discussion.
Ms. Bennett suggested that any Board member should have the ability to request something be placed on the agenda for discussion. She was interested in at least getting an understanding of the concept behind Mr. Cole's proposal.

Chairman Sevison directed that staff spend time with member Cole and put together an outline of what could be done and what seemed practical. This would be placed on the agenda for 30 minutes to an hour for Board discussion. At that point, the AG and the League could also look at it. The Board could then decide what it wished to do.

Acting Executive Director Wells suggested it may be appropriate to have the Advisory Planning Commission, the Agency’s more technical group, take this up before bringing it to the Board.

Mr. Cole asked that this come directly to the Board because of it was the policy-making body. If the Board wished to take it further, the APC could look at the nuts and bolts.

Mr. Harper noted that regular Washoe County Board member Jim Galloway apologized for not being present; he had an employee appreciation luncheon today.

Mr. Solaro noted the Executive Director Committee would be meeting immediately after adjournment of the Board meeting.

XI. ADJOURNMENT – The meeting adjourned at 1:35 p.m.

Respectfully submitted,

[Signature]

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, 368 Dorla Court, Zephyr Cove, Nevada.
MEMORANDUM

March 13, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: February Month-End Trial Balance and Revisions to TRPA FY 99-2000 Operating Budget

Requested Action: Staff will be discussing the February month-end trial balance and the budget revisions for FY 99-2000 with the Finance Committee prior to the full Board meeting on Wednesday, March 22. Requested action, should the Finance Committee concur, is receipt of the trial balance and approval of the budget revisions.

CONSENT CALENDAR ITEMS 1, & 2.
MEMORANDUM

February 16, 2000

To: TRPA Governing Board Sitting as the Regional Transportation Planning Agency

From: TRPA Staff

Subject: Resolution Allocating FY 1999-2000 State Transit Assistance (STA) Funds ($61,540) to Placer County for Operating Assistance of the Tahoe Area Regional Transit (TART) System

Proposed Action: To adopt the attached resolution approving the release of FY 1999-2000 State Transit Assistance (STA) funding to Placer County in the amount of $61,540 for operational support of the Tahoe Area Regional Transit (TART) system.

Staff Recommendation: Staff recommends the TRPA Governing Board, sitting as the Regional Transportation Planning Agency (RTPA), adopt the attached resolution.

Background: TRPA was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the California portion of the Lake Tahoe Region. Under this designation, TRPA is responsible for the administration of the Transportation Development Act (TDA) funds that are made available to support public transportation services. There are two sources of funds provided by the TDA: the Local Transportation Fund (LTF), and the State Transit Assistance (STA) fund.

The STA fund program was created under Chapter 161 of the Statutes of 1979 (SB 620). Funds from the program are derived from the statewide sales tax program. The money is appropriated to the Secretary of Business, Transportation and Housing Agency for allocation by formula to each RTPA. Staff recommends the allocation of STA funds based on the TDA Rules and Regulations and the objectives of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. A total of $123,080 is available for eligible claimants within the Tahoe Region. This has typically been split between the transit operators, which is the case this year.

Discussion: Placer County has submitted a claim for STA funds in the amount of $61,540 for operational support of the TART public transit system operated by Placer County in the North Shore area of the Lake Tahoe Region. TRPA staff has reviewed the claim submitted by Placer County. The claim is consistent with the Transportation Development Act Rules and Regulations, and is consistent with the goals and Policies of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. The findings of Subsection 6754(a) and (b) have been made, as identified in the attached Resolution.
Memorandum to TRPA Governing Board
FY 1999-2000 STA Allocation to Placer County
Page 2

If there are any questions regarding this agenda item, please contact Bridget Cornell at (775) 588-4547.
TAHOE REGIONAL PLANNING AGENCY SITTING AS THE
REGIONAL TRANSPORTATION PLANNING AGENCY

RESOLUTION NO. 2000-

A RESOLUTION APPROVING THE ALLOCATION OF FY 1999-2000
STATE TRANSIT ASSISTANCE FUNDS TO PLACER COUNTY ($61,540)

WHEREAS, the Tahoe Regional Planning Agency is designated by the State of California
as the Regional Transportation Planning Agency for the California portion of the Lake Tahoe
Region, and is responsible for allocating State Transit Assistance (STA) for the Tahoe Region; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of
the Regional Transportation Planning Agency for public transportation purposes; and

WHEREAS, there are STA funds in the amount of $123,080 for FY 1999-2000 available for
eligible claimants in the Tahoe Region; and

WHEREAS, TRPA has received an application for STA funds from Placer County to
provide operational assistance to the Tahoe Area Regional Transit (TART) system for service in
the Tahoe Region; and

WHEREAS, the required findings of Article 5, Section 6754 of the Transportation
Development Act Rules and Regulations have been made as follows:

Subsection 6754 (a)

1. The claimant's proposed expenditures are in conformance with the Regional
   Transportation Plan.

2. Fares charged by the transit claimant are sufficient to meet farebox ratio requirements
   applicable to the claimant.

3. The claimant is making full use of federal funds available under Urban Mass Transportation
   Act of 1964, as amended.

4. The sum of the claimant's allocations from LTF and STA funds does not exceed the
   amount the claimant is eligible to receive.

5. Priority consideration was given to claims to offset reductions in federal operating
   assistance and unanticipated increased costs for fuel, to enhance existing public
   transportation services, and to meet high priority regional public transportation needs.
Subsection 6754(b)

1. The operator has made a reasonable effort to implement any recommended productivity improvements.

2. The operator is not precluded from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license.

3. The claimant has submitted certification that the claimant is in compliance with Section 1808.1 of the Vehicle Code.

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, that FY 1999-2000 STA funds in the amount of $61,540 be released to Placer County to provide for operating assistance of the TART system.

PASSED AND ADOPTED this day of March, 2000, by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

__________________________________________

Don Miner, Vice-Chairman
Tahoe Regional Planning Agency
sitting as the Regional
Transportation Planning Agency
February 16, 2000

To: TRPA Governing Board Sitting as the Regional Transportation Planning Agency

From: TRPA Staff

Subject: Resolution Allocating FY 1999-2000 State Transit Assistance (STA) Funds ($61,540) to South Lake Tahoe for Operating Assistance of the South Tahoe Area Ground Express (STAGE)

Proposed Action: To adopt the attached resolution approving the release of FY 1999-2000 State Transit Assistance (STA) funding to the City of South Lake in the amount of $61,540 for operational support of the South Tahoe Area Ground Express (STAGE) transit system.

Staff Recommendation: Staff recommends the TRPA Governing Board, sitting as the Regional Transportation Planning Agency (RTPA), adopt the attached resolution.

Background: TRPA was designated by the State of California as the Regional Transportation Planning Agency (RTPA) for the California portion of the Lake Tahoe Region. Under this designation, TRPA is responsible for the administration of the Transportation Development Act (TDA) funds that are made available to support public transportation services. There are two sources of funds provided by the TDA: the Local Transportation Fund (LTF), and the State Transit Assistance (STA) fund.

The STA fund program was created under Chapter 161 of the Statutes of 1979 (SB 620). Funds from the program are derived from the statewide sales tax program. The money is appropriated to the Secretary of Business, Transportation and Housing Agency for allocation by formula to each RTPA. Staff recommends the allocation of STA funds based on the TDA Rules and Regulations and the objectives of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. A total of $123,080 is available for eligible claimants within the Tahoe Region. This has typically been split between the transit operators, which is the case this year.

Discussion: The City of South Lake Tahoe has submitted a claim for STA funds in the amount of $61,540 for operational support of the STAGE public transit system operated the City of the South Shore of the Lake Tahoe Region. TRPA staff has reviewed the claim submitted by the City of South Lake Tahoe. The claim is consistent with the Transportation Development Act Rules and Regulations, and is consistent with the goals and Policies of the Regional Transportation Plan – Air Quality Plan for the Lake Tahoe Region. The findings of Subsection 6754(a) and (b) have been made, as identified in the attached Resolution.
Memorandum to TRPA Governing Board
Allocation of FY 1999-2000 STA to the City of South Lake Tahoe
Page 2
If there are any questions or comments regarding this agenda item, please contact Bridget
Cornell at (775) 588-4547.
TAHOE REGIONAL PLANNING AGENCY SITTING AS THE
REGIONAL TRANSPORTATION PLANNING AGENCY

RESOLUTION NO. 2000-

A RESOLUTION APPROVING THE ALLOCATION OF FY 1999-2000
STATE TRANSIT ASSISTANCE FUNDS ($61,540)
TO THE CITY OF SOUTH LAKE TAHOE

WHEREAS, the Tahoe Regional Planning Agency is designated by the State of California
as the Regional Transportation Planning Agency for the California portion of the Lake Tahoe
Region, and is responsible for allocating State Transit Assistance (STA) for the Tahoe Region; and

WHEREAS, the STA fund is a discretionary fund and may be allocated at the discretion of
the Regional Transportation Planning Agency for public transportation purposes; and

WHEREAS, there are STA funds in the amount of $123,080 for FY 1999-2000 available for
eligible claimants in the Tahoe Region; and

WHEREAS, TRPA has received an application for STA funds from the City of South Lake
Tahoe to provide operational assistance to the South Tahoe Area Ground Express (STAGE)
transit system for service in the Tahoe Region; and

WHEREAS, the required findings of Article 5, Section 6754 of the Transportation
Development Act Rules and Regulations have been made as follows:

Subsection 6754 (a)

1. The claimant’s proposed expenditures are in conformance with the Regional
Transportation Plan.

2. Fares charged by the transit claimant are sufficient to meet farebox ratio requirements
applicable to the claimant.

3. The claimant is making full use of federal funds available under Urban Mass Transportation
Act of 1964, as amended.

4. The sum of the claimant’s allocations from LTF and STA funds do not exceed the amount
the claimant is eligible to receive.

5. Priority consideration was given to claims to offset reductions in federal operating
assistance and unanticipated increased costs for fuel, to enhance existing public
transportation services, and to meet high priority regional public transportation needs.
Subsection 6754(b)

1. The operator has made a reasonable effort to implement any recommended productivity improvements.

2. The operator is not precluded from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license.

3. The claimant has submitted certification that the claimant is in compliance with Section 1808.1 of the Vehicle Code.

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, that FY 1999-2000 STA funds in the amount of $61,540 be released to the City of South Lake Tahoe to provide for operating assistance of the STAGE system.

PASSED AND ADOPTED this _________ day of March, 1999, by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

__________________________
Don Miner, Vice-Chairman
Tahoe Regional Planning Agency
sitting as the Regional
Transportation Planning Agency
MEMORANDUM

March 14, 2000

To: TRPA Governing Board
From: TRPA Staff
Subject: Highlands Village, Land Capability Challenge, 3205 North Lake Boulevard, Placer County APNs 93-160-38 and -67

As a consequence of an administrative misunderstanding, the Highlands Village Land Capability Challenge, presented to the Governing Board in January 2000, was represented as involving APN 93-160-70 only. In actuality, the challenge involved three adjacent parcels and included APN 93-160-38 and APN 90-160-67. It is, therefore, the intent of this memo to identify this oversight and provide direction to the Governing Board to approve the two outstanding parcels with the same recommendation that was issued for the original challenge. Attached is a revision to the original staff summary that provides information for the initial approval, changing the land capability class from 5 to 6 for all three parcels.

If you have any questions in regard to this agenda item please feel free to contact Tim Hagan at 775-588-4547 ext. 275.
MEMORANDUM

March 14, 2000

To: TRPA Governing Board
From: TRPA Staff
Subject: Curiel, Land Capability Challenge, Highlands Village, 3205 No. Lake Boulevard, Placer County APNs 093-160-70, -38 and -67

Proposed Action: The applicant, Robert Curiel, requests that the Governing Board review the proposed Land Capability Challenge on the parcels and, if appropriate, approve it.

Staff Recommendation: The staff recommends that the Governing Board approve the land capability challenge for the parcels, changing the land capability class from 5 to 6.

Background: The subject parcels are shown as land capability class 5 on the TRPA Land Capability Overlay Maps. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places the parcels within the FuD (Fugawee very stony sandy loam, 2 to 15 percent slopes) and the UmD (Umpa very stony sandy loam, 5-15 percent slopes) soil map units. The FuD and UmD soil map units are consistent with the D1 (Toe Slope Lands) geomorphic unit classification. The UmD and FuD soils were formed in deposits derived from volcanic (pyroclastic andesite) sources.

A soils verification was completed on the parcels on November 15, 1999, and they were verified as land capability class 5. A land capability challenge was filed to confirm the soil series and land capability for the parcels.

Findings: The parcels are located at 3205 North Lake Blvd, Dollar Hill, Placer County. The parcels are mapped within geomorphic unit D1 (Toe Slope Lands) on the TRPA Geomorphic Analysis Map of the Lake Tahoe Basin. The soils investigation was completed by Tim Hagan, Associate Planner/Soil Scientist, and a report was prepared. Based on three hand excavated soil pits, a representative soil profile was described (see Attachment A). After visits to the parcels on November 15, 1999 the soils on APN 93-160-70, -38 and -67 were determined to be consistent with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974).

If you have questions on this agenda item, please contact Tim Hagan, at (775) 588-4547 ext. 275.

Attachments
ATTACHMENT A
November 15, 1999

SOIL INVESTIGATION FOR PLACER
COUNTY APNs 93-160-70, -38 and -67, 3205 North Lake Blvd.

INTRODUCTION
A soil investigation was conducted on APNs 93-160-70, -38 and -67, Placer County, on 11/5/99. The parcels are located on North Lake Blvd. in Placer County. A land capability verification was not conducted by TRPA staff on these particular parcels.

A land capability challenge was filed with TRPA in August 1999 to determine the appropriate land capability class for the parcels based on a soil investigation.

ENVIRONMENTAL SETTING
The parcels are shown as land capability class 5 on the TRPA Land Capability Overlay Map. The Soil Conservation Service Soil Survey for the Lake Tahoe Basin places these parcels within the FuG (FuG Fugaweew very stony sandy loam, 2-15 percent) and UmD (UmD very stony sandy loam, 5-15 percent) soil map units. The UmD and FuG soil map units are consistent with the D1 (Toe slope lands) geomorphic unit classification. The Umpa and Fugaweew soils formed in colluvial and residual deposits derived from volcanic (pyroclastic andesite) sources. The parcels are on a gentle southwest facing slope. The surface grade is 3 to 5 percent. The natural vegetation is composed of an overstory of Jeffrey pine, Incense cedar and White fir, with an understory of manzanita, sagebrush, mountain wiilethorn, Ceanothus prostratus and wyethia.

PROCEDURES
Three soil pits were dug on the parcels, using hand excavation. After examination of the pits, the soil was described in detail as representative of the soils on the parcels. A copy of this description is included in this report. Slopes were measured with a clinometer.

FINDINGS
One soil series was identified on the parcels. The soils on the parcels are generally deep and well drained. The soil is characterized as having a thin (Approx. 1") surface mantle of organic matter. The surface layer is a brown to dark brown gravelly sandy loam over a yellowish brown to dark yellowish brown gravelly sandy clay loam subsoil which extends to a depth of greater than 40 inches. This soil is similar to the Tahoma series listed in the Soil Survey for the Lake Tahoe Basin, and would be most accurately described as a Tahoma very stony sandy loam, 2 to 15 percent. The TbD soil map unit land capability class is 6, under the Bailey Land Capability Classification system.

CONCLUSION
Based on the results of the site visit, the soil on APN 093-160-70, -38 and -67 was determined to be most closely resembling the TbD (Tahoma very stony sandy loam, 2 to 15 percent) soil map unit, which is associated with land capability class 6, in accordance with the Land Capability Classification of the Lake Tahoe Basin (Bailey, 1974) and therefore is assigned 30% allowable coverage.

Tim Hagan, Associate Planner/ Soil Scientist
Representative Soil Profile: Pit 1

Soil Classification: (1999) Fine-Loamy, mixed, mesic frigid Ultic Haploxeralf
Soil Series: Tahoma
Soil Hydrological Group: B
Drainage Class: Well Drained

Oi  1 to 0 inches; Pine, cedar and fir litter.

A1  0 to 4 inches; brown (10YR 4/3) gravelly, sandy loam, very dark grayish brown (10YR 3/2) moist; weak very fine granular structure; soft, loose, nonsticky and nonplastic; common very fine and fine roots; common very fine and fine interstitial pores; 15 percent gravel; clear smooth boundary.

AB  4 to 15 inches; dark brown (10YR 3/3), gravelly sandy loam, very dark grayish brown (10YR 3/2) moist; weak fine granular structure; soft, friable, nonsticky and nonplastic; few medium roots; common very fine and fine roots, common very fine and fine interstitial pores; 20 percent gravel; clear smooth boundary.

Bt1  15 to 26 inches; brown (7.5YR 4/4) gravelly sandy clay loam, dark brown (7.5YR 3/4) moist; moderate fine and medium subangular blocky structure; slightly hard, friable, nonsticky and nonplastic; common very fine and fine and few medium roots; common very fine and fine tubular pores; common moderately thick clay films on ped faces and in pore linings; 20 percent gravel, 5 percent cobbles, gradual wavy boundary.

Bt2  26 to 41 inches; brown (7.5YR 5/4) gravelly sandy clay loam, brown (7.5YR 4/4) moist; weak fine and medium subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; common fine and few medium roots; common very fine and fine tubular pores; common moderately thick clay films on ped faces and in pore linings; 25 percent gravel, 5 percent cobbles gradual wavy boundary.

Btm  41+ inches; brown (7.5YR 5/4) gravelly sandy clay loam, brown (7.5YR 4/4) moist; massive; hard, friable, slightly sticky and slightly plastic; common moderately thick clay films on ped faces and in pore linings; 30 percent gravel, 10 percent cobbles.
TAHOE REGIONAL PLANNING AGENCY
STAFF SUMMARY

Project Name: Lira's Supermarket

Application Type: Commercial Addition and Rebuild, Plan Revision

Applicant: Yank's Station Limited / Lira's Supermarket

Applicant's Representative: Sue Abrams, Abrams Realty

Agency Planner: Kathy Canfield

Location: 2977 & 2981 Highway 50, Meyers, El Dorado County

Assessor's Parcel Number/Project Number: 34-270-49 / 990838

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

Project Description: This application is a plan revision to a previously approved project to construct a supermarket on the above referenced parcel. The previous Governing Board approval required the applicant to remove one of the existing three driveways accessing Highway 50. The applicant has submitted a plan revision application to retain all three driveways.

Site Description: The existing site is currently developed with commercial buildings and contains a large paved parking area. The site has been verified by TRPA to be Class 1b, Stream Environment Zone (SEZ). Surrounding land uses include commercial uses to the north, south and west, and a golf course to the east. A portion of the existing parking area serves the adjacent golf course.

Issues: The proposed project modifies a previous Governing Board approval. The previous approval required the applicant to remove one of the existing three driveways accessing Highway 50. The requirement to remove a driveway is consistent with the Meyers Community Plan and with Chapter 24 of the TRPA Code of Ordinances. The Meyers Community Plan identifies a need to reduce the number of vehicular access points and other points of conflict along Highway 50 and Chapter 24 of the TRPA Code of Ordinances states that two driveways shall be allowed unless a traffic analysis has been completed which discusses the need for additional driveways.

The reason for the limitation of ingress/egress points, not only on this property but all properties, relates to traffic movement. The more points of access, the greater the probability of vehicle conflicts and upset of traffic flow. The goal Basin-wide is to reduce the amount of access points that may have a negative impact on traffic.

The original traffic analysis did not include an analysis regarding the need to retain the three existing driveways. Revised traffic information has been submitted with this plan revision.

/kc
3/13/00

CONSENT CALENDAR ITEM NO. 6

15
application analyzing the impacts of closing any one of the three driveways. Concerns with closing any of the driveways include emergency vehicle access, queuing into parking and driveway areas that may interrupt the flow of onsite circulation, and the increase time to make left-hand turns from the site.

Staff has reviewed these concerns and because of the unique situation of this site, accepts the need for three access points. After discussions with the applicant, TRPA staff and Caltrans, an agreement to retain three driveways was reached based on the following rationale:

- The three driveways are existing and will serve two uses, a supermarket and the adjacent golf course.
- The separation between each driveway is over 100 lineal feet.
- The project site is long and narrow and contains existing development which causes problems with onsite circulation design.
- There is a concern that emergency vehicle access may be impacted if a driveway is removed.
- The middle driveway will be modified to be ingress access only. The width of the driveway will be designed to meet the Caltrans requirements for access for the "design vehicle". Directional signs will be added to the site and the pavement striped.
- The southern driveway (driveway closest to the golf course) will be egress access only and striped for both left and right turns out of the project area. The width of this driveway shall be 20 feet. Directional signs shall be added.

Staff Analysis:

A. **Environmental Documentation:** The applicant has completed an Initial Environmental Checklist (IEC) and a traffic analysis in order to assess the potential environmental impacts of the plan revision 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 and traffic analysis will be made available at the Governing Board hearing and at TRPA.

B. **Community Plan:** The project is located within the Meyers Community Plan, Special Area #1. The Land Use Classification is Commercial/Public Service and the 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 activity (food and beverage retail sales) is listed as an allowed use.

/kc
3/13/00

CONSENT CALENDAR ITEM NO. 6
C. **Land Coverage:**

1. **Land Capability District:**

   The TRPA verified land capability district of the project area is class 1b, Stream Environment Zone (SEZ). The total project area is approximately 79,324 square feet (1.82 acres).

2. **Existing Coverage:**

   - A/C Driveway/Parking: 58,679 square feet
   - Compacted Dirt: 1,225 square feet
   - Buildings: 9,777 square feet
   - Covered Walk: 56 square feet
   - Wood Decks & Steps: 459 square feet
   - Total Onsite: 70,196 square feet

3. **Proposed Coverage:**

   - A/C Driveway/Parking: 54,055 square feet
   - Buildings: 13,072 square feet
   - Covered Walk: 56 square feet
   - Wood Decks & Steps: 459 square feet
   - Concrete Pad: 96 square feet
   - Total Proposed: 67,738 square feet*

*This number is based on the statement that the compacted dirt area be revegetated as stated on the submitted landscape plan. If additional land coverage is proposed to be removed to accommodate the required BMPs, driveway modifications and landscaping, the above land coverage calculations shall be revised accordingly. In no case shall the total proposed land coverage for the parcel exceed 70,196 square feet.

4. **Allowed Coverage:** 79,324 s.f. x 1% = 793 square feet

5. **Coverage Mitigation:**

   Based on the above coverage figures, the project area currently contains excess land coverage. To mitigate the excess land coverage, the applicant shall be required to either pay a mitigation fee, or reduce existing coverage pursuant to Subsection 20.5 of the TRPA Code of Ordinances. Land coverage proposed to be removed for this project may be applied towards the excess coverage mitigation requirement.

D. **Building Height:** Based on a flat building, and a 3:12 pitch, the maximum allowed height for the proposed building is 27 feet, 7 inches. The proposed building addition has a maximum building height of 20 feet, 4 inches which meets this requirement. Two
existing buildings that will remain do exceed the allowable height, however, modifications to these buildings involve interior and façade changes only and do not create a more non-conforming height situation.

E. Required Findings: The following is a list of the required findings as set forth in Chapter 6 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 use for the site is a market which the Meyers Community Plan identifies as an allowed use for Special Area #1, Yank’s Station. In addition, the Community Plan encourages a full-service community market to be located in Meyers and rehabilitation of existing sites. The proposed project is consistent with both goals.

   (b) Transportation: The applicant has submitted additional information to the previously submitted traffic analysis to evaluate the potential impacts of the retaining three driveways accessing Highway 50. A discussion of the additional traffic information conclusions is included in the Issues Section of this staff summary. An estimated 1,756 additional daily vehicle trip ends (dvte) will be generated as a result of the project. The applicant will be required to mitigate all dvte generated as a result of this project.

   (c) Conservation: This project is visible from Scenic Roadway Unit 36, (Highway 50) which is not in scenic attainment. The applicant has submitted photographs of the site viewed from Highway 50, and along with the improvements identified in the Meyers Community Plan, the proposed project is estimated to provide an improvement to scenic quality. The site improvements include landscaping, façade modifications and sign retrofit, along with Best Management Practices. There are no known special interest species, sensitive or uncommon plants, or cultural or historical resources impacted by the project.

   (d) Recreation: This project does not involve any recreation facilities or uses. An existing access way to the golf course (located to the east of the property) will remain unchanged.

   (e) Public Service and Facilities: No additions to public services or facilities are required for this project. The applicant has reserved space near the store entrance for the proposed Coordinated Transit System (CTS).

   (f) Implementation: This project does not require any allocations of development. The applicant has proposed to add 500 square feet of commercial floor area to the site by utilizing Subsection 33.3.A(2)(b)(ii)
which allows for a one-time in 10 year period expansion of 5% of the total floor area, or 500 square feet, whichever is less.

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.)

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 found in the attached draft permit.
DRAFT PLAN REVISION PERMIT

PROJECT DESCRIPTION: Lira's Supermarket

PERMITTEE(S): Yank's Station Limited

COUNTY/LOCATION: El Dorado/2977 & 2981 U.S. Highway 50, Meyers

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the plan revision project on March 22, 2000, subject to the standard conditions of approval attached hereto (Attachment Q), the original permit dated August 25, 1999, and the special conditions found in this permit.

This plan revision permit shall expire on August 25, 2002, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT AND A TRPA PREGRADING INSPECTION HAS BEEN CONDUCTED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT.

_____________________________ Date

TRPA Executive Director/Designee

_____________________________

PERMITTEE'S ACCEPTANCE: 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 the conditions of the permit and am responsible for my agents' and employees' compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) Date

PERMIT CONTINUED ON NEXT PAGE

/kc
3/13/00

CONSENT CALENDAR ITEM NO. 6

20
DRAFT

APN 34-270-49
FILE NO. 990838

Air Quality Mitigation Fee: Amount $43,900 Paid _______ Receipt No. _______
Excess Coverage Mitigation Fee: Amount $ * Paid _______ Receipt No. _______
Security Posted: Amount $ * Posted _______ Receipt No. _______ Type __________
Security Administrative Fee: Amount $ ** Paid _______ Receipt No. _______

* To be determined.
** $135 if cash security posted, $65 if non-cash security posted, please see Attachment J.

Required plans determined to be in conformance with approval: Date: ________

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

TRPA Executive Director/Designee ___________________________ Date __________

SPECIAL CONDITIONS

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

2. This plan revision permit is to retain three existing driveway access points to Highway 50 in conjunction with the construction of Lira’s Supermarket. The project includes the modification of two existing buildings to be connected by a new addition, installation of landscaping and Best Management Practices (BMPs) and 500 square feet of new commercial floor area added to the site subject to TRPA Code of Ordinances Subsection 33.3.A.2(b)(ii).

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

   A. The site plan shall be revised to include:

      (1) Revised driveway widths for the middle and south driveways. The south driveway shall be 20 feet in width and egress only and the middle driveway shall conform to the Caltrans requirement for width depending on the "design vehicle" dimensions and be ingress only. The land coverage calculations for the project area shall be modified accordingly.

/kc
3/13/00

CONSENT CALENDAR ITEM NO. 6
In no case shall the proposed land coverage for the site exceed 70,196 square feet.

(2) A detail of the directional signs and pavement striping shall be provided for TRPA review and approval. All directional signs shall be in conformance with the Meyers Community Plan and Chapter 26 of the TRPA Code of Ordinances.

B. All other conditions of approval, as outlined in the original permit dated August 25, 1999 (except those modified by the above conditions) remain in effect and are considered conditions of approval for this plan revision permit (copy enclosed with permit).
MEMORANDUM

March 13, 2000

To: TRPA Governing Board

From: Jon-Paul Harries, Associate Planner
Project Review Division

Subject: Dakin and Johnson, New Multiple-Use Pier, 8632 and 8634
Brockway Vista Avenue, Placer County, Assessor’s Parcel
Numbers (APNs) 090-141-36 and –37.

This project has been continued until the April Governing Board hearing to allow staff
and the applicant to work on outstanding project issues.

JPH

CONSENT CALENDAR ITEM 7

Planning for the Protection of our Lake and Land
MEMORANDUM

March 14, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Lake Tahoe Community College, Public Service Addition (Physical Education Building and Cafeteria), Al Tahoe Boulevard and College Drive, El Dorado County APN 25-041-10

This project is being continued until the April Governing Board meeting at the request of the applicant.

CONSENT CALENDAR ITEM 8.

Planning for the Protection of our Lake and Land
March 8, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Release of Water Quality Mitigation Funds (Bitterbrush Settlement) in the amount of $325,000 to Washoe County for the Fairview / Incline Village Tourist Water Quality Improvement Project.

Proposed Action: Authorize the release of $325,000 in water quality mitigation funds (Bitterbrush Settlement) to Washoe County for the above mentioned project.

Staff Recommendation: Staff recommends granting the release of all funds subject to the conditions cited below.

Summary: Washoe County has contracted with Harding Lawson Associates for the development of this project this year, for construction in the year 2001. The Fairview / Incline Village Tourist Project is essentially all of project #230 (formerly referred to as Chateau / Country Club) and most of project #122 (Incline Village Tourist) in the Environmental Improvement Program. See map attached. These project areas were refined using the CIP Needs Inventory, and are on the Washoe County five year list of CIP Projects. This project will include source control and revegetation, runoff control and water quality treatment. The preliminary cost estimate for this project is $1,300,000.

Staff recommends approval of release subject to the conditions cited below.

Conditions:

1. The County shall only use the funds for the Fairview / Incline Village Tourist Project approved by TRPA.

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

3. Any unused mitigation funds shall be returned to TRPA, or TRPA approval shall be acquired before their re-allocation to another project is made.

4. Signage used to identify the project(s) during construction shall include all funding sources.

If you have any questions regarding this item please contact Larry Benoit, Associate Planner, at (775) 588-4547.
March 7, 2000

Tahoe Regional Planning Agency
PO Box 1038
Zephyr Cove, Nevada 89448

ATTN: Larry Benoit

SUBJECT: WATER QUALITY MITIGATION FUNDS (Bitterbrush Settlement)
FAIRVIEW/INCLINE VILLAGE TOURIST
WATER QUALITY IMPROVEMENT PROJECT

Dear Mr. Benoit:

Washoe County has entered into an agreement with Harding Lawson Associates for the design and construction management of the referenced erosion control project in Incline Village. The project includes portions of #122 in the TRPA Environmental Improvement Program (see attached map of the proposed boundaries). The proposed schedule for construction is Summer 2001.

The County hereby requests $325,000 from our Water Quality Mitigation fund (Bitterbrush Settlement) for the project. The project may include pipe, catch basins, curb and gutter, retaining walls, detention basins and vegetation. The preliminary project cost estimate is $1,300,000.

Thank you for your support. If you have any questions or require additional information, please call me.

Sincerely,

DAVID T. PRICE, P.E.
County Engineer

KIMBLE O. CORBRIDGE, P.E.
Registered Engineer

Attachment
KOC/vp
MEMORANDUM

March 14, 2000

TO: Tahoe Metropolitan Planning Organization
    Tahoe Regional Planning Agency

FROM: Richard Wiggins, Transportation Programs Manager

SUBJECT: Agenda of the Tahoe Transportation District/Tahoe Transportation Commission, February 11, 2000 and March 10, 2000 Meeting

Proposed Action: Review of the attached TTD/TTC Agenda and Action Sheet from the February 11, 2000 and March 10, 2000 meetings, and review of items presented.

Staff Recommendation: Seek clarification as necessary.

If there are any questions regarding this agenda item, please contact Richard Wiggins at (775) 588-4547.
I. TAHOE TRANSPORTATION DISTRICT AND TAHOE TRANSPORTATION COMMISSION CALL TO ORDER AND GENERAL MATTERS

A. Roll Call and Determination of Quorum
B. Approval of Agenda for February 11, 2000
C. Approval of Minutes of January 14, 2000

II. PUBLIC INTEREST COMMENTS (No Action)

III. CONSENT CALENDAR

No Items

IV. PLANNING AND PROGRAMMING MATTERS

A. Recommendation Regarding the Programming of Congestion Mitigation and Air Quality Program Funds (TTC)
B. Discussion Regarding the Federal Transportation Plan and Federal Transportation Improvement Program, as well as the Regional Transportation Planning Process (TTC)
C. Discussion Regarding the FY 2000 Federal Appropriations for Tahoe (TTC)

V. OPERATIONS AND PROJECT MATTERS

A. Report by Caltrans Regarding Potential Enhanced Delivery of SR 28 Rehabilitation Project (TTC)
B. Call for Projects – California Transportation Enhancement Activities Program (TTC)

VI. POLICY MATTERS

A. Review Results of January Workshop, Including Mission Statement, Vision Statement, and Development of a Working Group/Subcommittee to Explore Project Facilitator Funding and Job Description (TTD/TTC)

RW:jrwb

AGENDA ITEM VII.B.

34
B. Resolution Authorizing the Filing of Grant Applications and the Execution of Grant Agreements with the Federal Transit Administration (TTD)

VII. REPORTS AND INFORMATIONAL ITEMS

A. Finance Committee
B. Transportation Technical Advisory Committee
C. Board and Commission Members
D. Tahoe Regional Planning Agency and Staff

VIII. ADJOURNMENT OF THE TAHOE TRANSPORTATION DISTRICT AND THE TAHOE TRANSPORTATION COMMISSION

XI. ATTACHEMENTS

The next Meeting of the Tahoe Transportation District and the Tahoe Transportation Commission will be held Friday, March 10, 2000, beginning at 9:00 a.m., at the offices of Tahoe Regional Planning Agency, 308 Doria Court, Zephyr Cove, NV. (Regular TTD and TTC Board meetings are held on the second Friday of each month).
<table>
<thead>
<tr>
<th>ITEMS</th>
<th>ACTION TAKEN</th>
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<tr>
<td>TTD/TTC Public Interest Comments</td>
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<tr>
<td>TTD/TTC Planning and Programming Matters</td>
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<tr>
<td>A. Recommendation Regarding the Programming</td>
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<td>Of Congestion Mitigation and Air Quality Funds (TTC)</td>
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<tr>
<td>B. Discussion Regarding the Federal Transportation Plan</td>
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<tr>
<td>And Federal Transportation Improvement Program, as well</td>
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<td>As the Regional Transportation Planning Process (TTC)</td>
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<td>C. Discussion Regarding the FY 2000 Federal Appropriations</td>
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<td>For Tahoe (TTC)</td>
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<td>TTD/TTC Operations and Project Matters</td>
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<td>A. Report by Caltrans Regarding Potential Enhanced Delivery</td>
<td>Received</td>
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<td>Of SR 28 Rehabilitation Project (TTC)</td>
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<td>B. Call for Projects – California Transportation Enhancement</td>
<td>Received</td>
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<td>Activities Program (TTC)</td>
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<td>TTD/TTC Policy Matters</td>
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<tr>
<td>A. Review Results of January 2000 Workshop, Including Mission</td>
<td>Adoption</td>
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<tr>
<td>Statement, Vision Statement, and Development of a Working Group</td>
<td>Approved</td>
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<tr>
<td>Subcommittee to Explore Project Facilitator and Job Description</td>
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<tr>
<td>B. Resolution Authorizing the Filing of Grant Applications and the</td>
<td>Approved</td>
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<tr>
<td>Execution of Grant Agreements with the Federal Transit Administration</td>
<td>w/ edit</td>
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Reports and Informational Items                                      Received

Adjournment with discussion of upcoming meeting scheduled             
For March 10, 2000
TAHOE TRANSPORTATION DISTRICT (TTD)  
TAHOE TRANSPORTATION COMMISSION (TTC)  
AGENDAS  

Tahoe Regional Planning Agency  
308 Doria Court  
Zephyr Cove, NV  
(775) 588-4547  

9:00 a.m.  
March 10, 2000  

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

I. TAHOE TRANSPORTATION DISTRICT AND TAHOE TRANSPORTATION COMMISSION CALL TO ORDER AND GENERAL MATTERS  

D. Roll Call and Determination of Quorum  
E. Approval of Agenda for March 10, 2000  
F. Approval of Minutes of February 11, 2000  

VI. PUBLIC INTEREST COMMENTS (No Action)  

VII. CONSENT CALENDAR  

No Items  

Recommendation  

VIII. PLANNING AND PROGRAMMING MATTERS  
A. Review and Possible Action Regarding Amendments to the TTD FY 1999/2000 Budget and Adoption of the 2000-2001 Budget  

B. Recommendation Regarding the Amendment of the FY 1999/2000 Overall Work Program  

IX. OPERATIONS AND PROJECT MATTERS  
A. Discussion Regarding SR 28 Eastshore Access Plan, Lake Tahoe License Plate Fund, and NV Oversight Committee of the TRPA  

B. Discussion Regarding ITS Strategic Plan  

VI. POLICY MATTERS  
A. Review and Possible Action Regarding the Draft Road Marker Maintenance Agreement  

B. TRPA Status Report on the Transportation Projects Coordinator Position  

C. Discussion and Possible Action Regarding Disposition of TTD Computer
IX. REPORTS AND INFORMATIONAL ITEMS

D. Finance Committee

E. Transportation Technical Advisory Committee

F. Board and Commission Members

D. Tahoe Regional Planning Agency and Staff

X. ADJOURNMENT OF THE TAHOE TRANSPORTATION DISTRICT AND THE TAHOE TRANSPORTATION COMMISSION

The next Meeting of the Tahoe Transportation District and the Tahoe Transportation Commission will be held Friday, April 14, 2000, beginning at 9:00 a.m., at the City of South Lake Tahoe, Administrative Center Conference Room, 1052 Tata Lane, So. Lake Tahoe, CA. (Regular TTD and TTC Board meetings are held on the second Friday of each month).
TAHOE TRANSPORTATION DISTRICT
TAHOE TRANSPORTATION COMMISSION
Board of Directors Meeting

March 10, 2000
Action Sheet

ITEMS

TTD/TTC Public Interest Comments

ACTION
Received

TTD/TTC Planning and Programming Matters

A. Review and Possible Action Regarding Amendments to
The TTD FY 99/00 Budget and Adoption of the 00/01 Budget

ACTION
Approval to 99/00 w/edit

B. Recommendation Regarding the Amendment of the FY 99/00 OWP

ACTION
Approval

TTD/TTC Operations and Project Matters

A. Discussion Regarding SR 28 Eastshore Access Plan, Lake Tahoe
Tahoe License Plate Fund, and NV Oversight Committee of the TRPA

ACTION
Received

B. Discussion Regarding ITS Strategic Plan

ACTION
Received

TTD/TTC Policy Matters

A. Review and Possible Action Regarding the Draft Road Marker
Maintenance Agreement

ACTION
Approved

B. TRPA Status Report on the Transportation Projects Coordinator
Position

ACTION
Report Received

C. Discussion and Possible Action Regarding Disposition of TTD
Computer

ACTION
Approval

TTD/TTC Reports and Informational Items

ACTION
Report Received
March 2, 2000

To: Tahoe Metropolitan Planning Organization

From: Transportation Staff

Subject: Amendment of the FY 1999/2000 Tahoe Transportation Overall Work Program

Action Requested: Staff request that the TMPO Board adopt the proposed amendments.

Staff Recommendation: Staff recommend that the proposed amendments be adopted.

Discussion: The Overall Work Program (OWP) is a programming document adopted each year indicating how and where transportation funds will be spent during the fiscal year. As the year progresses, changes in funding, work elements or products necessitate that the OWP be amended to reflect reality, much as an agency budget needs amended during the year.

On March 1, 2000 TRPA staff met with representatives from Caltrans and NDOT to review the mid-year progress of the OWP. Based on that meeting, and on known changes to the funding situation, the following amendments are proposed.

1. Work Element 103: Transportation Planning
   a. Amend Revenue to reflect an additional $180,000 in Public Lands Highways – Forest Highways funds.
   b. Amend Tasks and Work Products to reflect the programming of these funds for the Tahoe Transportation Plan update.
   c. Amend Expenditure to reflect that all funds are for consultant work.

2. Work Element 108: Intelligent Transportation Systems – Strategic Plan
   a. Amend Expenditures to reflect $5,000 for TRPA staff.
   b. Amend Tasks and Work Products to reflect completion of ITS Needs Assessment.

Financial tables from the OWP are attached to show where the amendments apply. Amended amounts are shown in italics.

If you have any questions, please feel free to contact Bridget Cornell at (775) 588-4547.

RW:jrwb
## TRANSPORTATION PLANNING REVENUES

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<th>FUNDING SOURCE</th>
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<td>Transportation Development Act (TDA)</td>
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<td>- FY 1998-99 Carryover (NV)</td>
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<td>- CA SP&amp;R</td>
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## TRANSPORTATION PLANNING EXPENSES

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**TOTAL:** $1,369,145
### REVENUES BY WORK ELEMENT

#### TRPA OWP FY 1999-2000

**Revenue Summary by Work Element**

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<th>FHWA Planning</th>
<th>Public Lands Highway</th>
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<th>FAA</th>
<th>SP&amp;R (ITS SDP)</th>
<th>TRPA GENL. FUND</th>
<th>SP&amp;R (CA) Regional Revenue</th>
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Notes:
## EXPENDITURES BY WORK ELEMENT

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MEMORANDUM

March 13, 2000

To: Tahoe Metropolitan Planning Organization

From: TRPA Staff

Subject: Adoption of the Preliminary Draft FY 2000 -2001 Tahoe Transportation Planning Overall Work Program

Proposed Action: Review the proposed Preliminary Draft FY 2000 -2001 Overall Work Program for Transportation Planning and adopt the attached resolution.

Staff Recommendation: Staff recommends the TMPO adopt the Preliminary Draft FY 2000 -2001 Transportation Planning Overall Work Program by approving the attached resolution.

Background: Each year TRPA is required to adopt an Overall Work Program (OWP) that describes the TRPA transportation planning program. The OWP must include all transportation revenues and expenditures, and describe work elements within the OWP that staff will complete during the fiscal year. In addition, the OWP must now meet federal requirements of metropolitan planning organizations.

The Preliminary Draft is being presented as part of the new TMPO review process established by federal and state agencies. The Preliminary Draft is reviewed and commented upon, and a draft final will be presented to the TMPO that has incorporated these comments. The final FY 2000-2001 OWP will be presented to the TMPO Board at a later meeting.

The proposed FY 2000 -2001 OWP includes $1,217,899 in revenues and expenditures. As this is a Preliminary Draft, several assumptions have been built into the program. Notably, discretionary grants are included, but may be removed before the final OWP is adopted once their availability is determined. The Preliminary Draft OWP includes funding from eighteen different sources. This includes PL funds (available to MPOs for transportation planning) from California and Nevada, as well as special discretionary funding sources. There are several special funding sources programmed to complete specific projects, including funds from the Federal Aviation Administration and the Nevada License Plate Fund.

$479,691 is budgeted to be applied to staff salaries and benefits. This amount slightly higher than last year. Position vacancies remain, and staff continue to pursue recruiting for these vacant positions.

RW:jrwb

AGENDA ITEM VII.D.

47
This OWP includes work tasks that are the responsibility of the TMPO, TRPA, Tahoe Transportation District and the advisory bodies to each of these entities. The OWP describes the role and responsibilities of each of the entities, and how they differ and/or overlap. The products identified for each work element show who the responsible agency should be, but it is not shown for each task. TRPA staff will perform all of the tasks identified in the OWP and will serve as staff to the TRPA, TTD and TMPO.

Work tasks in the Preliminary Draft FY 2000-2001 OWP will focus on administration, intergovernmental and special interest coordination, and updating the Tahoe Transportation and Air Quality Plan. A series of tables is provided that summarizes the financial conditions of the document. Overall revenues and expenditures are identified, as well as funding source by work element and funding for staff and other expenses (direct, contract, etc.) by work element.

Please note that the Preliminary Draft FY 2000-2001 OWP document will be presented in its entirety in the Board packet for Board members only. If any member of the public requests additional copies, please contact Joy R. Wimer-Biller at (775) 588-4547.

Staff will begin this item with a brief presentation. If you have any questions or comments regarding this agenda item, please contact Richard Wiggins at (775) 588-4547.
RESOLUTION BY THE TAHOE METROPOLITAN PLANNING ORGANIZATION ADOPTING
THE FY 2000-2001 PRELIMINARY DRAFT OF THE TAHOE BASIN TRANSPORTATION
PLANNING OVERALL WORK PROGRAM

TMPO RESOLUTION NO. 2000-__

WHEREAS, the Tahoe Basin Transportation Planning Overall Work Program (OWP) is the
document required for the programming of federal and state transportation planning funds; and

WHEREAS, the Tahoe Regional Planning Agency is responsible for developing transportation
and air quality plans, programs and projects designed to attain and maintain environmental
thresholds pursuant to the Tahoe Regional Planning Compact; and

WHEREAS, The Transportation Equity Act for the 21st Century (TEA 21) provided for the
establishment of a metropolitan planning organization for the Lake Tahoe Region, and that the
Governors of California and Nevada designated the Tahoe Metropolitan Planning Organization
(TMPO) in 1998, and the TMPO is responsible for the adoption of transportation plans,
programs and projects consistent with the Compact; and

WHEREAS, the Tahoe Metropolitan Planning Organization

WHEREAS, each year the preliminary draft of the OWP must be developed and approved by
the TMPO prior to submittal to the Intermodal Planning Group, a federal and state collaboration
which reviews the content of the preliminary draft OWP; the date for which the IPG is scheduled
is April 18, 2000; and

WHEREAS, public participation is furthered and enhanced by early and multiple presentations
to the various policy bodies responsible for review and adoption of the OWP.

NOW THEREFORE BE IT RESOLVED by the Tahoe Metropolitan Planning Organization
Governing Board this ___ day of March, 2000 adopts the FY 2000-2001 Preliminary Draft OWP
with the understanding that further review and input shall be sought prior to the adoption of the
final FY 2000/20001 OWP.

PASSED AND ADOPTED this ________ day of March, 2000, by the Governing
Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

RW:jrwb

AGENDA ITEM VII.D.
Don Miner, Vice-Chairman
Tahoe Regional Planning Agency

CERTIFICATION

The undersigned duly qualified Clerk to the Board, acting on behalf of the Tahoe Regional Planning Agency, certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Governing Board of the Tahoe Regional Planning Agency held on February 23, 2000.

______________________________
JULIE FRAME
Clerk to the TRPA Governing Board

______________________________
Date
TAHOE REGIONAL PLANNING AGENCY
RESOLUTION 2000-4
ADVISORY PLANNING COMMISSION AND GOVERNING BOARD

IN MEMORY OF
WENDELL McCURRY

WHEREAS Wendell McCurry first served on the Tahoe Regional Planning Agency’s Advisory Planning Commission back in 1981, as the representative for the Director of the Nevada Division of Environmental Protection; he has served faithfully in that capacity to the recent present; and

WHEREAS during that time Wendell on several occasions also served as the representative to the TRPA Governing Board for the Director of the Nevada Department of Conservation and Natural Resources; and

WHEREAS Wendell’s distinguished career in the field of water quality spanned over 30 years; Wendell had a vast historical background and was a constant champion for the environment, holding firm to his belief in and commitment to high standards for water quality not only for Lake Tahoe but for all of Nevada and the nation; his shoes will be hard to fill; and

WHEREAS Wendell served as an inspiration to all who knew him or had the pleasure of working with him; he quietly, intelligently, and effectively applied his knowledge and expertise to drafting of documents designed to protect the Region’s natural resources; and

WHEREAS words that come to mind in describing Wendell are gracious, helpful, consistent, and knowledgeable; he had a kind word for and about everyone; and he truly enjoyed what he did; he represented the State of Nevada for over twenty years on the Association of State Water Pollution Control Administrators;

NOW, THEREFORE, BE IT RESOLVED that the Advisory Planning Commission and the Governing Board of the Tahoe Regional Planning Agency will remember Wendell for his outstanding and dedicated service to the citizens of Nevada and the Tahoe Region and for assisting in the environmental protection of this great natural resource – Lake Tahoe.

PASSED and ADOPTED by the Advisory Planning Commission on March 8, 2000, and by the Governing Board of the Tahoe Regional Planning Agency on March 22, 2000.

__________________________    _________________________
Gary Marchio, Chairman          Don Miner, Vice Chairman
Advisory Planning Commission     Governing Board

AGENDA ITEM IX. A.

51
MEMORANDUM

March 14, 2000

To: Governing Board

From: TRPA Staff

Subject: Amendment of Adopted Community Plans and Code Chapter 35 (Bonus Unit Incentive Program) and Other Related Amendments to Extend Allocation Deadlines for Residential Bonus Units, Tourist Bonus Units, and Commercial Floor Area to December 31, 2006

Proposed Action: TRPA staff requests the Governing Board consider the following amendments as “clean up” amendments:

1. Amend TRPA Code of Ordinances Section 35.3.A to add the date December 31, 2006 in place of “within the ten year period following the effective date of the Regional Plan” and increase the number 200 to 400. (Exhibit 1).
2. Amend Bijou/Al Tahoe Community Plan under Commercial Floor Area Allocation (Chapter II, page 3) to replace the December 31 1996 date with December 31, 2006 (Exhibit 2).
3. Amend Tahoe City Community Plan under Commercial Floor Area Allocation (Chapter II, page 14) to replace December 31, 1996 with December 31, 2006 (Exhibit 3).
4. Amend Carnelian Bay Community Plan under Commercial Floor Area Allocation (Chapter II, page 9) to replace December 31, 1996 with December 31, 2006 (Exhibit 4).
5. Amend Tahoe Vista Community Plan under Commercial Floor Area Allocation (Chapter II, page 14) to replace December 31, 1996 with December 31, 2006 (Exhibit 5).
6. Amend Kings Beach Commercial Community Plan under Commercial Floor Area Allocation (Chapter II, page 18) to replace December 31, 1996 with December 31, 2006 (Exhibit 6).
7. Amend Kings Beach Industrial Community Plan under Commercial Floor Area Allocation (Chapter II, page 6) to replace December 31, 1996 with December 31, 2006 (Exhibit 7).
8. Amend North Stateline Community Plan, Chapter 2, page 8, NSCP 1.5, 1.6 and 1.7 to change December 31, 1999 to December 31, 2006 (Exhibit 8).
10. Amend Kingsbury Community Plan under Commercial Floor Area Allocation (Chapter II, page 11) to replace December 31, 1996 with December 31, 2006 (Exhibit 10).
11. Amend Round Hill Community Plan under Commercial Floor Area Allocation (Chapter II, page 9) to replace December 31, 1996 with December 31, 2006 (Exhibit 11).


13. Amend Incline Village Commercial Community Plan Appendix A (page A-2) under Special Policies, Land Use #3 and #4 to replace December 31, 1999 with December 31, 2006 (Exhibit 13).

14. Amend North Stateline Community Plan Appendix A (page A-3 and A-4) under Special Policy, Land Use #5, #6, and #7 to replace December 31, 1999 with December 31, 2006 (Exhibit 14).

Staff and APC Recommendation: Staff recommends that the TRPA Governing Board conduct a public hearing on this item and then approve the adoption of the proposed clean up amendments in the above listed Community Plans and Chapter 35 of the Code of Ordinances. The APC heard this item on March 8, 2000 and unanimously recommended approval of the amendment, including numbers 13 and 14 (listed above).

Background: These staff-initiated Code and CP amendments are technical adjustments needed to match allocation amendments made to the Code of Ordinances as part of the 1996 Threshold Evaluation. The actions, taken as part of the 1996 Threshold Evaluation, included extending the date for commercial allocations from December 31, 1996 to December 31, 2006; adding new commercial allocations (33.3.D); and adding 200 more tourist allocations (33.4.A(3)). The staff recommendations are consistent with those recommended in the 1996 Threshold Evaluation.

Chapter 33 of the Code of Ordinances was amended to reflect the recommendations of the 1996 Threshold Evaluation; however, these changes were not made in the individual Community Plans.

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 proposed Community Plan amendments are technical adjustments that are needed to maintain consistency between the TRPA Code of Ordinances and the Community Plans. The proposed amendments are consistent with those recommended by the 1996 Threshold Evaluation.
2. **Finding:** That the project will not cause the environmental thresholds to be exceeded.

   **Rationale:** The proposed Code of Ordinances amendment and the Community Plan amendments provide consistency among Regional Plan Documents. The amendments, alone, do not provide approval for projects.

3. **Finding:** Wherever federal, state and local air and water quality standards applicable for the Region, whichever are strictest, 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:** See Findings 1 and 2 above.

**Chapter 13 Findings**

1. **Finding:** The amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C.

   **Rationale:** These amendments are consistent with the Plan Designation and the Community Plan Special Designation for the attached Community Plans.

**Environmental Documentation:** Based on the above analysis and completion of an IEC, no significant environmental impacts were identified that cannot be mitigated to a less than significant level.

**Requested Action:** Staff requests 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 Chapter 13 findings.

2. Motion to adopt the attached Ordinance.

Staff will begin this item with a brief presentation. If there are any questions regarding this agenda item, please contact Coleen Shade at (702) 588-4547, extension 228 or via email at coleens@trpa.org.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE NO. 00---

AN ORDINANCE AMENDING ORDINANCE NO. 87-9 AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY, AS AMENDED; AMENDING CHAPTER 35 OF THE CODE OF ORDINANCES AND THE FOLLOWING COMMUNITY PLANS TO EXTEND THE EXPIRATION DATE FOR RESIDENTIAL AND TOURIST BONUS UNITS AND COMMERCIAL FLOOR AREA TO DECEMBER 31, 2006: BIJOU/L TAHOE, TAHOE CITY, CARNELIAN BAY, TAHOE VISTA, KINGS BEACH COMMERCIAL, KINGS BEACH INDUSTRIAL, NORTH STATELINE, STATELINE, KINGSBURY, ROUND HILL, STATELINE/SKI RUN, AND INCLINE VILLAGE COMMERCIAL; 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 No. 87-9, as amended which ordinance relates to the Regional Plan, by amending Chapter 35 and the Community Plans as exhibited in Exhibits A thru N, in order to further implement the Regional Plan and Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.

1.20 The Advisory Planning Commission ("APC") conducted a public hearing and recommended adoption of the amendments. The Governing Board has conducted a noticed public hearing on the amendments. Oral testimony and documentary evidence were received and considered.

1.30 The provisions of this ordinance have been found not to have a significant environmental effect on the environment, 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 Section 6.4 of the Code of Ordinances and Article V(g) of the Compact.

1.50 The Governing Board finds that the amendment adopted hereby will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the environmental thresholds 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 of Code Chapter 35

Chapter 35 of the Code of Ordinances is hereby amended as set forth below on Exhibit 1, dated February 28, 2000, which attachment is attached hereto and incorporated herein.

Section 3.00 Amendment of Applicable Community Plans

Subsection 6.10(2), subparagraph (___) of Ordinance 87-9, as amended, is hereby further amended as set forth on Exhibits 2 thru 14, dated February 28, 2000, to amend the following Community Plans: Bijou/Al Tahoe, Tahoe City, Carmelian Bay, Tahoe Vista, Kings Beach Commercial, Kings Beach Industrial, North Stateline, Kingsbury, Round Hill, Stateline/Ski Run, Incline Village Commercial Appendix A, and North Stateline Appendix A, which attachments are appended hereto and incorporated herein.

Section 4.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code and Community Plans 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 5.00 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 March 22, 2000, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

Don Miner, Vice-Chairman
Tahoe Regional Planning Agency
Chapter 35
BONUS UNIT INCENTIVE PROGRAM

35.3 Tourist Accommodation Bonus Unit Program: Tourist accommodation bonus units may be approved by TRPA only on parcels located within an adopted community plan and only when at least one existing tourist accommodation unit is transferred in accordance with Chapter 34 for each tourist accommodation bonus unit approved.

35.3.A Assignment Of Bonus Units: A maximum of 200 400 tourist accommodation bonus units may be approved by TRPA within the ten year period following the effective date of the Regional Plan by December 31, 2006.
New language is underlined in blue; language to be deleted is struck through in red.

Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35 (TRPA Code) the maximum number of residential bonus units which may be permitted for this Community Plan Area is 20 units.

TOURIST ACCOMMODATION BONUS UNITS: Pursuant to Chapter 35 (TRPA Code), the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 0.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 (TRPA Code) to be located within the Community Plan Area. Specific projects and their timing are addressed in Chapter V and the TRPA five-year Recreation Program pursuant to Chapter 33 (TRPA Code) allocation of Development. The following additional capacities allowed are measured in "Persons at one time":

- Summer Day Uses - 0 PAOTs
- Overnight Uses - 0 PAOTs
- Winter Day Use - 0 PAOTs
- Marina - 0 PAOTs

COMMERCIAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33 (TRPA Code) the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996, is 14,900 sq. ft.
Chapter II

LAND USE ELEMENT

**RESIDENTIAL BONUS UNITS:** Pursuant to Chapter 35 of the TRPA Code of Ordinances, the maximum number of residential bonus units which may be permitted for this Community Plan Area is 20 units.

**TOURIST ACCOMMODATION BONUS UNITS:** Pursuant to Chapter 35 of the TRPA Code of Ordinances, the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 25 units.

**ADDITIONAL DEVELOPED OUTDOOR RECREATION:** The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan Area. Specific projects and their timing are addressed in Chapter V and the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

- SUMMER DAY USES 600 PAOT
- WINTER DAY USE 0 PAOT
- OVERNIGHT USES 0 PAOT

**COMMERCIAL FLOOR AREA ALLOCATION:** Pursuant to Chapter 33 of the TRPA Code of Ordinances, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996, is 50,000 square feet.
New language is underlined in blue; language to be deleted is struck through in red.

Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS:  Pursuant to Chapter 35 of the TRPA Code of Ordinances, the maximum number of residential bonus units which may be permitted for this Community Plan Area is 0 units.

TOURIST ACCOMMODATION BONUS UNITS:  Pursuant to Chapter 35 of the TRPA Code of Ordinances, the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 0 units.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan Area. Specific projects and their timing are addressed in Chapter V and the TRPA five-year Recreation Program pursuant to Chapter 33, Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 40 PAOT  WINTER DAY USE 0 PAOT  OVERNIGHT USES 0 PAOT

COMMERCIAL FLOOR AREA ALLOCATION:  Pursuant to Chapter 33 of the TRPA Code of Ordinances, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996 2006, is 2,000 square feet.
Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Community Plan Area is 20 units.

TOURIST ACCOMMODATION BONUS UNITS: Pursuant to Chapter 35, the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 0 units.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan Area. Specific projects and their timing are addressed in Chapter V and the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time.

SUMMER DAY USES 0 PAOT  WINTER DAY USE 0 PAOT  OVERNIGHT USES 0 PAOT

COMMERCIAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996 2006, is 7,500 square feet.
Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Community Plan area is 0 units.

TOURIST ACCOMMODATION BONUS UNITS: Pursuant to Chapter 35, the maximum number of tourist accommodation units which may be permitted for this Community Plan area is 0 units.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan area. Specific projects and their timing are addressed in Chapter V and the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 750 PAOT WINTER DAY USE 0 PAOT OVERNIGHT USES 0 PAOT

COMMERCIAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan area until December 31, 1996 2006, is 40,000 square feet.

MAXIMUM CUMULATIVE NOISE LEVEL: The maximum cumulative noise equivalent for this Community Plan area is as follows:

1. Where applicable, a maximum 55 CNEL override for the Highway 28 corridor is permissible.
2. The maximum CNEL for Special Area 4 and 4 is 55 CNEL.
3. The maximum CNEL for all areas of the Community Plan except as noted in 1 and 2 above is 65 CNEL.
4. The maximum CNEL for shorezone tolerance districts 6 and 7 is 55 CNEL and the maximum for the lakezone is 50 CNEL.

MINIMUM LOT SIZE: The minimum lot size requirement shall be as follows: 6,000 sq. ft. for corner lots, 5,000 sq. ft. for interior lots, for all commercial uses. For residential uses, 10,000 sq. ft. shall apply.
Chapter II
LAND USE ELEMENT

MAXIMUM DENSITIES: Pursuant to Chapter 21, DENSITY, the following list establishes the maximum allowable densities that may be permitted for any parcel located within the Plan area. The actual development permitted may be further limited by transfer of development rights limitations, residential density incentive program, special use determinations, allocation limitations and general site development standards.

<table>
<thead>
<tr>
<th>USE</th>
<th>MAXIMUM DENSITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>As per the limitations set forth in this table</td>
</tr>
<tr>
<td>Employee Housing</td>
<td></td>
</tr>
</tbody>
</table>

COMMERCIAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan area until December 31, 1996 2006, is 13,000 sq. ft.

MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL: The maximum community noise equivalent level for this Plan area is 65 CNEL.

MINIMUM LOT SIZE: The minimum lot size requirement shall be as follows: 6,000 sq. ft. for corner lots, 5,000 sq. ft. for interior lots, for all commercial uses. For residential uses, 10,000 sq. ft. shall apply.
Chapter Two
LAND USE

NSCP.1.5 FROM COMMUNITY PLAN ADOPTION UNTIL DECEMBER 31, 1996 2006, AN ADDITIONAL 19,616 SQUARE FEET OF COMMERCIAL FLOOR AREA MAY BE ALLOCATED WITHIN THE NORTH STATELINE COMMUNITY PLAN AREA. 7,500 SQUARE FEET MAY BE DEVELOPED WITHIN THE PLACER COUNTY PORTION OF THE COMMUNITY PLAN AREA AND 19,616 SQUARE FEET WITHIN THE WASHOE COUNTY PORTION.

NSCP.1.5.1 Projects seeking an allocation of additional commercial floor area shall be subject to the Washoe County Commercial Allocation Program.

NSCP.1.5.2 TRPA shall only consider, for approval of new commercial floor area, those projects which have been recommended by Washoe County (for projects in the Washoe County portion of the plan area) or Placer County (for projects in the Placer County portion of the plan area).

NSCP.1.5.3 Only projects that make substantial progress toward implementing the area-wide improvements listed in Chapter Seven of this community plan shall be eligible for commercial floor area allocations. Substantial progress shall be based on one square foot of commercial floor area allocation equal to five dollars or more worth of improvements.

(Also refer to the Policies of the Implementation Element, Chapter 7.)

NSCP.1.6 FROM COMMUNITY PLAN ADOPTION UNTIL DECEMBER 31, 1996 2006, FORTY-FIVE (45) ADDITIONAL BONUS TOURIST ACCOMMODATION UNITS MAY BE ALLOCATED WITHIN THE NORTH STATELINE COMMUNITY PLAN AREA.

NSCP.1.6.1 Projects utilizing the bonus unit incentive program provided under Chapter 35 of TRPA’s Code of Ordinances, which are required to provide mitigation measures to acquire bonus tourist accommodation units, shall participate in capital improvement projects within the community plan area provided under Section 35.3 of the Code.

NSCP.1.7 FROM COMMUNITY PLAN ADOPTION UNTIL DECEMBER 31, 1996 2006, FIFTY (50) ADDITIONAL RESIDENTIAL BONUS UNITS MAY BE ALLOCATED WITHIN THE NORTH STATELINE COMMUNITY PLAN AREA. THE BONUS UNITS SHALL BE USED FOR AFFORDABLE AND/OR EMPLOYEE HOUSING.

NSCP.1.7.1 Projects utilizing the bonus unit incentive program provided under Chapter 35 of TRPA’s Code of Ordinances to acquire residential bonus units shall participate in capital improvement projects within the community plan area provided under Section 35.3 of the Code.
Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Community Plan Area is 0 units.

TOURIST ACCOMMODATION BONUS UNITS: Pursuant to Chapter 13 and Chapter 35, the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 25 units.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the PAOT targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan Area. These and other recreation target projects are addressed in Chapter V and the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 0 PAOT WINTER DAY USE 0 PAOT OVERNIGHT USES 0 PAOT

COMMERCIAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996 2006, is 35,000 square feet.
New language is underlined in blue; language to be deleted is struck through in red.

Chapter II
LAND USE ELEMENT

**RESIDENTIAL BONUS UNITS:** Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Community Plan Area is 0 units.

**TOURIST ACCOMMODATION BONUS UNITS:** Pursuant to Chapter 35, the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 25 units.

**ADDITIONAL DEVELOPED OUTDOOR RECREATION:** The following are the PAOT targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan Area. These and other recreation target projects are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 0 PAOT  WINTER DAY USE 0 PAOT  OVERNIGHT USES 0 PAOT

**COMMERCIAL FLOOR AREA ALLOCATION:** Pursuant to Chapter 33, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996 is 14,050 square feet.
Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Community Plan Area is 0 units.

TOURIST ACCOMMODATION BONUS UNITS: Pursuant to Chapter 35, the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 0 units.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Community Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 25 PAOT  WINTER DAY USE 0 PAOT  OVERNIGHT USES 0 PAOT

COMMERCIAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33, the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996 is 0 square feet.
Chapter II
LAND USE ELEMENT

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35 (TRPA Code) the maximum number of residential bonus units which may be permitted for this Community Plan Area is 145 units.

TOURIST ACCOMMODATION BONUS UNITS: Pursuant to Chapter 35 (TRPA Code), the maximum number of tourist accommodation bonus units which may be permitted for this Community Plan Area is 25 units to be located within the Ski Run Village (3b), Upper Ski Run North (5a), or Upper Ski Run South (5b) Districts.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 (TRPA Code) to be located within the Community Plan Area. Specific projects and their timing are addressed in Chapter V and the TRPA five-year Recreation Program pursuant to Chapter 33 (TRPA Code) allocation of Development. The following additional capacities allowed are measured in "persons at one time":

<table>
<thead>
<tr>
<th>Activity</th>
<th>PAOTs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summer Day Uses</td>
<td>0</td>
</tr>
<tr>
<td>Overnight Uses</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Activity</th>
<th>PAOTs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winter Day Use</td>
<td>0</td>
</tr>
<tr>
<td>Marina</td>
<td>0</td>
</tr>
</tbody>
</table>

COMMERICAL FLOOR AREA ALLOCATION: Pursuant to Chapter 33 (TRPA Code) the maximum amount of commercial floor area which may be allocated for additional development in the Community Plan Area until December 31, 1996, is 45,000 sq. ft.
Appendix A
COMMUNITY
PLAN AREA STATEMENT 045

SPECIAL POLICIES:

Land Use

1. Encourage compatibility of adjacent land uses. Require buffering for those which are not compatible.
   a. Non-residential projects shall provide buffering from existing, surrounding residential uses.

2. Encourage land use patterns that reduce the need for travel and increase access to transit.

3. From community plan adoption until December 31, 1999 December 31, 2006, an additional 23,284 square feet of commercial floor area may be allocated within the Incline Village Commercial Community Plan Area (Community Plan Area Statement 045). The method of distribution addressed by the Washoe County Commercial Allocation Program.
   a. Projects seeking an allocation of additional commercial floor area shall be subject to the Washoe County Commercial Allocation Program.
   b. TRPA shall only consider, for approval of new commercial floor area, those projects which have been recommended by Washoe County.
   c. Only projects that make substantial progress toward developing the area-wide improvements listed in Chapter Seven of this community plan shall be eligible for commercial floor area allocations. Substantial progress shall be based on one square foot of allocation equals five dollars or more worth of improvements.
   d. A minimum of one third of the plan’s commercial floor area shall be allocated to projects along State Route 28. Commercial floor area should be allocated to existing uses, in order to encourage upgrades.

(Also refer to the Implementation Policies below).

4. From community plan adoption until December 31, 1999 December 31, 2006, ninety-two (92) residential bonus units will be available for distribution within the Incline Village Commercial Community Plan Area.
   a. Projects utilizing the bonus unit incentive program provided under Chapter 35 of TRPA’s Code of Ordinances, which are required to provide mitigation measures to acquire residential bonus units, shall participate in capital improvement projects within the community plan area provided under Section 35.3 of the Code.
Appendix A

COMMUNITY PLAN AREA STATEMENT 032

SPECIAL POLICIES:

Land Use

1. Create a more complete, family-oriented destination resort area.
   a. The provision of child care facilities within the plan area is encouraged.
   b. The provision a wide range of family oriented entertainment and recreational activities is encouraged.

2. Buffer adjacent residential uses from the commercial uses of the commercial, tourist and public services uses of the casino area through site design, landscaping, vegetation and screening.
   a. Non-residential and employee housing projects shall provide buffering from existing, surrounding residential uses. Buffering methods shall be consistent with the methods described in the North Stateline Design Standards and Guidelines (Appendix B).

3. Connect existing and future land uses with a pedestrian path system.
   a. All projects shall provide on-site pedestrian paths. Projects are encouraged to provide pedestrian paths between uses within the plan area, consistent with the Community Design Plan (Figure 4).
      (Refer to Pedestrian Facilities below for additional policies.)

4. Encourage land use patterns that reduce the need for travel and increase access to transit.
   a. Opportunities for retail commercial shopping within the plan area should be increased.
   b. Affordable and/or employee housing for casino employees should be provided in or adjacent to the plan area.

5. From community plan adoption until December 31, 1999 - December 31, 2006, an additional 19,616 square feet of commercial floor area may be allocated within the North Stateline Community Plan Area. 7,500 square feet may be developed within the Placer County portion of the community plan area and 12,116 square feet within the Washoe County portion.
a. Projects seeking an allocation of additional commercial floor area shall be subject to the Washoe County Commercial Allocation Program.

b. TRPA shall only consider, for approval of new commercial floor area, those projects which have been recommended by Washoe County (for projects in the Washoe County portion of the plan area) or Placer County (for projects in the Placer County portion of the plan area).

c. Only projects that make substantial progress toward implementing the area-wide improvements listed in Chapter Seven of this community plan shall be eligible for commercial floor area allocations. Substantial progress shall be based on one square foot of allocation equal to five dollars or more worth of improvements.

(Also refer to the Policies of the Implementation Element, of the plan.)

6. From community plan adoption until December 31, 1999 - December 31, 2006, forty-five (45) Additional Bonus Tourist Accommodation Units may be allocated within the North Stateline Community Plan Area.

a. Projects utilizing the bonus unit incentive program provided under Chapter 35 of TRPA’s Code of Ordinances which are required to provide mitigation measures to acquire bonus tourist accommodation units, shall participate in capital improvement projects within the community plan area provide under Section 35.3 of the Code.

7. From community plan adoption until December 31, 1999 - December 31, 2006, fifty (50) additional Residential Bonus Units may be allocated within the North Stateline Community Plan Area. The bonus units shall be used for affordable and/or employee housing.

a. Projects utilizing the bonus unit incentive program provided under Chapter 35 of TRPA’s Code of Ordinances to acquire residential bonus units shall participate in capital improvement projects within the community plan area provided under Section 35.3 of the Code.
MEMORANDUM

March 14, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment to the Air Quality Thresholds, Revisions to the Visibility Standards

Proposed Action: Pursuant to the recommendations of the 1996 Threshold Evaluation, TRPA staff proposes to amend Exhibit A of Resolution 82-11 to revise the air quality thresholds by making specific revisions to the visual range standards for regional and sub-regional visibility that do not result in a tightening of the visual range standards.

Staff Recommendation: Staff recommends that the Governing Board review and approve Attachment B that will amend Exhibit A of Resolution 82-11, the resolution that adopted the TRPA thresholds.

APC Recommendation: The APC voted unanimously to support the staff recommendation to the Governing Board.

Background: Visual air quality is one of the seven established air quality thresholds for TRPA. Since the inception of the Visibility Monitoring program in 1989, TRPA contracted with Air Resource Specialists (ARS), experts in the field of visual quality, to analyze the collected visibility monitoring data. On an annual basis, ARS provides TRPA with a status report on the visibility thresholds. Since the visual air quality standards were developed in the early 1980s, the means of assessing attainment, which began in 1989, have changed. In the 1996 Threshold Evaluation document, the need to update and "modernize" the stated visibility standards was identified as a goal.

Revising the regional and sub-regional visibility standards will cause the standards to match the current monitoring and data analysis techniques. No longer will the standards be based on the obsolete 1981 data and interpretations. Results from detailed analyses of the limited 1981-82 and current monitoring data indicate that within the experimental uncertainty of the 1981-82 measurements there has been no statistically observable change in the visual air quality levels in the Lake Tahoe Basin between 1981 and 1989-91. This makes possible a revision of the standards to the new methodology. At the February 2000 APC, the APC directed staff to return in March with the amendments recommended in this staff summary.

Discussion: The revision sought by TRPA staff is a technically equivalent standard. In the TRPA staff recommendation, no attempt to tighten or loosen the standards is proposed.

Visibility is concerned with the conditions that allow appreciation of the inherent beauty of landscape features. At Lake Tahoe, visibility is expressed in terms of visual range.

JA/dmc

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The standards describe a frequency that we may be expected to see a certain range over the year. The visual range visibility standards were developed from data collected from June 1981 to May 1982, using the first six months (June to November 1981) of monitoring to establish the numeric standards applied to visual range. The various instruments that provided that information are either no longer used or are incomplete estimators of visual range. It should be noted that the instruments and techniques used at the time were the best available then.

Some APC members have identified the locations of monitoring sites as an important topic. Existing monitoring locations (South Lake Tahoe for the sub-regional monitoring and Bliss State Park, with Zephyr Cove for the regional monitoring) were established in locations with which the 1982 data would be comparable. By no means do the sites measure all possible view paths concerned with visual range at Lake Tahoe. For instance, the regional monitoring equipment would not capture a prescribed fire in North Lake Tahoe. The locations today are the only surrogates for visual range within the yearly fiscal budget for visibility monitoring that also are consistent with the 1982 work.

The following are the established visual range standards from the 1982 work:

Regional Visibility

Achieve a visual range of 171 kilometers (103 miles, $b_{ext} = 22.9 \, Mm^{-1}$) at least 50 percent of the year as measured by particulate concentrations

Achieve a visual range of 97 kilometers (58 miles, $b_{ext} = 40.3 \, Mm^{-1}$) at least 90 percent of the year as measured by particulate concentrations

Sub-Regional Visibility

Achieve a visual range of 87 kilometers (54 miles, $b_{ext} = 45.0 \, Mm^{-1}$) at least 50 percent of the year as measured by particulate concentrations

Achieve a visual range of 26 kilometers (16 miles, $b_{ext} = 150.5 \, Mm^{-1}$) at least 90 percent of the year as measured by particulate concentrations

For 1998, when the collected data was compared to the TRPA standards, the regional visibility standard of visual range > 171 km 50% of the time is not being met, while the regional visual range of 97 km 90% of the time and the two sub regional visibility standards of 87 km 50% of the time and 26 km 90% of the time are being met. Over the years some standards have been in attainment while others have been in non-attainment.

Visual air quality in the Lake Tahoe Basin has improved from the 1991-93 to the 1996-98 monitoring periods. With a shift to the proposed amendments, TRPA will be in attainment for the regional and sub-regional visual range standards.

Then and Now – A Technical Discussion: The field of visual science is highly technical. To address this issue, TRPA staff has prepared a visual presentation to be shown at the TRPA Governing Board hearing that will hopefully simplify the issues. For those interested in the field, the discussion that follows delves into the details of visibility and the formation of the visibility thresholds and today’s visibility monitoring program.
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The Regional visibility threshold was established from the cumulative frequency distribution of visual range (leaving out the influence of two major wildfire incidents) calculated from the long path teleradiometer contrast measurements from the North Shore to three South Shore sites. The Sub Regional visibility threshold was determined from the cumulative frequency distribution of visual range calculated from nephelometer scattering data and some estimate of particle absorption. Before establishing the regional and sub regional threshold standards a mixture of the long path contrast data and nephelometer data were combined to correct for weighting errors attributable to each methodology. A limited ability to characterize the sources of visibility degradation was available at the time, making only 20% of sampled aerosol data identifiable.

The monitoring program that is in place today does not follow the methods used to define the visibility thresholds. There are several reasons for this. Meteorological conditions were thought to unduly influence the optical techniques of long-path horizon/sky contrast, thus indicating below standard conditions, when in fact the aerosol concentrations were shown to be quite clean. It was also realized that the since the South Lake Tahoe mixture of aerosols consists of a large fraction of absorbing aerosols, basing the sub-regional standard on nephelometers that only measure the scattering coefficient would significantly underestimate the true sub regional visibility. Also, by the 1990s, filter media and sampling techniques were sophisticated enough so that all the aerosol data could be identified and visibility research had matured so that proper algorithms could be used to “re-calculate” visual range.

The current monitoring program that began in 1989 and was fully operational by 1991 relies upon the ability to identify exactly what constituents of sampled material are contributing to loss of visual range. The primary determinant of visual range is a hybrid technique using high quality speciated aerosol data as fed into a light scattering algorithm which is used to “re-calculate” visual range. This aspect of monitoring requires taking aerosol measurements for two 24-hour periods every six days at both sites, Bliss, for regional analysis, and South Lake Tahoe, for sub regional analysis. Four samplers are used with three different filter media that “capture” aerosols sized 2.5 and 10 microns in size (commonly referred to as PM_{2.5} and PM_{10}) in different ways to allow for chemical and/or mass analysis. Through the methods applied to the four samples, sulfates, nitrates, organics, light-absorbing carbon, and soil are apportioned to determine reconstructed (meaning the exact measure of aerosol composition can only be known by the application of laboratory techniques to reconstruct composition) fine mass composition at Lake Tahoe for the given sample period. Using the reconstructed fine mass composition aerosol data, a reconstructed light extinction value is used that accounts for how light scatters (Rayleigh scattering), gas absorption (which is negligible), particle scattering and particle absorption with particle scattering and absorption utilizing information from the reconstructed aerosol elements and their respective light affecting properties. In short, the aerosol data is used to calculate the extinction coefficient and then the visual range is determined and shown as a cumulative frequency distribution for all the samples in the analysis period. Because relative humidity has a tremendous effect on determining visual range, an average relative humidity factor is used in calculating the extinction coefficient.

In addition to the aerosol sampling described a series of supporting visual range devices, a camera, transmissometer, and nephelometer, support the complex science behind daily and hourly variations in visual range. The camera takes pictures on a set schedule from South Lake Tahoe toward North Shore. The transmissometer sends a light beam across the lake to a receiver at Bliss State Park that can determine the light extinction and scattering. Nephelometers at both Bliss and South Lake Tahoe take
actual air samples and submit them to a source of known light intensity to see how much is absorbed. The values obtained from the nephelometers are compared to the reconstructed light extinction value used for calculating visual range. These devices serve as calibrations to the visual range calculation determined using the aerosol data to calculate visual range.

When today's monitoring system was installed measurements of visual range were checked against optical data from the 1981 teleradiometer data and 35mm slides. It was found that there was no apparent change in regional visibility between 1981 and 1989-91. This very important process not only provided comparison between the early 1980s work but it makes it possible today to correct the visibility threshold standards to be consistent with the method of calculating visual range using collected aerosol data and the visual range "re-construction" algorithm. Most importantly for direct comparison purposes the gravimetric mass shows no apparent trend over the years.

Proposed Revisions: The premise that the standards can be changed and are comparable to the 1982 has been demonstrated. The action to make these amendments is recommended for several reasons. The science of visibility monitoring is much improved. There are better measurement techniques used today than in 1982. There would be backwards and forwards compatibility by going with today's methods because this is the direction visibility science will likely remain for some time. It also tracks similarly to the way the EPA is implementing its Regional Haze rule. The final reason is that there is an excellent baseline with the methodology established since inception of the monitoring program. The options before APC and ultimately the TRPA Governing Board are described below.

The consultants at ARS propose that TRPA utilize three year running averages of data for calculating where the standards should be set. The three-year average offsets any meteorological changes or data collection problems for determining compliance with the standard. Also, they indicate that the three-year period will allow for more timely determination of visual air quality changes with accuracy and precision to see statistically significant changes. As an option, another period could be selected, for instance a five-year period. However, consistent with ARS's recommendation, TRPA suggests utilizing a three-year average.

The consultants also propose that the existing monitoring program be used to set the revised standards. The TRPA staff recommendation is that the 1991-93 period be used, as it is the first three-year block of time when today's monitoring system was fully functional. Recall that statistical analysis has shown this period and the period before the full monitoring system was in place (1989-1991) was the same as the 1982 period when the thresholds were established. To choose the 1991-93 standard represents the most equivalent period to the existing standard.

The consultants and APC members, during the February 2000 meeting, are aware that standards could be tightened (although the 1996 Threshold Evaluation did not recommend that action). Tightening the standards could be done for example by selecting cleaner periods. The standards, wherever set, will be the point at which if the levels fall below, violations will occur. If tighter standards are desired, the information on Tables 1 and 2 of Attachment A provides the three-year running averages that are recommended for selection.

Using the 1991-93 period as the new baseline (which approximates the existing standards) and rounding the reconstructed extinction to the nearest whole number, the TRPA visual air quality environmental threshold carrying capacities will be restated as:
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| Regional Visibility | Achieve an extinction coefficient of 25 Mm\(^{-1}\) at least 50 percent of the time as calculated from aerosol species concentrations measured at the Bliss State Park monitoring site (visual range of 156 kilometers, 97 miles); and
| | Achieve an extinction coefficient of 34 Mm\(^{-1}\) at least 90 percent of the time as calculated from aerosol species concentrations measured at the Bliss State Park monitoring site (visual range of 115 kilometers, 71 miles). |
| Sub-Regional Visibility | Achieve an extinction coefficient of 50 Mm\(^{-1}\) at least 50 percent of the time as calculated from aerosol species concentrations measured at the South Lake Tahoe monitoring site (visual range of 78 kilometers, 48 miles); and
| | Achieve an extinction coefficient of 125 Mm\(^{-1}\) at least 90 percent of the time as calculated from aerosol species concentrations measured at the South Lake Tahoe monitoring site (visual range of 31 kilometers, 19 miles). |
| Time period | Calculations will be made on three year running periods. Beginning with the existing 1991-93 monitoring data as the performance standards to be met or exceeded. |

To assist with this determination, TRPA staff has included tables and figures provided by ARS in Attachment A. Please note that the standards are now expressed in terms of kilometers and will be expressed in terms of "inverse mega-meters" (Mm\(^{-1}\)). This is a measurement unit common to the visual sciences that can also be converted back to kilometers or miles of visual range.

**A Note on the Attachments:** With a threshold amendment there are numerous supporting documents pertaining to the thresholds. Following is a brief explanation of the attachments to this summary.

Attachment A contains the technical monitoring data on which the threshold is based. This data was taken directly from the ARS report provided to TRPA.

Attachment B is the resolution to amend the threshold for the APC and the Governing Board to approve. Approval of the resolution will amend Exhibit A of Resolution 82-11. Exhibit 1 is the proposed language identified as an attachment to Attachment B.

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

A. **Findings in Resolution 82-11 (Section 4):**

1. **Finding:** Pertinent environmental threshold standards shall be amended where the scientific evidence and technical information indicate:
   (a) two or more threshold standards are mutually exclusive; or
   (b) substantial evidence to provide a basis for a thresholds standard does not exist; or
   (c) a threshold standard cannot be achieved; or
   (d) a threshold standard is not sufficient to maintain a significant value of the Region or additional threshold standards are required to maintain a significant value.
Rationale: The proposed amendment is technical in nature only. The existing air quality thresholds for regional and sub-regional visibility are based on research conducted in the early 1980s. TRPA's monitoring program mirrors some of the research originally conducted but as a whole is technically different. The major difference is in the means of calculating visual range. Statistical analysis has shown that the new means of calculating visual range is similar enough to the threshold established methods that the first three-years of today's monitoring can be used as an equivalent approximation of the earlier standards. Amending the standards should be undertaken to match the current monitoring program, which is superior in methodology, accuracy, and long-term viability. TRPA staff recommends the last option (d) of the threshold amendment findings to be applicable to the proposed visibility amendments.

Environmental Documentation: Staff has completed an Initial Environmental Checklist for the proposed action. Staff recommends that a Finding of No Significant Effect (FONSE) be made based on the following:

1. The threshold amendment will be a technical change only. No standards will be tightened or loosened as a result of the amendment.

2. A statistical analysis has concluded that there are no significant differences between the proposed new standards and the old standards.

3. The new methodologies the proposed standards are based upon are substantially preferred over the methodologies the original thresholds were based upon.

4. TRPA has been utilizing the new methodologies since 1989 and basing the attainment status of monitoring results on the old technology.

Requested Action: Staff requests 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 findings in Resolution 82-11, Section 4

2. Motion to adopt the Resolution (Attachment B) amending the thresholds.

If there are questions pertaining to this matter prior to the APC meeting, please contact Jim Allison at 775-588-4547, extension 229.
### ATTACHMENT A

# TABLES WITH REGIONAL AND SUB-REGIONAL DATA

**Table 1.** Bliss State Park cumulative frequency distributions of reconstructed extinction and visual range (three year rolling window).

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of Days</th>
<th>Cleanest Day</th>
<th>10% Percentile</th>
<th>50th Percentile</th>
<th>90th Percentile</th>
<th>Haziest Day</th>
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<tr>
<td></td>
<td></td>
<td>best (Mm⁻¹)</td>
<td>Visual Range (km)</td>
<td>best (Mm⁻¹)</td>
<td>Visual Range (km)</td>
<td>best (Mm⁻¹)</td>
</tr>
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<td>1991-93</td>
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<td>12.2</td>
<td>321</td>
<td>16.9</td>
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<tr>
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<td>12.2</td>
<td>321</td>
<td>15.9</td>
<td>246</td>
<td>24.5</td>
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<tr>
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<td>12.9</td>
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<td>315</td>
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<tr>
<td>1995-97</td>
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<td>12.4</td>
<td>315</td>
<td>15.5</td>
<td>252</td>
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<td>1996-98</td>
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<td>356</td>
<td>15.8</td>
<td>248</td>
<td>24.3</td>
</tr>
</tbody>
</table>

**TRPA Regional Visibility Standard Analysis**

Bliss State Park Cumulative Frequency of Reconstructed bext and Visual Range  
Three Year Rolling Windows  
1991-1997

**Table 2.** South Lake Tahoe cumulative frequency distributions of reconstructed extinction and visual range (three year rolling window).

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of Days</th>
<th>Cleanest Day</th>
<th>10% Percentile</th>
<th>50th Percentile</th>
<th>90th Percentile</th>
<th>Haziest Day</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>best (Mm⁻¹)</td>
<td>Visual Range (km)</td>
<td>best (Mm⁻¹)</td>
<td>Visual Range (km)</td>
<td>best (Mm⁻¹)</td>
</tr>
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<td>28.4</td>
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<td>42.3</td>
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<td>19.5</td>
<td>201</td>
<td>28.4</td>
<td>138</td>
<td>41.9</td>
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</tbody>
</table>

**TRPA Sub-Regional Visibility Standard Analysis**

South Lake Tahoe Cumulative Frequency of Reconstructed bext and Visual Range  
Three Year Rolling Windows  
1991-1997
Figure 1. TRPA visibility standards analysis for using the 1991-93 and 1996-98 monitoring data with existing (1981) performance levels indicated.
TAHOE REGIONAL PLANNING AGENCY

RESOLUTION OF THE GOVERNING BOARD OF THE TAHOE REGIONAL PLANNING AGENCY AMENDING THE AIR QUALITY THRESHOLD OF THE REGIONAL AND SUB REGIONAL VISIBILITY STANDARDS

RESOLUTION NO. 00-

WHEREAS, the Governing Board of the Tahoe Regional Planning Agency (TRPA) finds that:

1. On August 26, 1982, pursuant to Article V(c) of the Tahoe Regional Planning Compact (p. L. 96-551, 94 Stat. 3233, 1980), the Governing Board adopted Resolution 82-11 which set forth the environmental threshold carrying capacities for the Region; and

2. In Resolution 82-11 the Governing Board found that in adopting the thresholds it was establishing a long-term program for the protection and enhancement of the significant values of the Region, and that the “Program will be reviewed from time to time to ensure its consistency with the currently available scientific evidence and technical and other information”; and

3. In Resolution 82-11 the Governing Board further found that “attainment of the Environmental Threshold Carrying Capacities prior to the dates scheduled in the Regional Plan, while beneficial, is not required”; and

4. In Resolution 82-11 the Governing Board recognized the need for and importance of the cooperation of the local governments, the two states and the federal government; and

5. In Resolution 82-11 the Governing Board call for a periodic review of the thresholds at least every five years and for a monitoring program to assess progress toward threshold attainment and maintenance; and

6. After such review, the pertinent environmental threshold standards shall be amended where scientific evidence and technical information indicates:
   a. Two or more threshold standards are mutually exclusive; or
   b. Substantial evidence to provide a basis for a threshold standard does not exist; or
   c. A threshold standard cannot be achieved; or
   d. A threshold standard is not sufficient to maintain a significant value of the Region or additional threshold standards are required to maintain a significant value.

7. The joint Environmental Assessment (EA) for Resolution 82-11 was prepared and circulated in accordance with the substantive and procedural requirements of Article VII of the Compact, Chapter 5 of the TRPA Code, and Article VI of the Rules of Procedure; and

8. Amending the regional and sub-regional visibility standards should be undertaken to match the current monitoring program which is superior in methodology, accuracy, and long-term viability to the methods used to originally set the standards; and

9. Both the Advisory Planning Commission and the Governing Board conducted noticed public hearings on the proposed threshold amendments.
NOW THEREFORE BE IT RESOLVED that the Governing Board of the Tahoe Regional Planning Agency hereby amends Exhibit A of Resolution 82-11 as shown on Exhibit 1, attached hereto and incorporated herein, with added language underlined and deleted language stricken.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at its regular meeting held on this 22 day of March, 2000 by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

Ayes:

Nays:

Abstain:

Absent:

Don Miner, Vice-Chairman
Tahoe Regional Planning Agency
AIR QUALITY

Carbon Monoxide

NUMERICAL STANDARD
Maintain carbon monoxide concentrations at or below 9 parts per million averaged over 8 hours provided that each state shall review and certify to TRPA by February 28, 1983, as to what their carbon monoxide standards are as of that date, and this TRPA threshold standard shall be changed effective February 28, 1983, if necessary, to be the applicable state carbon monoxide standard applicable to the respective portions of the region in accordance with Article V (d) of the Compact.

MANAGEMENT STANDARD
Reduce traffic volumes on the U.S. 50 Corridor by 7 percent during the winter from the 1981 base year between 4:00 p.m. and 12:00 midnight, provided that those traffic volumes shall be amended as necessary to meet the respective state standards.

Ozone

NUMERICAL STANDARD
Maintain ozone concentrations at or below 0.08 parts per million averaged over 1 hour.

Maintain oxides of nitrogen (NOx) emissions at or below the 1981 level.

Regional Visibility

NUMERICAL STANDARDS
Achieve 171 kilometers (106 miles) at least 50% of the year as measured by particulate concentrations.

Achieve 97 kilometers (60 miles) at least 90% of the year as measured by particulate concentrations.

Achieve an extinction coefficient of 25 Mm⁻¹ at least 50 percent of the time as calculated from aerosol species concentrations measured at the Bliss State Park monitoring site (visual range of 156 kilometers, 97 miles); and

Achieve an extinction coefficient of 34 Mm⁻¹ at least 90 percent of the time as calculated from aerosol species concentrations measured at the Bliss State Park monitoring site (visual range of 115 kilometers, 71 miles).

(Calculations will be made on three year running periods. Beginning with the existing 1991-93 monitoring data as the performance standards to be met or exceeded.)

Reduce wood smoke emissions by 15% of the 1981 base values through technology, management practices and educational programs.
Subregional Visibility

NUMERICAL STANDARD

Achieve 87 kilometers (54 miles) at least 60% of the year as measured by particulate matter.

Achieve 26 kilometers (16 miles) 90% of the year as measured by particulate matter.

Achieve an extinction coefficient of 50 Mm⁻¹ at least 50 percent of the time as calculated from aerosol species concentrations measured at the South Lake Tahoe monitoring site (visual range of 78 kilometers, 48 miles); and

Achieve an extinction coefficient of 125 Mm⁻¹ least 90 percent of the time as calculated from aerosol species concentrations measured at the South Lake Tahoe monitoring site (visual range of 31 kilometers, 19 miles).

(Calculations will be made on three year running periods. Beginning with the existing 1991-93 monitoring data as the performance standards to be met or exceeded.)

Reduce suspended soil particles by 30% of the 1981 base values through technology, management practices and educational programs. Reduce wood smoke emissions by 15% of the 1981 base values through technology, management practices and educational programs. Reduce vehicle miles of travel by 10% of the 1981 base values.

Nitrate Deposition

MANAGEMENT STANDARD

Reduce the transport of nitrates into the Basin and reduce oxides of nitrogen (NOx) produced in the Basin consistent with the water quality thresholds.

Reduce vehicle miles of travel in the Basin by 10% of the 1981 base year values.

Odor

POLICY STATEMENT

It is the policy of the TRPA Governing Board in the development of the Regional Plan to reduce fumes from diesel engines to the extent possible.
MEMORANDUM

March 14, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Plan Area Statement 006, Fish Hatchery, and Plan Area Statement 005, Rocky Ridge, to Add Threshold-Related Research Facilities Under Public Service as a Permissible Use to Add Special Policy Language to Both Plan Area Statements

Proposed Action: This applicant-initiated plan area amendment requests the addition of Threshold-Related Research Facilities (see attachment B for definition) as a Special Use under Public Service in PAS 006, Fish Hatchery and PAS 005, Rocky Ridge (see attachment A for location map). In addition, TRPA staff is recommending that a Special Policy (Special Policy #3 in 005 and Special Policy #7 in 006) be added that states:

TRPA recognizes the existing research facility at its current level of use on the Historic Fish Hatchery Property as a Threshold-Related Research Facility in these plan areas. There shall be no expansion of the exiting use unless there is implementation of the following environmental improvement projects:

A. Participate in planning, designing, and funding a fair share of the Burton Creek Linked Project-Stream Habitat Restoration (EIP project #51 and #988); AND

B. Plan and design, and/or fund the relocation of the campground in PAS 006, Fish hatchery, to a plan area statement with higher capability (EIP Projects #988 and #860); OR

C. Plan and design, and/or fund the relocation of the existing baseball field in PAS 006, Fish Hatchery, to a plan area statement with higher capability land that is still within the TCPUD’s recreational boundaries (EIP Project #944 and 208 Plan); OR

D. Plan and design, and/or fund a functional equivalent restoration project consistent with all Special Policies in PAS 006, Fish Hatchery, and PAS 005, Rocky Ridge.

Staff and APC Recommendation: Staff recommends that the TRPA Governing Board adopt the proposed amendments to add Threshold-Related Research Facilities as a special use under public service in the above listed Plan Areas, and to add the above language as a Special Policy in both Plan Areas. The APC heard this item March 8, 2000 and unanimously recommended approval of the amendments, including the Special Policy language above.

Background: The Regents of the University of California have applied for the amendment of PAS 005 and PAS 006 to make an existing use, University of California Davis (UCD) - Tahoe Research Group’s facility in the historic fish hatchery, a conforming use. UCD is currently in the design phase for the expansion of the existing TRG facility.

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There is a set of three questions that staff uses as criteria when evaluating and justifying an amendment to any of the Regional Plan Documents. They are:

1) Is the amendment(s) needed to correct a mistake made in the original plan documents?
2) Has something changed with regard to surrounding land uses that warrant the amendment(s)?
3) Does the proposed amendment(s) assist TRPA to better attain and maintain thresholds?

In evaluating these amendments, staff is of the opinion that numbers 2 and 3 are applicable.

In November 1998, TRPA created a new use, "Threshold-Related Research Facilities, in Chapter 18 of the Code of Ordinances, Permissible Uses. TRPA sees the need for the ongoing study/research of the physical and biological systems in the Region so that, collectively, we have a better understanding and scientific base from which to develop policy and make decisions to further the maintenance and attainment of environmental thresholds.

Section 13.7.D of the TRPA Code of Ordinances lists the findings that must be made in order to amend a Plan Area Statement. There is the additional finding, 13.7.D(2) that must be made when adding other than a recreational use to a Plan Area classified as Recreation, the same finding that must be made for urban boundary amendments. One of the following must be found:

(a) The amendment is to correct an error which occurred at the time of adoption, including but not limited to: a mapping error, and editing error, or an error based on erroneous information; or
(b) The amendment is to enable TRPA to make progress toward one or more environmental thresholds without degradation to other thresholds as measure by the Chapter 32 indicators; or
(c) The amendment is needed to protect public health and safety and there is no reasonable alternative.

In both Plan Areas, there are stated Planning Considerations and Special Policies that are not supportive of expanding existing uses in stream environment zones and, in fact, recommend low intensity uses and reducing land coverage in these areas.

The addition of the special policy language has been added to staff's recommendation in order to comply with existing planning considerations and special policies currently found in both Plan Area Statements, and to assist in making finding (b) above.

The TRPA Code of Ordinances defines some criteria in Section 18.2.G (see attachment E) for identifying appropriate locations for Threshold-Related Research Facilities. In Section 18.2.G(3), the Code states that "Threshold Related Research Facilities shall be located in community plan areas unless TRPA finds that there is a demonstrated need to locate them outside a Community Plan Area, the use is designated a special use by the applicable plan area statement, and that the project area for which the threshold-related research facility is proposed, contains existing development". The purpose for these applicant-initiated PAS amendments is to make an existing use, TRG's facility, conform with the permissible use list in both plan areas.
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Required Findings: The following findings must be made prior to adopting the proposed amendments:

A. 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 proposed Plan Area Statement amendments are limited to the identified Plan Areas, do not amend any boundary lines, only add threshold-related research facilities as a special use for the existing facility, the new special policy language will assist TRPA to better attain and maintain thresholds, and are consistent with the criteria defined in Code Section 18.2.G(1) thru (4). Special use findings will need to be made when specific projects come forward. All applications must be reviewed for compliance with other Code and Plan Area provisions. All projects approved under this new language must meet all Regional Plan standards.

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

   Rationale: All projects that are approved under this provision must make the finding that no threshold will be exceeded, and meet all the requirements listed within the new special policy language. In addition, by adding Threshold-Related Research Facilities to the list of permissible uses, the amendments make a research facility that has existed in the fish hatchery building for the last twenty-five years, conforming with the list of permissible uses in both PAS 005 and PAS 006.

3. Finding: Wherever federal, state and local air and water quality standards applicable for the Region, whichever are strictest, 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: See Findings 1 and 2 above.

Chapter 13 Findings

1. Finding: The amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C.
Rationale: These amendments are consistent with the Plan Designation for the attached Plan Area Statements, with the addition of Special Policy #3 in Pas 005 and Special Policy #7 in PAS 006.

2. Finding: If the amendment is to expand an existing urban plan boundary or to add residential, tourist accommodation, commercial, or public service as permissible uses to a non-urban plan area, it must be found that the amendment will make the plan area statement consistent with an adopted policy or standard of the Regional Plan, and that the amendment will satisfy one or more of the following criteria:

(a) The amendment is to correct an error which occurred at the time of adoption, including but not limited to a mapping error, an editing error, or an error based on erroneous information; or

(b) The amendment is to enable TRPA to make progress toward one or more environmental thresholds without degradation to other thresholds as measure by the Chapter 32 indicators; or

(c) The amendment is needed to protect public health and safety and there is no reasonable alternative.

Rationale: Finding b is most applicable. There is a need for ongoing study/research of the physical and biological systems in the Region. The existing research facility use, which is made a conforming use with this amendment, has been performing threshold related research for the Region for more than twenty-five years. The new requirements listed in the proposed special policy language will provide additional opportunities to make progress toward threshold attainment and reduce existing impacts within the immediate vicinity.

Environmental Documentation: Based on the above analysis and completion of an IEC, no significant environmental impacts were identified that cannot be mitigated to a less than significant level.

Requested Action: Staff requests 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 Chapter 13 findings.

2. Motion to adopt the attached Ordinance.

Staff will begin this item with a brief presentation. If there are any questions regarding this agenda item, please contact Coleen Shade at (702) 588-4547, extension 228 or via email at coleens@trpa.org.
Chapter 18
PERMISSIBLE USES

18.2.G Threshold Related Research Facilities: Facilities may be designated "Threshold Related Research Facilities" if they meet the following criteria:

(1) The Facilities shall be primarily used to implement social, political and scientific research relating to the Lake Tahoe Environmental Thresholds or the Lake Tahoe ecosystem.

(2) Structures and related improvements designated as "Threshold Related Research Facilities" shall provide adequate security, such as a bond, lease requirement, deed restriction or other appropriate mechanism, to assure their removal or conversion consistent with TRPA ordinances upon discontinuance of threshold research.

(3) "Threshold Related Research Facilities" shall be located in community plan areas unless TRPA finds that there is a demonstrated need to locate them outside a CP area, the use is designated a special use by the applicable plan area statement, and that the project area for which the threshold related research facility is proposed contains existing development.

(4) Subject to the provisions for development rights and allocation of residential development, overnight multi-person facilities for up to 25 persons and caretaker facilities may be deemed accessory to this use.

18.4 Definitions of Uses: The uses listed in the Table of Primary Uses in section 18.3 are defined in this section. Uses accessory to the uses listed in the Table of Primary Uses are also defined and, to the extent practicable, listed in this section. Certain of the terms employed in defining the uses in this section may be defined in Chapter 2.

Threshold Related Research Facilities: Public or non-profit research establishments primarily engaged in implementing social, political and scientific research relating to the Lake Tahoe Environmental Thresholds or the Lake Tahoe ecosystem. The use includes laboratories, monitoring stations, scientific interpretive centers, research and training classrooms, and related support facilities. It does not include facilities not related to threshold related research such as general college administrative offices and classrooms which are listed under Schools-College and government administrative offices which are listed under Government Offices or non threshold related research (which may be conducted under the Professional Office use). Overnight multi-person facilities, outside storage, and caretaker facilities may be considered as accessory to this use. [Amended 10/28/98]
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 00 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; TO ADD THRESHOLD-RELATED RESEARCH FACILITIES UNDER PUBLIC SERVICE AS A SPECIAL USE IN PLAN AREAS 005, ROCKY RIDGE AND 006, FISH HATCHERY, AND ADD SPECIAL POLICY LANGUAGE TO BOTH PLAN AREAS AS IS REFLECTED IN ATTACHMENTS B and C, 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 PAS 005, Rocky Ridge and PAS 006, Fish Hatchery 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  These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.

1.30  The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. 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.

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

1.50  The Governing Board finds that the amendments adopted here will 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 Amendments of Plan Area Statements 005, Rocky Ridge and 006, Fish Hatchery

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Exhibits 1 and 2, dated February 28, 2000, which attachment is appended hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Plan Area Statements 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 and the amendments to the Plan Area Statements shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Plan Area Statements are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the Plan Area Statements 005 and 006 shall be effective 60 days after its adoption pursuant to Subsection 13.7.B.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held March 22, 2000, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Don Miner, Vice-Chairman
Tahoe Regional Planning Agency
New language is underlined in blue; deleted language is struck through in red.

005
ROCKY RIDGE

PLAN DESIGNATION:

<table>
<thead>
<tr>
<th>Land Use Classification</th>
<th>RESIDENTIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management Strategy</td>
<td>MITIGATION</td>
</tr>
<tr>
<td>Special Designation</td>
<td>SCENIC RESTORATION AREA</td>
</tr>
</tbody>
</table>

DESCRIPTION:

Location: This Plan Area is located along Highway 28 between Tahoe City and Lake Forest and can be found on TRPA maps C-6, C-7 and D-6.

Existing Uses: This area is made up of low density residential lake front homes, planned unit residential units in the Rocky Ridge Subdivision, and a motel. The area is 90 percent built out.

Existing Environment: This area is 60 percent low hazard, 25 percent high hazard and 15 percent SEZ. Land coverage is 40 percent plus an additional 22 percent disturbed. The shorezone tolerance districts are classified 4 and 7 and contain prime fish habitats.

PLANNING STATEMENT: This area should continue to be a residential area of the same type and character that now exists.

PLANNING CONSIDERATIONS:

1. There is residential intrusion into the SEZs.
2. The shoreline is showing evidence of bank erosion and large unstable areas.
3. Lake front parcel improvements are not adequate with respect to drainage, infiltration, and slope stabilization.
4. The prime fish habitat in Lake Tahoe is tentatively identified for habitat restoration.
5. Scenic Roadway Unit 15 and Scenic Shoreline Units 15 and 16 are within this Plan Area. Shoreline Unit 16 is targeted for scenic restoration as required by the scenic threshold.

SPECIAL POLICIES:

1. The wall barrier on Burton Creek should be removed or otherwise renovated to facilitate upstream migration of fish.
2. The existing motel shall be conforming; however, there shall be no additional tourist accommodation units in this area.
3. TRPA recognizes the existing research facility at its current level of use on the Historic Fish Hatchery Property as a Threshold-Related Research Facility in these plan areas. There shall be no expansion of the exiting use unless there is implementation of the following environmental improvement projects:
a) Participate in planning, designing, and funding a fair share of the Burton Creek Linked Project-Stream Habitat Restoration (EIP project #51 and #988); AND

b) Plan and design, and/or fund the relocation of the campground in PAS 006, Fish hatchery, to a plan area statement with higher capability (EIP Projects #988 and #360); OR

c) Plan and design, and/or fund the relocation of the existing baseball field in PAS 006, Fish Hatchery, to a plan area statement with higher capability land that is still within the TCPUD’s recreational boundaries (EIP Project #944 and 208 Plan); OR

d) Plan and design, and/or fund a functional equivalent restoration project consistent with all Special Policies in PAS 006, Fish Hatchery, and PAS 005, Rocky Ridge.

**PERMISSIBLE USES:** Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

**General List:** The following list of permissible uses is applicable throughout the Plan Area.

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>Single family dwelling (A).</td>
</tr>
<tr>
<td>Tourist Accommodation</td>
<td>Hotel, motel and other transient dwelling units (S) and bed and breakfast facilities (S).</td>
</tr>
<tr>
<td>Commercial</td>
<td>Professional offices (S).</td>
</tr>
<tr>
<td>Public Service</td>
<td>Local post offices (S), local public health and safety facilities (S), public utility centers (S), pipelines and power transmission (S), transit stations and terminals (S), transportation routes (S), and transmission and receiving facilities (S) and threshold-related research facilities (S).</td>
</tr>
<tr>
<td>Recreation</td>
<td>Day use areas (A), beach recreation (A), participant sports (S), and riding and hiking trails (A).</td>
</tr>
<tr>
<td>Resource Management</td>
<td>Reforestation (A), sanitation salvage cut (A), special cut (A), thinning (A), early successional stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), fire detection and suppression (A), fuels treatment/management (A), insect and disease suppression (A), sensitive and uncommon plant management (A), erosion control (A), SEZ restoration (A), and runoff control (A).</td>
</tr>
</tbody>
</table>

**Shorezone:** Within the specified shorezone tolerance district, the following primary uses may be permitted in the backshore, nearshore, and foreshore. Accessory structures shall be regulated pursuant to the regulations applicable to the primary use upon which they

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*Amenndd 04/23/97, General Use List*

TRPA Plan Area Statements
005 - ROCKY RIDGE

Page 2
are dependent in accordance with Chapter 18. The following structures may be permitted
in the shorezone as an allowed (A) or special (S) use only if they are accessory to an
existing, allowed use located on the same or adjoining littoral parcel.

**Tolerance Districts 4 and 7**

**Primary Uses**
Beach recreation (A), safety and navigational
devices (A), and salvage operations (A).

**Accessory Structures**
Buoy (A), piers (A), fences (S), boat ramps (S),
breakwaters or jetties (S) floating docks and
platforms (A), shoreline protective docks (S),
and water intake lines (S).

**MAXIMUM DENSITIES:** Pursuant to Chapter 21 DENSITY, the following list establishes the
maximum allowable densities that may be permitted for any parcel located within the Plan Area.
The actual development permitted may be further limited by transfer of development rights
limitations, residential density incentive program, special use determinations, allocation limitations
and general site development standards.

<table>
<thead>
<tr>
<th>USE</th>
<th>MAXIMUM DENSITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>1 unit per parcel</td>
</tr>
<tr>
<td>Tourist Accommodation</td>
<td></td>
</tr>
<tr>
<td>Bed and breakfast facilities</td>
<td>8 units per acre</td>
</tr>
<tr>
<td>Hotel, motel and other transient dwelling units</td>
<td></td>
</tr>
<tr>
<td>• with less than 10% of units with kitchens</td>
<td>20 units per acre</td>
</tr>
<tr>
<td>• with 10% or more units with kitchens</td>
<td>8 units per acre</td>
</tr>
</tbody>
</table>

**RESIDENTIAL BONUS UNITS:** Pursuant to Chapter 35, the maximum number of residential
bonus units which may be permitted for this Plan Area is 0 units.

**MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL:** The maximum community noise
equivalent level for this Plan Area is 55 CNEL. The maximum community noise equivalent level
for the Highway 28 corridor is 55 CNEL.

**ADDITIONAL DEVELOPED OUTDOOR RECREATION:** The following are the targets and limits
for additional developed outdoor recreation facilities specified in Chapter 13 to be located within
this Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year
Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional
capacities allowed are measured in persons at one time:

SUMMER DAY USES 0 PAOT  WINTER DAY USE 0 PAOT  OVERNIGHT USES 0 PAOT

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

1. Improvements required by Volume IV of the Water Quality Management Plan.
2. The highway and transit improvements indicated in the Transportation Element of
   the Regional Goals and Policies Plan.
3. Stream zone restoration as indicated in Volume III of the Water Quality
   Management Plan.
4. The scenic restoration and landscaping improvements indicated in the Scenic
   Quality Implementation Program for the Highway 26 corridor.

§ Amended 04/23/97, Improvement Programs #1 and #3

TRPA Plan Area Statements
005 - ROCKY RIDGE

97
**FISH HATCHERY**

**PLAN DESIGNATION:**

- Land Use Classification: RECREATION
- Management Strategy: REDIRECTION
- Special Designation: SCENIC RESTORATION AREA

**DESCRIPTION:**

**Location:** This area encompasses most of the meadow area extending from the shoreline in the vicinity of the U.S. Coast Guard facility to the County Administrative Center north of State Highway 28. The area is depicted on TRPA map D-6.

**Existing Uses:** The majority of the area is publicly owned and contains the County Administrative Center, TCPUD Recreation Area, the U.S. Coast Guard facility, and an abandoned state fish hatchery.

**Existing Environment:** Most of the area is classified as stream environment zone, and the shorezone is classified as a shorezone tolerance district 1. The predominant riparian-type vegetation of the area has been extensively modified to accommodate various types of recreational and urban support services.

**PLANNING STATEMENT:** This area should continue to provide both dispersed and more intensive forms of recreation while preserving, to the extent possible, its natural character and value as a stream environment zone. Intensive uses in sensitive areas should be relocated to other less-sensitive sites in the planning area, and inappropriate uses should be redirected outside the planning area.

**PLANNING CONSIDERATIONS:**

1. Scenic Shorezone Unit 16 and Scenic Roadway Unit 16 are within this Plan Area. Both are targeted for scenic restoration according to the scenic threshold.

2. The open meadow areas should be maintained as scenic corridors from the highway and all development should be screened from views with appropriate landscaping. Other design considerations must be consistent with the scenic restoration plan for Roadway Unit #16.

3. Numerous developed facilities are located within the SEZ, which reduces the nutrient cleansing capacity of the meadow areas.

4. Most of the developed facilities lack 208 water quality improvements.

5. Not all uses in the area are recreation oriented.

6. Burton Creek has been extensively modified.

**SPECIAL POLICIES:**

1. No new land coverage for the County Administrative Center shall be permitted in the SEZ, and the entire facility should be retrofitted with Best Management Practices as soon as feasible.
2. The County is considering moving the Department of Public Works. The existing coverage should be credited toward the expansion of the County Administrative Center.

3. The campsites should be eliminated in this area over the long term and relocated in a Plan Area with higher capability land.

4. The undeveloped portions of the SEZ should be managed for scenic restoration and low intensity uses.

5. Wherever possible, disturbed sites in the SEZ should be restored. Incentives should be given property owners to encourage restoration. This Plan Area is a high priority area for land coverage reduction.

6. The facilities associated with the boat ramp and Coast Guard Station should be retrofitted with BMPs as soon as feasible.

7. TRPA recognizes the existing research facility at its current level of use on the Historic Fish Hatchery Property as a Threshold-Related Research Facility in these plan areas. There shall be no expansion of the exiting use unless there is implementation of the following environmental improvement projects:
   a) Participate in planning, designing, and funding a fair share of the Burton Creek-Linked Project-Stream Habitat Restoration (EIP project #51 and #888); AND
   b) Plan and design, and/or fund the relocation of the campground in PAS 006, Fish hatchery, to a plan area statement with higher capability (EIP Projects #888 and #860); OR
   c) Plan and design, and/or fund the relocation of the existing baseball field in PAS 006, Fish Hatchery, to a plan area statement with higher capability land that is still within the TCPUD's recreational boundaries (EIP Project #844 and 208 Plan); OR
   d) Plan and design, and/or fund a functional equivalent restoration project consistent with all Special Policies in PAS 006, Fish Hatchery, and PAS 005, Rocky Ridge.

**PERMISSIBLE USES**: Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

**General List**: The following list of permissible uses is applicable throughout the Plan Area.

**Residential**
- Single family dwelling (A).

**Public Service**
- Pipelines and power transmission (S), transmission and receiving facilities (S), local public health and safety facilities (A), public utility centers (S), transportation routes (S), government offices (S), transit stations and terminals (S), cultural facilities (S), and regional public health and safety facilities (S) and threshold-related research facilities (S).

**Recreation**
- Day use areas (A), riding and hiking trails (S), participant sports (S), developed campgrounds (S), beach recreation (A), and boat launching facilities (S).
Resource Management

Reforestation (A), regeneration harvest (S) sanitation salvage cut (A), selection cut (S) special cut (S), thinning (A), tree farms (S), timber stand improvement (S), early successional stage vegetation management (A), non-structural fish habitat management (A), non-structural wildlife habitat management (A), structural fish habitat management (S), structural wildlife habitat management (S), farm/ranch accessory structures (S), fire detection and suppression (A), fuels treatment (S), insect and disease suppression (A), prescribed fire management (A), sensitive plant management (A), uncommon plant community management (A), erosion control (A), SEZ restoration (A), and run-off control (A).

Shorezone: Within the specified shorezone tolerance district, the following primary uses may be permitted in the backshore, nearshore, and foreshore. Accessory structures shall be regulated pursuant to the regulations applicable to the primary use upon which they are dependent in accordance with Chapter 18. The following structures may be permitted in the shorezone as an allowed (A) or special (S) use only if they are accessory to an existing, allowed use located on the same or adjoining littoral parcel.

Tolerance District 1

Primary Uses

Beach recreation (A), safety and navigation facilities (A), boat launching facilities (S), and water oriented outdoor recreation concessions (S).

Accessory Structures

Buoys (A), piers (A), fences (S), boat ramps (A), floating docks and platforms (A), shoreline protective structures (S), and water intake lines (A).

MAXIMUM DENSITIES: Pursuant to Chapter 21 DENSITY, the following list establishes the maximum allowable densities that may be permitted for any parcel located within the Plan Area. The actual development permitted may be further limited by transfer of development rights limitations, residential density incentive program, special use determinations, allocation limitations and general site development standards.

<table>
<thead>
<tr>
<th>USE</th>
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<tr>
<td>Recreation</td>
<td></td>
</tr>
<tr>
<td>Developed Campgrounds</td>
<td>8 sites per acre</td>
</tr>
</tbody>
</table>

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Plan Area is 0 units.

MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL: The maximum community noise equivalent level for this Plan Area is 55 CNEL.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 0 PAOT WINTER DAY USE 0 PAOT OVERNIGHT USES 0 PAOT
**IMPROVEMENT PROGRAMS:** The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include, but are not limited to, the following:


2. Provide mass transportation as indicated in the Regional Goals and Policies Plan to this recreation area.


4. The scenic restoration and landscaping improvements indicated in the Scenic Quality Implementation Program for the Highway 28 corridor.
MEMORANDUM

March 13, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Plan Area Statement 009B, Dollar Hill, to Add Transfer of Multi-Residential Units Program, to Add Multi-Residential Incentive Program to the Special Designations, to Add Residential Bonus Units to the Plan Area, and to Add Special Policy #4 to the Plan Area; and Amendment of Plan Area Statement 028, Kings Beach Residential, to Decrease Available Residential Bonus Units

Proposed Action: The applicant, NAHAS, has requested an amendment to Plan Area Statement (PAS) 009B, Dollar Hill, to add “Multi-Residential Units” language to the Transfer of Development Rights (TDR) Receiving Area Special Designation. TRPA staff and the APC recommend amending PAS 009B, Dollar Hill, to add: (1) “Multi-Residential Incentive Program (Bonus Units Only Available for Affordable Housing)” language to the special designation; (2) add 24 Residential Bonus Units to PAS 009B, Dollar Hill; (3) decrease the number of Bonus Units in PAS 028, Kings Beach Residential, from 75 to 51; and (4) add Special Policy #4 to PAS 009B, Dollar Hill with the following language “In order to approve a mixed-use project involving affordable housing, the affordable housing component shall be constructed prior to, or in concurrence with, the project as a whole” (see Exhibits 1 and 2 of Attachment C).

Staff and APC Recommendation: Staff recommends that the TRPA Governing Board approve the proposed amendments to PAS 009B, Dollar Hill and PAS 028, Kings Beach Residential. The TRPA Advisory Planning Commission heard this item March 8, 2000 and unanimously recommended approval of the amendments.

APC Discussion: Two public hearings were held involving an amendment to PAS 009B, Dollar Hill; the first was held on February 9, 2000, the second was held on March 8, 2000. At the first public hearing, an applicant-initiated amendment was proposed to add “Multi-Residential Units” language to the Transfer of Development Right Special Designation. The amendment proposed on February 9, 2000 would have allowed multiple development rights to be transferred into the Dollar Hill Plan Area. However, because PAS 009B is designated as a Preferred Affordable Housing Area for senior citizens, APC motioned to continue the agenda item until an amendment could be brought forward that included additional language that provided incentives to develop affordable housing. At the second public hearing, two plan area amendments were proposed, one for the Dollar Hill Plan Area (PAS 009B) and one for the Kings Beach Residential Plan Area (PAS 028). For the Dollar Hill Plan Area (PAS 009B), proposed changes were to: (1) add “Multi-Residential Units” language to the Transfer of
Amendments to PAS 009B and PAS 028
March 13, 2000
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Development Rights Special Designation; (2) add "Multi-Residential Incentive Program" to the Special Designation; and (3) to increase the number of bonus units from 0 to 25. Proposed changes to the Kings Beach Residential Plan Area were to decrease the number of bonus units from 75 to 50 (which essentially transferred 25 bonus units from Kings Beach Residential Plan Area to the Dollar Hill Plan Area).

After some discussion on the proposed amendments, the APC voted unanimously to: (1) add "Multi-Residential Units" language to the Transfer of Development Rights Special Designation of PAS 009B; (2) to add "Multi-Residential Incentive Program (Bonus Units for Affordable Housing Only)" language to the Special Designation of PAS 009B; (3) to add language to PAS 009B Special Policy #4 "In order to approve a mixed-use project involving affordable housing, the affordable housing component shall be constructed prior to, or in concurrence with, the project as a whole"; (4) to increase the number of bonus units in PAS 009B from 0 to 24; and (5) to decrease the number of bonus units in PAS 028 from 75 to 51.

Background: The applicant proposes to amend Plan Area Statement 009B to make the Plan Area a TDR receiving area for multi-residential units. Additionally, TRPA staff and APC are recommending amendments to PAS 009B and PAS 028 to encourage the development of affordable senior housing. Multi-family dwellings, nursing and personal care facilities and residential care facilities are currently identified as permissible 'special' uses within Plan Area 009B. PAS 009B also has a "Preferred Affordable Housing Area" special designation that is specified for senior citizens only.

Plan Area 009B is located near the intersection of Highway 28 and Fabian Way in the Dollar Point area. The plan area is bounded by Highway 28 to the south, PAS 012 to the east, Village Road to the west and Polaris Road to the north (see Attachment A for a map). Predominant uses in PAS 009B consist of local oriented commercial uses and larger undeveloped parcels. Existing land uses include a nursery and gift shop. The Dollar Hill area is low hazard with a low percentage of land coverage and disturbance. Open space predominates the adjoining northeast boundary, while low-density single-family residential units are predominant on the western adjoining property, and commercial uses predominate the south and southeast boundaries.

Plan Area 028, Kings Beach Residential, is located north of the Kings Beach commercial area (see Attachment B for map).

Special Policies of PAS 009B states that permitted uses in this area should be compatible with the visual sensitivity of the area along State Route 28, senior housing should be encouraged as an alternative to commercial uses, and that strip commercial development should be discouraged.

Plan Area 009B is currently a receiving area for existing development. That is, certain elements of existing development may be transferred (i.e., relocated) to Plan Area 009B provided that:

1) The use or activity is permissible in PAS 009B,
2) Units of use are removed from the sending parcel,
3) The receiving parcel complies with site development provisions established by the Code and Plan Area Statement or Community Plan,
4) Chapter 18 findings can be made.

SR/dmc

AGENDA ITEM X.D. 104
Amendments to PAS 009B and PAS 028  
March 13, 2000  
Page 3  

5) Is approved by local governments,  
6) The sending parcel is restored to its natural state,  
7) All facilities are appropriate for removal considering conformance with TRPA plans, the Code, provision with historical structures, and affordable housing,  
8) Units of use transferred are legally established, and  
9) The receiving parcel is in Land Capability Districts > 3 or top ranking under IPES.  

Discussion: The proposed amendment would make Plan Area 009B a receiving area for multi-residential units and thus an eligible receiving area for the transfer of residential development rights. A residential development would be able to be transferred to a parcel in Plan Area 009B, provided that:  
1) The sending parcel is vacant and has a residential development right,  
2) The sending parcel is subsequently retired at the time of transfer, and  
3) Multi-residential uses are permissible in Plan Area 009B.  

All transfers into Plan Area Statement 009B would be subject to the maximum density provisions of the PAS.  

Adding “Multi-Residential Incentive Program (Bonus Units for Affordable Housing Only)” language to the Dollar Hill Plan Area (PAS 009B) special designation and transferring in 24 residential bonus units from Kings Beach Residential Plan Area will facilitate the development of affordable senior housing in the Dollar Hill Plan Area. New language in Special Policy #4 would provide some assurance that affordable senior housing will be considered for projects proposing a mix of multi-residential market rate housing and affordable housing.  

Given the existing Plan Area description relative to multi-residential uses and preferred affordable senior housing, the TDR receiving area designation, bonus unit incentive program, and Special Policy #4 should be added to PAS 009B to provide more opportunities to develop multi-residential uses and affordable senior housing.  

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

A. 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 proposed Plan Area Statement amendment will allow for the transfer of development rights for multi-residential units into Plan Area 009B and provide bonus residential units through the Multi-Residential Incentive Program to facilitate the development of affordable senior housing. Although the Dollar Hill (PAS 009B) Plan Designation is for Commercial/Public Service, the amendment is consistent with Special
Policy #2 of the existing Plan Area, which encourages development of senior citizen housing as an alternative to commercial use. The amendment will enhance implementation of the Regional Plan by providing additional opportunities to transfer in residential units for multi-residential uses and affordable senior housing. No additional development in excess of that permissible in Code Chapters 20 and 21 is permitted by the amendment.

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

Rationale: Development of multi-residential units must comply with applicable provisions of the Regional Plan. No additional development in excess of that established in the Regional Plan is permitted by the amendment.

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

Rationale: Project applicants will continue to be subject to the Regional Plan package, including maintenance of applicable air and water quality standards.

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 reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain the thresholds.

5. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: For reasons stated in Findings 1 and 2 above, the Regional Plan will continue to achieve and maintain the thresholds.

Chapter 13 Findings

1. Finding: The amendment is substantially consistent with the plan area designation criteria in Subsections 13.5.B and 13.5.C.

Rationale: See findings 1 and 2 above. The proposed amendment is consistent with and will not change the current Plan Area Statement 009B designation as Commercial/Public Service and is consistent with the current density pattern of the areas in question.
Amendments to PAS 009B and PAS 028
March 13, 2000
Page 5

Environmental Documentation: Based on the above analysis and completion of an Initial Environmental Checklist (IEC), staff recommends a Finding of No Significant Effect (FONSE). As described above, Special Policy #2 of PAS 009B encourages this area as a Preferred Affordable Housing area for senior citizens as an alternative to commercial development. The amendment is consistent with the policies of the Plan Area Statement and will help facilitate the development of multi-residential housing for senior citizens.

Requested Action: Staff requests 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 Chapter 13 findings.

2. Motion to adopt the attached Ordinance.

Staff will begin this item with a brief presentation. Please contact Shane Romso at (775) 598-4547 if you have any questions of comments regarding this agenda item.
Attachment C
March 13, 2000

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE No. 00-

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY, AS AMENDED; AMENDING PLAN AREA STATEMENT 009B (DOLLAR HILL) TO AMEND PLAN DESIGNATION TO ADD SPECIAL DESIGNATION OF THE TRANSFER OF DEVELOPMENT RIGHTS RECEIVING AREAS FOR MULTI-RESIDENTIAL UNITS AND TO INCREASE AVAILABLE BONUS UNITS FOR THE PLAN AREA; AMENDING PLAN AREA STATEMENT 0028 (KINGS BEACH RESIDENTIAL) TO DECREASE AVAILABLE BONUS UNITS FOR THE PLAN AREA; 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 Plan Area Statement 009B (Dollar Hill) to: (1) add "Multi-Residential Units" language to the Transfer of Development Rights Special Designation; (2) add "Multi-Residential Incentive Program (Bonus Units for Affordable Housing Only)" language to the Special Designation; (3) increase available bonus units from 0 to 24 bonus units; and (4) add "For multi-residential projects proposing both market rate and affordable housing elements, affordable housing units must be built prior to, or in concurrence with, market-rate housing" language to Special Policy # 4 for the entire plan area, and by amending Plan Area 028 (Kings Beach Residential) to reduce available bonus units from 75 to 51 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 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.

1.30 The Advisory Planning Commission (APC) has conducted two public hearings on the amendments and recommended adoption. 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.

1.40 Prior to the adoption of this ordinance, the Governing Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact.
1.50 The Governing Board finds that the amendments adopted here will 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 of the Plan Area Statement 009B, Dollar Hill and Amendment of Plan Area Statement 028, Kings Beach Residential

Subsection 6.10(2), subparagraph (___) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Exhibit 1 and Exhibit 2, dated March 13, 2000, which are appended hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Plan Area Statements 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 and the amendments to the Plan Area Statements shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Plan Area Statements are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending Plan Area Statement 009B, Dollar Hill, shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held March 22, 2000, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Don Miner, Vice Chairman
Tahoe Regional Planning Agency
009B
DOLLAR HILL

PLAN DESIGNATION:

Land Use Classification          COMMERCIAL/PUBLIC SERVICE
Management Strategy              MITIGATION
Special Designation              TDR RECEIVING AREA FOR:
                                 1. Existing Development
                                 2. Multi-Residential Units
SCENIC RESTORATION AREA
PREFERRED AFFORDABLE HOUSING AREA
(Senior Citizen Only)
MULTI-RESIDENTIAL INCENTIVE PROGRAM
(Bonus Units for Affordable Housing Only)

DESCRIPTION:

Location: This is the commercial area at the Highway 28/Fabian Way intersection in the
Dollar Point area and is located on TRPA map D-6.

Existing Uses: The area consists of local oriented commercial uses and larger
undeveloped parcels. The area is approximately 15 percent built out with office and retail
uses. This Plan Area is surrounded by residential/ school uses.

Existing Environment: The Dollar Hill area is low hazard with a low percentage of land
coverage and disturbance.

PLANNING STATEMENT: This area should continue to be a neighborhood oriented commercial
area.

PLANNING CONSIDERATIONS:

1. The area has a winter traffic problem on Dollar Hill, which would be aggravated by
   the addition of traffic controls at the top of Dollar Hill. Summer traffic is also
   heavy in this area as the only passage through this area is Highway 28.

2. Scenic Roadway Unit 16 is within this Plan Area and is targeted for scenic
   restoration as required by the scenic threshold.

SPECIAL POLICIES:

1. The uses permitted along Highway 28 should be compatible with the visual
   sensitivity of the area.

2. Senior housing should be considered and encouraged as an alternative to
   commercial use for this area.
3. Strip commercial development in this area should be discouraged.
4. For multi-residential projects proposing both market rate and affordable housing elements, affordable housing units must be built prior to, or in concurrence with, market-rate housing.

PERMISSIBLE USES: Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

**General List:** The following list of permissible uses is applicable throughout the Plan Area.

**Residential**
- Multiple family dwelling (S), nursing and personal care (S), residential care (S), and single family dwelling (S).

**Commercial**
- Eating and drinking places (A), food and beverage retail sales (A), furniture, home furnishings and equipment (S), general merchandise stores (A), nursery (A), outdoor retail sales (S), service stations (S), privately owned assembly and entertainment (S), broadcasting studios (A), financial services (A), health care services (A), personal services (A), professional offices (A), secondary storage (S), and small scale manufacturing (S).

**Public Service**
- Cemeteries (S), churches (A), cultural facilities (A), day care centers/pre-schools (S), government offices (A), local assembly and entertainment (A), local post office (A), local public health and safety facilities (A), membership organizations (S), publicly owned assembly and entertainment (S), public utility centers (S), schools - kindergarten through secondary (S), social service organizations (S), pipelines and power transmission (S), transit stations and terminals (S), transportation routes (S), and transmission and receiving facilities (S).

**Recreation**
- Day use areas (A), participant sports facilities (A), cross country skiing courses (S), outdoor recreation concessions (S), riding and hiking trails (S), and rural sports (S).

**Resource Management**
- Reforestation (A), sanitation salvage cut (A), thinning (A), tree farms (A), early successional stage vegetation management (A), nonstructural fish habitat management (A), nonstructural wildlife habitat management (A), structural fish habitat management (A), structural wildlife habitat management (A), fire detection and suppression (A), fuels treatment (A), insect and disease suppression (A), sensitive plant management (A), uncommon plant community management (A), erosion control (A), runoff control (A), and SEZ restoration (A).

**MAXIMUM DENSITIES:** Pursuant to Chapter 21 DENSITY, the following list establishes the maximum allowable densities that may be permitted for any parcel located within the Plan Area. The actual development permitted may be further limited by transfer of development rights limitations, residential density incentive program, special use determinations, allocation limitations and general site development standards.
<table>
<thead>
<tr>
<th>USE</th>
<th>MAXIMUM DENSITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>1 unit per parcel</td>
</tr>
<tr>
<td>Multiple Family Dwelling</td>
<td>15 units per acre</td>
</tr>
<tr>
<td>Nursing and Personal Care</td>
<td>25 people per acre</td>
</tr>
<tr>
<td>Residential Care</td>
<td>25 people per acre</td>
</tr>
</tbody>
</table>

**RESIDENTIAL BONUS UNITS:** Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Plan Area is 0 24 units.

**MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL:** The maximum community noise equivalent level for this Plan Area is 60 CNEL. The maximum community noise equivalent level for the Highway 28 corridor is 60 CNEL.

**ADDITIONAL DEVELOPED OUTDOOR RECREATION:** The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

SUMMER DAY USES 0 PAOT  WINTER DAY USE 0 PAOT  OVERNIGHT USES 0 PAOT

**IMPROVEMENT PROGRAMS:** The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include the following:

1. Improvements required by Volume IV of the Water Quality Management Plan.
2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.
4. The scenic restoration and landscaping improvements indicated in the restoration plan for the Highway 28 corridor.
028
KINGS BEACH RESIDENTIAL

PLAN DESIGNATION:

Land Use Classification  RESIDENTIAL
Management Strategy     REDIRECTION
Special Designation     TDR RECEIVING AREA FOR:
                        1. Existing Development
                        2. Multi-Residential Units
                        PREFERRED AFFORDABLE HOUSING AREA
                        MULTI-RESIDENTIAL INCENTIVE PROGRAM

DESCRIPTION:

Location: This lot and block subdivision is north of the Kings Beach commercial area and is located on TRPA maps F-3 and F-4.

Existing Uses: The area is a mixture of residential and some commercial uses. The residential uses include trailers, apartments and cabins. The area is one of the lower income areas in the Region. This area is 75 percent built out.

Existing Environment: The land capability is low hazard with 35 percent land coverage and 25 percent disturbed.

PLANNING STATEMENT: This area should continue to be a mixed residential area with substantial improvements to upgrade the character of the area.

PLANNING CONSIDERATIONS:

1. The quality of development needs to be upgraded.
2. Numerous 25-foot wide lots exist.
3. There is considerable litter and debris in Griff Creek adjacent to houses.

SPECIAL POLICIES:

1. Low income housing displacements as a result of redirection developments should be mitigated.
2. Single family residential sites should be 50 feet or more in width.
3. A scenic restoration plan for this area should be encouraged. This is not an area identified by scenic thresholds for mandatory attainment, but is in need of such restoration nevertheless.
4. Redirection should be encouraged in terms of planned unit developments that make the most efficient use of site design. Redevelopment projects should allow resubdivision of property equivalent to the number of units created by the old subdivision map, with reversions to acreage of the old subdivision lots. Substandard housing and mobilehome and trailer park developments should be encouraged to convert to better quality, more permanent housing stock. Emphasis should be given to affordable housing developments.

5. This area should be considered in a Community Plan for PAS 029, 022, and 026.

6. If and when a redevelopment agency is created, this Plan Area Statement should be considered by the TRPA for a special designation as Eligible for Redevelopment Plans.

7. A continuous landscape and open space buffer shall be provided along the western boundary of APN 90-222-29 as part of development of a multiple family residential project which includes the parcel. The purpose of the buffer is to provide visual and physical separation between multiple family residential uses in Plan Area 028 and single family residential uses in Plan Area 031. The buffer shall average at least twenty five feet in width and shall not be less than twenty feet in width. No building, structure other than fences, exterior lighting, vehicle parking or circulation, trash facilities or mechanical equipment shall be located within the buffer.

PERMISSIBLE USES: Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

General List: The following list of permissible uses is applicable throughout the Plan Area:

Residential
Single family dwelling (A), multiple family dwelling (A), and mobile home dwelling (S).

Tourist Accommodation
Hotels, motels, and other transient dwelling units (S).

Public Service
Local public health and safety facilities (S), transit stations and terminals (S), pipelines and power transmission (S), transmission and receiving facilities (S), transportation routes (S), public utility centers (S), government offices (S), churches (S), local post offices (S), day care centers/pre-schools (S) and schools-kindergarten through secondary (A).

Recreation
Participant sports facilities (S), day use areas (A), and riding and hiking trails (A).

Resource Management
Reforestation (A), sanitation salvage cut (A), special cut (A), thinning (A), early successional stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), fire detection and suppression (A), fuels treatment/management (A), insect and disease suppression (A), sensitive and uncommon plant management (A), erosion control (A), SEZ restoration (A), and runoff control (A).
**MAXIMUM DENSITIES:** Pursuant to Chapter 21 DENSITY, the following list establishes the maximum allowable densities that may be permitted for any parcel located within the Plan Area. The actual development permitted may be further limited by transfer of development rights limitations, residential density incentive programs, special use determinations, allocation limitations and general site development standards.

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<td>Multiple Family Dwelling</td>
<td>15 units per acre</td>
</tr>
<tr>
<td>Mobilehome Dwelling</td>
<td>8 units per acre</td>
</tr>
</tbody>
</table>

**RESIDENTIAL BONUS UNITS:** Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Plan Area is 75.51 units.

**MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL:** The maximum community noise equivalent level for this Plan Area is 55 CNEL.

**ADDITIONAL DEVELOPED OUTDOOR RECREATION:** The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time:

- **SUMMER DAY USES 0 PAOT**
- **WINTER DAY USE 0 PAOT**
- **OVERNIGHT USES 0 PAOT**

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

1. Improvements required by Volume IV of the Water Quality Management Plan.
2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.
March 14, 2000

To: Governing Board Members

From: TRPA Staff

Subject: Show Cause Hearing for Chambers Timber Project Violations

Attached is Governing Board member Waldie's recommendations regarding the Show Cause Hearing for the Chambers Forest Health Enhancement Project scheduled for both Governing Board and Legal Committee consideration this month. Mr. Waldie recommends a finding that Menasha Corporation and the Tahoe City Public Utility District violated the terms of their permit and an assessment of a civil penalty.

The Executive Director agrees with the recommendations as set forth by Mr. Waldie. Staff will be present at the meeting to make a short presentation and answer any questions.

Under separate cover, each Governing Board member will receive a packet of all exhibits submitted by the parties. Please review Mr. Waldie's recommendations and the supporting documentation. Members of the public who would to receive a copy of this packet should contact TRPA.

If you have any questions, please contact John Marshall or Jordan Kahn at (775) 588-4547.

Attachment
Date: March 14, 2000

To: TRPA Legal Committee Members
    TRPA Governing Board Members

From: Jerome Waldie, TRPA Legal Committee Chairman

Re: Proposed Findings and Recommended Penalty for Chambers Forest Health Enhancement Project

RECOMMENDATION

I recommend that the TRPA Legal Committee and the TRPA Governing Board find that the Menasha Corporation (Menasha) and the Tahoe City Public Utility District ("TCPUD") violated numerous conditions of the TRPA permit for the Chambers Forest Health Enhancement Project ("Chambers Project"). I also recommend that the Governing Board assess a civil penalty of $160,000 jointly against Menasha and TCPUD for these violations.

INTRODUCTION

On March 24, 1999, the TRPA Governing Board granted a permit to TCPUD for the Chambers Project. The permit authorized the harvest of timber on 113 acres owned by TCPUD near Homewood, California. Menasha prepared the application and oversaw the harvest for TCPUD.

The following conditions of approval were attached to the Chambers Project permit:

- **Special Condition 10:** Trees greater than 30" d.b.h. [diameter at breast height] shall not be removed unless they pose an unacceptable hazard to facilities, adjacent homes, or human life. Trees 30" d.b.h. or greater to be removed shall require TRPA review on a tree-by-tree basis.

- **Special Condition 8:** Log decks will be removed only when roads are in sufficiently dry or in a hard or frozen condition so as not to cause resource damage as determined by the TRPA Compliance Inspector.

- **Standard Condition 1.5:** All trees to be removed and snags to be protected shall be marked (bole and stump) prior to the pre-harvest inspection.
• **Standard Condition II.10**: All live trees to be cut shall be marked on bole and stump with paint by, or under the supervision of a qualified forester prior to TRPA approval.

• **Special Condition 7**: All harvest debris and foreign materials shall be removed from the SEZ [Stream Environment Zone] immediately after skidding.

The Executive Director contends that TCPUD and Menasha violated each of these conditions of the Chambers Project permit. With respect to Special Condition 10, the Executive Director contends that forty-nine 30" d.b.h. or greater trees were harvested by Menasha without the necessary "tree-by-tree" review." The Executive Director also contends that at least nineteen of those 30" d.b.h. or larger trees should not have been cut because they did not present a hazard to life or property. TCPUD and Menasha counter that the harvest fully complied with Special Condition 10 and, in any event, the condition is unenforceable because it is incompatible with the TRPA Code of Ordinances. With regard to the condition on the hauling of cut timber, Menasha concedes it commenced hauling with prior notification but asserts no penalty should be assessed. Finally, contrary to the Executive Director's contentions, TCPUD and Menasha deny any failure to properly mark or remove debris from the SEZs.

On January 25, 2000, I conducted an evidentiary hearing to determine whether Menasha and TCPUD violated conditions of their TRPA permit at the Chambers Project. Upon consideration of the evidence presented at the hearing and the briefs submitted afterwards, I have prepared these recommendations. You are each asked to independently review the transcript of the evidentiary hearing and the exhibits, as well as the briefs and papers filed by both sides, and determine whether you agree with my findings and conclusions. At the March, 2000, Governing Board meeting, you will be asked to take action on my recommendations.

**BACKGROUND**

TRPA regulates timber harvests in the Lake Tahoe Region as part of its ordinary course of business. However, the Chambers Project permitting process was atypical because of its expedited time-frame (see below for further explanation). Menasha’s representative, Carrie Neubert, contacted Kim Johnson, of the TRPA Compliance Division, in early February of 1999. Ms. Neubert explained that because the Chambers Project was to be an "over-the-snow" harvest, Menasha hoped that the TRPA Governing Board would consider the Chambers Project permit at its February, 1999, meeting. Ms. Johnson stated that while that meeting was not feasible, TRPA would work with Menasha to have the Chambers Project application before the Governing Board at its March, 2000, meeting.¹

As part of the timber harvest compliance process, TRPA staff typically conducts a pre-harvest inspection ("PHI") after the permit has been issued but before the cutting

of any timber. Because the PHI normally occurs after the TRPA permit has been issued, the applicant and the TRPA inspector have copies of the approved permit conditions. However, TRPA staff conducted the Chambers Project PHI prior to Governing Board consideration of the project. This deviation from TRPA protocol was in direct response to Menasha's request to expedite the permit process.\(^2\)

On behalf of Menasha and TCPUD, Carrie Neubert signed Chambers Project permit on March 26, 1999, and timber harvest began five days later. TRPA first became aware of potential problems with the Chambers Project on May 26, 1999. Kim Johnson testified at the evidentiary hearing that on that day she observed harvest debris in the SEZ areas at the Chambers Project in violation of the permit and contacted Carrie Neubert to arrange a meeting at the site.\(^3\) The two met onsite on June 1, 1999, and several times thereafter with others representing TRPA, Menasha, TCPUD, Homewood, and the League to Save Lake Tahoe.

TRPA posted a cease and desist order prohibiting further timber harvesting and hauling at the Chambers Project on June 3, 1999. A more formal cease and desist order itemizing the potential violations and the actions to be taken was sent to Menasha and TCPUD eight days later. A Notice of Violation ("NOV") was sent to both on November 30, 1999, outlining the five permit condition violations that TRPA staff believed to have occurred at the Chambers Project. On December 15, 1999, the TRPA Governing Board authorized the Legal Committee Chairman to conduct an evidentiary hearing pursuant to TRPA Rule of Procedure 9.15. I conducted the evidentiary hearing on January 25, 2000, and at the conclusion requested additional briefing from the parties on a number of issues. After considering the evidence presented at the hearing and arguments in the Notice of Violation and Response, and post-hearing briefs, I now present my proposed findings and recommended resolution.

**DISCUSSION**

I will discuss each major group of violations in turn.

A. **Special Condition 10 (Tree by tree review; Hazard tree harvesting)**

The Governing Board has recognized the importance of preserving the remaining old growth and quasi-old growth forest in the basin.\(^4\) The procedural and substantive requirements imposed by Special Condition 10 on the harvesting of trees 30" d.b.h. or greater form the heart of this dispute. As noted above, Special Condition 10 requires that a TRPA inspector review each tree 30" d.b.h. greater tree prior to harvest. Special


\(^3\) See testimony of Kim Johnson. Transcript 41:6-13.

\(^4\) See TRPA's Late Successional/ Old Growth threshold adopted in 1997 ("individual trees greater than 30" dbh shall also be favored because of their late seral attributes"). TRPA Show Cause Hearing Exhibit 1.
Condition 10 also requires that trees greater than 30” d.b.h. may only be cut if they pose an unacceptable hazard to life or property.

Menasha and TCPUD harvested at least fifty-two trees 30” d.b.h. or greater at the Chambers Project site. It is undisputed that during the PHI, TRPA and Menasha identified, measured and discussed only three 30” d.b.h. or greater trees. Menasha claimed these trees constituted an unacceptable hazard and therefore sought TRPA concurrence to remove them. TRPA initially requested that these trees not be harvested but then subsequently agreed that these trees did pose an unacceptable hazard. As a result, for the forty-nine remaining trees 30” d.b.h. or greater: (1) did Menasha and TCPUD obtain tree by tree review for these trees as required by Special Condition 10?; and (2) did these trees pose an unacceptable hazard to life or property? I will discuss the “tree by tree” and “hazard” components of Special Condition 10 separately. I will also discuss TCPUD and Menasha’s affirmative defense that Special Condition 10 is unenforceable and their argument that other factors excuse non-compliance with this condition.

1. **Menasha/TCPUD Failed to Perform A Tree by Tree Review with TRPA**

It is beyond dispute that Menasha and TCPUD did not review individually with TRPA each of the forty-nine remaining trees at issue. Instead, Menasha and TCPUD contend that they received “tacit” approval of these trees because Kim Johnson allegedly walked by visibly marked 30” d.b.h. or greater trees without comment during the PHI. With this expansive definition, Carrie Neubert testified that in her opinion every 30” d.b.h. or greater tree harvested received “tree by tree review.”

I disagree. The plain language of Special Condition 10 forecloses any reliance on tacit or generic approval. The condition requires that review be undertaken on a tree by tree basis. This condition clearly requires that if Menasha and TCPUD wanted to harvest a tree 30” d.b.h. or greater they must first obtain review of that particular tree.

Jonathan Hoefer, a Registered Professional Forester (“RPF”) with substantial

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5 An inventory of the Chambers Project harvest was conducted on June 22, 23, 24, and July 6, 1999, by Kim Johnson of TRPA and Kevin Whitelock of Menasha. Using a statistical analysis for logs that remained at the Chambers Project site and the scaling tickets for those logs that had been hauled from the site, Kim Johnson determined that there were at least 52 30” d.b.h. or greater trees harvested at the Chambers Project. See testimony of Kim Johnson. Transcript at 54-57. See also Memorandum from Kim Johnson to Steve Chilton and John Marshall dated September 13, 1999. TRPA Show Cause Hearing Exhibit 12. See also scaling tickets. TRPA Show Cause Hearing Exhibit 8. Menasha and TCPUD have never taken issue with Ms. Johnson’s calculations. See testimony of Carrie Neubert. Transcript at 207:8. See also testimony of Kim Johnson. Transcript at 40:5-22.


7 Menasha and TCPUD’s Response to Notice of Violation dated December 20, 1999 (“Response to NOV”) at 6. TRPA Hearing Summary Exhibit B. In her testimony, Ms. Johnson asserts that other than the three trees individually reviewed, she saw no other tree 30” d.b.h. or greater marked for removal during the PHI. See testimony of Kim Johnson. Transcript at 25:6-27:25.

8 See testimony of Carrie Neubert. Transcript at 218:11.
experience in the Lake Tahoe Region, testified that Special Condition 10 means what it says: if you want to cut such a tree, get that tree reviewed by TRPA. In addition, the fact those three trees at the Chambers project site were individually inspected, measured, and discussed supports a "plain language" reading of the condition. Finally, Menasha admits that it harvested six over 30" d.b.h. trees that were not even marked. Since these trees lacked a mark during the PHI, they cannot claim these trees even received "tacit" approval during the PHI.

Thus, I find Menasha and TCPUD violated the procedural element of Special Condition 10 forty-nine times, once for each tree 30" d.b.h. or greater that did not receive tree by tree review.

2. Menasha/TCPUD Harvested Trees that did not Pose a Hazard

The determination of whether a particular tree constitutes an unacceptable hazard represents an exercise of judgment in which reasonable, trained people might disagree. Determining whether a tree already harvested posed a hazard is very difficult. For this reason, I find that it is reasonable for Menasha and TCPUD to prove that each tree over 30" d.b.h. cut constituted an unreasonable hazard.

TRPA employed Jon Hoefer to determine whether any of the stumps could be found to have been hazard trees while standing. He produced a "Hazard Tree Assessment" and testified as to his findings at the evidentiary hearing. In this report, Mr. Hoefer explains that the determination of whether a tree poses a hazard is necessarily ad hoc, considering many factors. Perhaps the most important factor is the proximity of the tree to a potentially threatened feature, such as a home, trail, or power line.

In his report, Mr. Hoefer identified nine stumps of trees that could not have posed a hazard while standing because they were not within striking distance of a potentially threatened feature. Furthermore, Mr. Hoefer testified that an additional ten trees did not constitute a hazard because they were not located near any of the features at the

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10 See TRPA Hearing Summary Exhibit C ("Menasha administrative manager Mark Salyer said all but six of the big trees cut were marked for removal when TRPA foresters did a pre-harvest inspection in March." Nancy Vogel, Timber Harvest Focus of Probe. THE SACRAMENTO BEE, July 3, 1999, at B2). When asked about this statement during the evidentiary hearing, Mr. Salyer testified that he could not deny making this statement. Transcript at 160:16-18.

11 All parties agree that it is very difficult to ascertain from a stump whether it posed a hazard while standing. It is for precisely this reason that TRPA requires that hazard trees be identified and reviewed before they are harvested.

12 See Hazard Tree Assessment at 1-2. TRPA Show Cause Hearing Exhibit 13.

13 See Hazard Tree Assessment at 4. TRPA Show Cause Hearing Exhibit 13. See also testimony of Jon Hoefer. Transcript at 120:5-11.
Chambers Project site that could give rise to a hazardous condition.\textsuperscript{14} For the remaining trees greater than 30" d.b.h., Mr. Hoefer reported that from analysis of the stumps, two likely constituted a hazard and no conclusion could be reached as to the others.\textsuperscript{15}

Menasha and TCPUD failed to rebut Mr. Hoefer's testimony. Their testimony on this point consisted of a general assertion that all trees over 30" d.b.h. were examined by a registered professional forester and deemed to be hazardous.\textsuperscript{16} Menasha also presented a videotape in which Menasha employees pointed out how a few individual trees located next to trails or power lines at the Chambers Project site posed a hazard.\textsuperscript{17} None of this evidence sufficiently rebuts the direct testimony of Jon Hoefer as to the nineteen stumps that were not located near any potentially threatened feature.

I therefore find that Menasha and TCPUD violated the substantive provisions of Special Condition 10 nineteen times, one for each tree over 30" d.b.h. harvested that did not pose a hazard to life or property.

3. Special Condition 10 is Enforceable (Affirmative Defense)

Menasha and TCPUD argue that Special Condition 10 of the Chambers Project permit is void and unenforceable because the Chambers Project took place in an "urban interface zone." Citing to the Section 71.2.A(1) of the TRPA Code, Menasha and TCPUD contend that Special Condition 10 was unlawfully inserted into the permit and cannot now be enforced by TRPA. Section 71.2.A states that "any live, dead or dying tree greater than or equal to 30" (inches) diameter at breast height shall not be cut." An important exception to this prohibition is found at Section 71.2A(2): "hazard trees greater than or equal to 30" dbh may be felled, treated or removed if the land manager determines that they pose an unacceptable risk to humans, improvements or personal property. . . . Trees to be felled . . . require TRPA review on a tree by tree basis . . . ." However, the 30" prohibition and hazard tree exception are not universally applicable. Section 71.2.A(1) states that the "provision does not apply to . . . urban interface areas."

Although the Chambers Project is located within an urban interface zone, Special Condition 10 is nonetheless an appropriate permit condition. The Code does not prevent the imposition of restrictions on the harvesting of 30" d.b.h. or greater trees in urban interface zones. In fact, TRPA's conservation goal and policy and late

\textsuperscript{14} Jon Hoefer testified that he located 39 stumps of trees 30" d.b.h. or greater that could potentially have posed a hazard and the discrepancy between his count and the 49 tally of Kim Johnson was that 10 could not have possibly posed a hazard while standing. See testimony of Jonathan Hoefer. Transcript at 122:16-20.

\textsuperscript{15} See Hazard Tree Assessment at 4. TRPA Show Cause Hearing Exhibit 13.

\textsuperscript{16} See Response to NOV at 8-9. TRPA Hearing Summary Exhibit B.

\textsuperscript{17} A video tape entitled "Reenactment of Chambers Preharvest Inspection" was allowed into evidence at the evidentiary hearing. Transcript at 195:22-24.
successional/old growth threshold stress the importance of preserving trees of that size: “Individual trees greater than 30”" d.b.h. shall be favored because of their late seral attributes.” This goal and threshold was adopted because research indicates that trees of that size begin to take on old growth characteristics, providing immeasurable benefits to their ecosystem, particularly wildlife. By approving the Chambers Project application with Special Condition 10, the TRPA Governing Board advanced this goal and threshold in an effort to preserve the small percent of trees in the Lake Tahoe Region that exhibit old growth characteristics.

Even assuming that Section 71.2(A)(1) prevents restrictions on the harvesting of 30” d.b.h. or greater trees in an urban interface zone, the remainder of Chapter 71 ensures that Special Condition 10 was appropriate for the Chambers Project. Section 71.5.A of the TRPA Code, which applies to every timber harvest in the Lake Tahoe Region, requires that “[t]o protect lives and property, trees reported by a qualified forester to be hazardous to property or lives may be removed upon approval by TRPA.” Thus, whether a timber harvest is inside or outside the urban interface, hazard trees may not be felled without TRPA review. Special Condition 10’s “tree by tree” review does not deviate from the requirement in 71.5.A and is therefore an appropriate condition. Special Condition 10’s “unacceptable hazard” requirement appears to impose a slightly different requirement than does Section 71.5.A. A hazard tree is defined in Chapter 2 of the TRPA Code as “[a] tree identified as dangerous, immediately or in the near future, to lives or property.” However, as noted above, I only counted as violations those trees cut that could not be considered a hazard under either standard.

Finally, regardless of Chapter 71, in order for the Governing Board to issue Menasha and TCPUD a permit to cut trees, these entities must demonstrate that the project will not violate TRPA’s Regional Plan (i.e., the vegetation threshold for late successional/old growth). Thus, in their application to TRPA, Menasha and TCPUD suggested the following permit conditions: “Trees that are greater than 30” d.b.h. will not be harvested unless deemed an immediate hazard to facilities or lives;”18 and “[t]o protect lives and property, trees reported by a qualified forester to be hazardous to property or lives may be removed upon approval by TRPA.”19 It is not surprising, therefore, that when presented with Special Condition 10 prior to Governing Board consideration, during Governing Board consideration of the application, and in accepting the permit after Governing Board action, TCPUD and Menasha did not object to this condition.

I therefore find that Menasha and TCPUD’s new found dislike of Special Condition 10 poses no obstacle to enforcement of condition.

4. **Can Menasha and TCPUD’s Violations be Excused?**

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18 See Chambers Project Timber Harvest Plan (“THP”) at Section II.38(2). TRPA Show Cause Hearing Exhibit 6. This document was prepared for review and approval by the California Department of Forestry prior to TRPA involvement, but was submitted to TRPA as part of the TRPA permitting process. See testimony of Kim Johnson. Transcript at 37:18-24.

19 See THP at Section III.14. TRPA Show Cause Hearing Exhibit 6.
Menasha and TCPUD argue that even if they violated Special Condition 10 and TRPA can enforce such violations, the circumstances surrounding the Chambers Project PHI excuse their compliance with the condition. While all parties agree that the PHI atypically occurred without a permit due to the expedited timeframe, the parties present contradictory testimony with respect to whether the proposed permit conditions were discussed before or during the PHI. Kim Johnson testified that the conditions regarding big trees were discussed beforehand and that Menasha identified three such trees. Carrie Neubert testified that there was no discussion of this condition.

The parties provide significantly different accounts of the March 2, 1999, Chambers Project PHI. All agree that Ms. Johnson and Ms. Neubert snow-shoed through a portion of the stand observing trees that Menasha intended to harvest and three 30" d.b.h. or greater were identified and measured. However, Ms. Johnson testified that Ms. Neubert led her to the three trees that had been discussed prior to the PHI while Ms. Neubert testified that the trees were selected by Ms. Johnson as representative of the many visibly marked 30" d.b.h. or greater trees they observed at the site during the PHI. Ms. Johnson testified that these three were the only 30" d.b.h. or greater trees visibly marked at the site during the PHI and that others visibly marked would have raised significant problems given the mutual understanding of the permit conditions ultimately incorporated into Special Condition 10. However, Menasha contends that many trees 30" d.b.h. or greater were observed during the PHI other than the three discussed, allegedly supporting their position that the restrictions contained in Special Condition 10 were not discussed beforehand.

Irrespective of whether the proposed permit conditions were discussed before or during the PHI, it is undisputed that Menasha and TCPUD received copies of the draft Chambers Project permit in advance of the March, 1999, TRPA Governing Board meeting. In addition, the Chambers Project staff summary stated that “trees 30" diameter at breast height (d.b.h.) shall not be cut unless they pose an unacceptable risk to humans, improvements or personal property [and] shall be reviewed by TRPA on a tree by tree basis,” and the accompanying draft permit contained Special Condition 10. Based on these representations, the TRPA Governing Board approved the Chambers Project permit on March 24, 1999. Kim Johnson testified that without these

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24 Response to NOV at page 3-4, 5-6. TRPA Hearing Summary Exhibit B.

25 At the evidentiary hearing, Menasha introduced into evidence a facsimile establishing that Menasha received a draft copy of the permit on March 10, 1999. Transcript at 63-64.

26 See Chambers Project staff summary at 5. TRPA Show Cause Hearing Exhibit 3.
restrictions, TRPA staff would not have recommended approval of the Chambers Project permit. 27

It is also undisputed that Menasha and TCPUD agreed to the Chambers Project permit including Special Condition 10 before the harvesting began. Carrie Neubert signed the permit on behalf of Menasha and TCPUD on March 26, 1999. The paragraph immediately above the permittee’s signature block, entitled “permittee’s acceptance,” begins “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 agents’ and employees’ compliance with the permit conditions.” 28 Therefore, regardless of Ms. Neubert’s understanding of the permit conditions at the PHI, she knew that Menasha and TCPUD were expected to comply with Special Condition 10 before the harvesting began on March 31, 1999.

At the time of the PHI, Carrie Neubert did not know the exact conditions that were to be included in the Chambers Project permit. However, it is equally apparent that Ms. Neubert was informed of, and agreed to, her responsibilities with respect to the harvesting of 30” d.b.h. or greater trees before any trees were cut. The plain language of the permit makes clear that compliance is not dependent in any way on TRPA. Rather, Special Condition 10 imposes an affirmative obligation on the part of the permittee to have each 30” d.b.h. or greater tree to be harvested individually reviewed by the TRPA inspector. Therefore, even if Kim Johnson did not ask to be shown every 30” d.b.h. or greater tree, as Menasha and TCPUD contend, they are nonetheless accountable for violating Special Condition 10.

Menasha asserts that its experience with the Homewood Project, a timber harvest conducted by Menasha on property adjacent to the Chambers Project with a different TRPA inspector, allegedly lulled them into a false sense of TRPA expectations. 29 I find this claim without support. First, Menasha operated the Homewood Project under very similar conditions imposed on the Chambers Project. Special Condition 7 of Homewood Project permit states: “Live trees 30” dbh. or greater shall only be removed if they are determined to be dead of dying or are hazardous to life or property. TRPA staff shall review the marking of all dead and dying trees 30” dbh or greater and all trees 30” dbh or greater that are determined to be hazardous to life or property.” 30 Since this condition mirrors both the procedural and substantive requirements of Special Condition 10, Menasha cannot claim surprise.

27 See testimony of Kim Johnson. Transcript at 27:24-25.

28 Chambers Project permit (emphasis added). TRPA Show Cause Exhibit 4.

29 See Response to NOV, at 2, 8, 9. TRPA Hearing Summary Exhibit B.

30 See Homewood Forest Management Project Permit, Special Condition 7 (emphasis added). The Homewood permit was introduced into evidence by the Executive Director at the evidentiary hearing. Transcript at 228-229.
Second, I do not find that the TRPA inspector for the Homewood Project imposed differing requirements than for the Chambers Project.\(^{31}\) Mike Solt, the TRPA inspector who conducted the Homewood Project PHI, stated in writing that only eight 30" d.b.h. or greater trees were harvested at that site and that the relative merits of harvesting each such tree was discussed.\(^{32}\) In sharp contrast, only three 30" d.b.h. or greater trees were identified and authorized at the Chambers Project while fifty-two were harvested without individual review.

I do not find that Menasha and TCPUD’s violations of Special Condition 10 are excused.

B. **Special Condition 8 (Hauling without Prior Notification)**

On June 1, 1999, Kim Johnson arrived at the Chambers Project and observed hauling in process. Scaling tickets reveal that 16 loads had been hauled from the site by the time Ms. Johnson arrived and told the Licensed Timber Operator to stop his activity. Menasha concedes that they violated this condition; Carrie Neubert testified that she “completely blew it.”\(^{33}\) Menasha also failed to obtain CDF approval prior to hauling, as required by their THP, for which they received a notice of violation on June 7, 1999.\(^{34}\) The defense set forth by Menasha and TCPUD is that TRPA has not shown any environmental damage as a result of the unauthorized hauling, the prevention of which is the purpose of Special Condition 8.\(^{35}\)

Menasha’s blatant violation of such a straightforward requirement is demonstrative of a cavalier attitude towards compliance with applicable regulations. Whether or not resource damage is established,\(^{36}\) Menasha and TCPUD must be held accountable for such an egregious violation. Moreover, the demeanor shown in hauling timber without permission suggests a motivation on the part of Menasha to remove 30"

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\(^{31}\) Menasha and TCPUD argue that Ms. Johnson is not qualified to conduct pre-harvest inspections. See Response NOV at 4, 6. TRPA Hearing Summary Exhibit B. To the contrary, that Ms. Johnson has conducted over 175 timber harvest inspections without criticism establishes that she was qualified to perform the Chambers Project PHI. See testimony of Kim Johnson. Transcript at 115:15-21. Moreover, the evidence does not support a finding that her performance was inadequate, other than the absence of a draft permit at the PHI, which was an attempt to accommodate Menasha.

\(^{32}\) See e-mail correspondence between Kim Johnson and Mike Solt dated June 30, 1999, July 6, 1999, and July 7, 1999. This document was introduced into evidence by Menasha at the evidentiary hearing. Transcript at 101, 109.

\(^{33}\) See testimony of Carrie Neubert. Transcript at 210:11.

\(^{34}\) See California Department of Forestry Notice of Violation dated June 7, 1999. TRPA Show Cause Exhibit number 9. See also testimony of Daniel Scatena. Transcript at 149:6-9.

\(^{35}\) See Response to NOV at 11. TRPA Hearing Summary Exhibit B.

\(^{36}\) A June 17, 1999, letter to TRPA from the League to Save Lake Tahoe (“League”) states that their forest monitor found “road damage caused by unauthorized log transportation.” This letter was attached to a letter dated January 20, 2000, submitted to all parties and the hearing officer at the evidentiary hearing by the League’s representative. Transcript at 245:6-246:1.
d.b.h. or greater trees from the site as quickly and quietly as possible. This inference colors the analysis of other violations at the Chambers Project and supports a level of culpability on the part of Menasha beyond mere negligence.

C. Standard Conditions I.5 and II.10 (Failure to Properly Mark Trees)

The Executive Director contends that the marking requirements were violated in several different ways at the Chambers Project: stumps were not marked; boles (tree shafts) were not marked; and the snow obscured marked boles during the PHI. The regulations are straightforward, requiring that each stump and bole be marked prior to the PHI. Although not articulated, the marking requirements undoubtedly presuppose that the bole marks will be visible during the PHI. Menasha and TCPUD make several concessions regarding their marking at the Chambers Project: they admit that six 30" d.b.h. or greater trees were not marked in any manner; they concede that not every stump was marked due to snow conditions; and they state that snow may have obscured some of the marks at higher elevations.

The marking requirements set forth in Standard Conditions I.5 and II.10 are typically imposed on all timber harvests, and the Chambers Project illustrates their importance. The lack of visible marks causes confusion during the PHI and the absence of marks on both boles and stumps hampers post-harvest efforts to determine which trees were authorized. The determination of whether Menasha and TCPUD violated the marking requirements necessarily involves a consideration of disputed facts. Kim Johnson testified that she observed few marked trees during the PHI, only three which were 30" d.b.h. or greater, while Menasha contends that every marked tree was visible during the PHI. Fortunately, an assessment of violations can be made without having to resolve issues of credibility.

Menasha must be held accountable for failing to mark six trees, as admitted by their administrative manager Mark Salyer. Further, Jon Hoefer, RPF, testified that he observed 14 unmarked stumps at the Chambers Project. Finally, it was established at the evidentiary hearing that the deep snow pack obscured marks during the Chambers

37 "Menasha administrative manager Mark Salyer said all but six of the big trees cut were marked for removal when TRPA foresters did a pre-harvest inspection in March." Nancy Vogel, Timber Harvest Focus of Probe, THE SACRAMENTO BEE, July 3, 1999. at B2. TRPA Hearing Summary Exhibit C. This article was allowed into evidence as an admission because Mr. Salyer testified that he could not deny making the statement. Transcript at 160:16-18.

38 Response to NOV at 5. TRPA Hearing Summary Exhibit B.

39 Response to NOV at 5. TRPA Hearing Summary Exhibit B.

40 See testimony of Kim Johnson. Transcript at 23-27. See Response to NOV at 3. TRPA Hearing Summary Exhibit B.

41 See footnote 37, supra.

42 See testimony of Jonathan Hoefer. Transcript at 126:19-20. See also Hazard Tree Assessment at exhibit 1. TRPA Show Cause Hearing Exhibit 13.
Project PHI. Daniel Scatena of the California Department of Forestry ("CDF") testified that the trees were marked at heights of between 4.5 and 5 feet. Corroborated testimony was presented that there was at least 5 to 7 feet of snow at the Chambers Project site on March 2, 1999, indicating that marks were likely obscured throughout the site during the PHI, and not only at the higher elevations as argued by Menasha and TCPUD. Accordingly, Menasha and TCPUD are liable for significant violations of Standard Conditions I.5 and II.10 at the Chambers Project.

D. Special Condition 7 (Debris Left in SEZ)

Kim Johnson testified at the evidentiary hearing that she first observed harvest debris in the SEZ areas at the Chambers Project on May 26, 1999, and that such debris remained through July 6, 1999. Menasha and TCPUD counter that they remain unaware of any factual basis for this allegation and that their requests for clarification have gone unanswered. Nevertheless, the League to Save Lake Tahoe provides support for the Executive Director's contention that Menasha was not diligent in removing debris from the SEZ areas at the Chambers Project. The extent of the violation of Special Condition 7 is uncertain because no photographs were presented and the testimony did not describe the violation in any detail. However, the violation is nonetheless illustrative of Menasha's cavalier attitude towards its responsibilities arising from the Chambers Project permit.

E. Due Process Objections

At the evidentiary hearing and in their post-hearing brief, Menasha and TCPUD argue that the procedure violated the TRPA Rules of Procedure and operated to deprive them of their constitutional right to due process. Succinctly stated, they argue that the hearing was too short and that it should have been conducted before the entire Governing Board. Because the evidentiary hearing was conducted in addition to, and not instead of, the ordinary show cause hearing before the full board, their argument is without merit. That an additional layer of process was applied in this instance strongly supports a finding that the TRPA Governing Board and staff have provided Menasha

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44 See Kim Johnson’s planner notes dated February 23, 1999 (Carrie Neubert stating that 6 to 7 feet of snow on site in February) [TRPA Show Cause Hearing Exhibit 7]; testimony of Kevin Turner (stating that he recorded 60 inches of snow on near the Chambers Project March 2, 1999) [Transcript at 179:3]; testimony of Kim Johnson (stating that there was between 5 and 6 feet of snow at the Chambers Project on March 2, 1999) [Transcript at 20:4-5].

45 See testimony of Kim Johnson. Transcript at 41:7; 53:10-14.

46 Response to NOV at 11. TRPA Show Cause Hearing Exhibit B. Such requests were presumably verbal, given that no evidence was presented to suggest otherwise.

47 A June 17, 1999, letter to TRPA from the League states that their forest monitor found "a failure to remove debris from a SEZ area used for stream crossing." This letter was attached to a letter dated January 20, 2000, submitted to all parties at the evidentiary hearing by the League’s representative. Transcript at 245:6-246:1.
and TCPUD with a significantly greater opportunity to present their case than necessary to satisfy their constitutional rights.

Rule 9 of the TRPA Rules of Procedure sets forth the process for a show cause hearing before the entire TRPA Governing Board. These hearings are typically brief due to time constraints. The Chambers Project show cause hearing will be conducted at the March, 2000, TRPA Governing Board meeting. At that time, Menasha and TCPUD will be able to present their case and have their witnesses testify before the entire board. Of course, strict time limits will be imposed and enforced because of the need for the TRPA Governing Board to attend to other matters. Nevertheless, Menasha and TCPUD will be provided the opportunity to make their case as provided for in the TRPA Rules of Procedure.

In December, 1999, TRPA staff recognized the need to add a preliminary evidentiary hearing as part of the Chambers Project show cause hearing process. Item XII.B.2 of the TRPA December, 1999, TRPA Governing Board agenda was the “Adoption of Show Cause Hearing Procedure for Chambers Notice of Violation.” The Board voted to allow the Legal Committee Chairman to conduct an evidentiary hearing lasting a half day and produce recommendations. Other members of the Legal Committee were invited to attend and participate.\(^{48}\) Although it was to be conducted in accordance with Rule 9, the evidentiary hearing did not replace the show cause hearing before the entire board to which Menasha and TCPUD are entitled.

Despite having the opportunity to make public comment, Menasha and TCPUD did not object to the proposed show cause hearing procedure before the TRPA Governing Board adopted it. At the January 25, 2000, evidentiary hearing they raised the following objections for the first time: (1) the half day allotted was insufficient; and (2) that the decision was to be rendered by a single member of the TRPA Governing Board violated Rule 9 and due process. With respect to the first allegation, the evidentiary hearing lasted over six hours and the two hours allocated to each side at the outset was not enforced. Menasha and TCPUD had ample opportunity to present testimony and introduce evidence supporting their position.

Finally, my proposed findings of fact and conclusions of law are merely recommendations and in no way binding on the TRPA Governing Board. Each member has been provided with a transcript containing testimony under oath as well as every exhibit referenced and document submitted with respect to the enforcement of TRPA permit conditions at the Chambers Project. Rather than approach the show cause hearing with limited background materials as is typically the case, each member has an entire record to review and consider in advance of the Chambers Project show cause hearing. My findings and conclusions are merely recommendations that can be approved, rejected, or otherwise modified by the TRPA Governing Board.

In conclusion, the procedural concerns raised by Menasha and TCPUD are not persuasive given the amount of resources that TRPA has devoted in allowing them to

\(^{48}\) TRPA Legal Committee member Dr. Don Miner was present for most of the evidentiary hearing and conducted an examination of several witnesses.
respond to the allegations that they violated permit conditions at the Chambers Project. The evidentiary hearing, which I conducted, did not circumscribe any of Menasha or TCPUD’s rights pursuant to either the TRPA Rules of Procedure or the United States Constitution. Rather, this unprecedented imposition of an additional layer of process to the TRPA Governing Board show cause hearing represents an enlargement of their existing rights.

RECOMMENDATION AND PENALTY CALCULATION

In this section, I make two recommendations to the Legal Committee and Governing Board. First, I recommend that you find that Menasha and TCPUD have violated multiple times numerous conditions of the Chambers Project permit. As discussed above, I find that these parties harvested forty-nine 30" d.b.h. or greater trees without tree by tree review in violation of Special Condition 10. I also find that nineteen of those trees did not constitute a hazard to life or property in violation of Special Condition 10. I find that Menasha and TCPUD hauled sixteen loads of timber without prior approval by TRPA in violation of Special Condition 8. I find that Menasha and TCPUD harvested at least six big trees without any prior markings, conservatively eight additional big trees without stump marks, and marked too low an unknown but significant number of trees, all in violation of Standard Conditions I.5 and II.10. Finally, I find that Menasha and TCPUD left harvest debris in the SEZ in violation of Special Condition 7. In total, I believe that at least 80 violations of various conditions of approval occurred on the Chambers Project.

Second, I recommend that you assess a civil penalty of $160,000 jointly against Menasha and TCPUD for violations of the Chambers Project permit. Assigning a suggested penalty to these violations depends on a number of factors. Under the Compact, each violation may incur a civil penalty of up to $5,000 with an additional $5,000 per day the violation exists. A violation that is willful or grossly negligent should receive a higher penalty than one that is the result of a simple mistake.49 It is important, therefore, to sort out for each class of violations the degree of culpability of the respondents. One should also consider the extent of environmental harm as a consequence of the violations. Lastly, the level of penalty should deter future illegal conduct by these respondents and others in the Lake Tahoe Region.

With regard to the level of culpability, while I do not believe Menasha is an evil company that set out to illegally cut big trees, I found that time after time it cut corners and bent rules. The tree by tree review condition illustrates this conclusion. The requirement to gain approval from TRPA to cut hazard trees over 30" d.b.h. was well known to Menasha from the Homewood Project and Menasha and TCPUD included such a condition in their Chambers Project application to TRPA. Yet during the Chambers PHI, the Menasha representative who knew the location of the big trees made no effort to inform TRPA’s inspector of their presence. Furthermore, Menasha and TCPUD had in their hands the final permit conditions before cutting trees. On the other hand, I find that TRPA staff erred in acceding to Menasha and TCPUD’s request to expedite the project by conducting a PHI prior to permit approval (i.e., without the final

permit conditions present at the PHI). The presence of the written tree by tree review condition at the PHI would have not permitted Menasha to claim ignorance. Thus, I believe the absence of the permit at the PHI mitigates Menasha's conduct somewhat.

The violations for cutting non-hazard trees, hauling without notice and failing to mark trees also establish that Menasha was unduly careless in its operations. There is no justification for cutting big trees that were not located within striking distance of any facility or trail. The felling of these trees further illustrates the importance of compliance with the review provisions of the permit. The failure to notify TRPA and CDF prior to hauling was also particularly egregious. The permit condition was clear and specifically emphasized by the CDF inspector during the CDF PHI.\textsuperscript{50} Menasha's commencement of hauling without notifying either TRPA or CDF supports the inference that it might have been attempting to get the big trees off the site before the arrival of government inspectors. Menasha's admission that it cut trees without even marking them (a standard forestry condition) establishes the company's careless operation in direct contravention of the permit conditions. Likewise, Menasha's failure to clear the debris in the SEZ illustrates its cavalier attitude. With regard to all these violations, I find Menasha was at least grossly negligent in their conduct by treating TRPA's permit conditions as disposable. These violations should therefore receive a high per violation penalty.

As to the degree of environmental harm, testimony at the hearing revealed that the Tahoe Basin has only 5\% of its old-growth forest left.\textsuperscript{51} I believe it to be a palpable loss to the ecosystem of the Tahoe Basin when trees over 30" d.b.h. are needlessly felled. The present ecological values of these trees are irreplaceable.

Given the above discussion, I recommend that for the at least 80 violations, a civil penalty of $2,000 per violation should be assessed, or $160,000 total. The $2,000 per violation figure represents a mix of different levels of culpability. The total figure is not out of line with recent settlements of significant violations and will serve as a significant deterrent to future illegal conduct.

Lastly, because TCPUD was the permittee and ultimately responsible for the acts of its agent Menasha, the penalty should be assessed jointly and severally against both respondents.

\textsuperscript{50} See testimony of Daniel Scatena. Transcript at 148:16-25.

\textsuperscript{51} See testimony of Kim Johnson. Transcript at 13:24.
MEMORANDUM

March 13, 2000

To: TRPA Governing Board

From: Matthew R. Graham, Acting Erosion Control Team Leader

Subject: Discussion on Implementation of Best Management Practices Retrofit Program

TRPA staff will make a brief 20-minute presentation about TRPA’s Best Management Practices (BMP) Retrofit Program.

Background:

The Tahoe Regional Planning Agency (TRPA) is currently implementing a Best Management Practices Retrofit (BMP) Program aimed at increasing voluntary installation of BMPs on private residential and commercial properties in the Lake Tahoe Basin. The BMP Retrofit Program is currently funded by a 319(h) grant from the Nevada Division of Environmental Protection for the Nevada-side of the Basin. A previous 319(h) grant from the State of California funded the Program from 1996 through 1999 on the California-side, but those funds have been expended and the grant contract has ended. An additional Clean Water Act 319(h) grant for the California side of the basin is expected to be signed by April 15, 2000. This grant will pick up where the previous one ended.

Multi-Agency Task Force:

Staffs from the Tahoe Regional Planning Agency, the Nevada Tahoe Conservation District (NTCD), the Natural Resource Conservation Service (NRCS), and the University of Nevada Cooperative Extension have been collaborating their efforts to inform and educate property owners about Best Management Practices and assist TRPA with performing site evaluations and conducting community BMP presentations.

The purpose of collaborating with various other local, regional and federal agencies, and academic institutions is to have a region-wide and agency wide cooperative effort of educating and informing property owners about reducing non-point water pollution.

Program Successes and Achievements:

One of the successes that TRPA is most proud of is the creation of a usable database and associated Geographic Maps. Data compiled from the Tahoe Environmental Geographic Information System (TEGIS) database was assimilated with information from 4,000+ site
evaluations to create a seamless spatial geographic database. There are approximately 60,000 parcels in the Tahoe Basin; the TEGIS database contains approximately 28,000 permit records. The end product of this work is the creation of neighborhood-specific digital maps that can be spatially analyzed and queried for areas of BMP needs.

These maps indicate which properties have all the necessary BMPs completed and which ones are in need of improvements. These GIS spatial analyses show which areas in neighborhoods are in the greatest need of BMPs so more effort can be expended on those higher priority areas.

Our goal is to make these maps available to the public through local building and planning departments. These maps will also be distributed to local real estate and appraisal firms, so that BMPs will be assigned a value and thus be economically driven.

**BMP Field Evaluations:**

As we saw it, in order for the BMP program to be successful, there needed to be a paradigm shift; we needed to have a more proactive approach and public outreach effort. So rather than the public coming into TRPA to get information on the BMP retrofit program requirements, we went out and are still going out to the property owners. We perform BMP site evaluations and prescriptions on a myriad of commercial and residential properties at no charge. Furthermore, we offer BMP permits at no charge. We feel that these efforts have positively enhanced many of our goals, namely voluntary compliance.

We have developed a Certificate of Completion program, whereby property owners call TRPA to request a BMP site evaluation. TRPA staff then conducts a site evaluation and provides the property owner with a prescription. Upon verifying that the owner has performed the recommended site improvements, staff subsequently issues a Certificate of Completion.

**Community BMP Presentations:**

TRPA staff has performed numerous presentations to homeowner associations and allowed for TRPA staff to visit properties at the owner’s request, assist with BMP design and issue the owner a no-cost BMP permit and Certificate of Completion.

During the course of a presentation, we inform all participants about the benefits of installing BMPs, provide them information about BMP contractors, suppliers, plant nurseries, and the low cost State Revolving Loan information.

In addition, the Erosion Control Team staff has coordinated and facilitated meetings with various General Improvement Districts (GIDs) on the BMP retrofit requirements throughout the Tahoe basin.

**Community Outreach:**

TRPA Staff created a “Property Owner’s Guide to Improving Water Quality” brochure. The brochure includes information on infiltration of storm water utilizing various hard practices such as paved driveways, retaining walls, and drip line infiltration trenches. Softer BMP practices are also illustrated in the guide, such as the use of native vegetation...
for soil stabilization and mulches for ground cover and the use of fertilizers. TRPA staff mailed out and distributed approximately 7,000 copies of this brochure to property owners, specifically located within Priority One watersheds.

Future Plans:

We will continue to meet directly with property owners and help them with the BMP design, permitting, locating supplies, finding qualified contractors, and with funding options, such as low-cost loans.

In addition, TRPA staff member Pam Drum has created a BMP retrofit program public outreach plan for 2000. For a copy of the public outreach plan, please contact Pam Drum at TRPA.
MEMORANDUM

March 14, 2000

To: TRPA Governing Board

From: Jon Paul Kiel, Senior Planner/Water Quality Program Manager

Subject: Motorized Watercraft Studies Progress Report

TRPA staff will introduce three presentations covering Motorized Watercraft Studies conducted during 1997 to the present. TRPA staff and research members from the U.S. Geological Survey, the Tahoe Research Group – University of California at Davis, and University of Nevada at Reno will make brief presentations relative to their respective studies and monitoring efforts. This presentation was previously given to the Advisory Planning Commission in March 2000.

Abstracts for two completed studies are attached. A progress report will be given on a third study regarding the sources and apportionment of polycyclic aromatic hydrocarbon (PAH) emissions and other volatile compounds from a variety of marine engine types. Written material for this ongoing study is not available at this time. In general, these studies indicate decreased concentrations of certain marine engine emission compounds in Lake Tahoe during the 1999 boating season; whereas, other emission compounds may continue to be problematic.

For information regarding the presentation prior to the Governing Board meeting, feel free to contact Jon Paul Kiel at 775-588-4547, extension 261; via facsimile at 775-588-4527; or via email at jpkiel@trpa.org.


Abstract: Changes in MTBE and BTEX Concentrations in Lake Tahoe, CA-NV Following Implementation of a Ban on Selected 2-Stroke Marine Engines.
POOR QUALITY ORIGINAL (S) TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV 89502
(775) 359-6980
Concentrations and Distribution of Manmade Organic Compounds in the Lake Tahoe Basin, Nevada and California, 1997-99

By Michael S. Lico and Nyle Pennington

Water-Resources Investigations Report 99-4218

Abstract

The U.S. Geological Survey, in cooperation with the Tahoe Regional Planning Agency and the Lahontan Regional Water-Quality Control Board, sampled Lake Tahoe, major tributary streams to Lake Tahoe, and several other lakes in the Lake Tahoe Basin for manmade organic compounds during 1997-99.

Gasoline components were found in all samples collected from Lake Tahoe during the summer boating season. Methyl tert-butyl ether (MTBE), benzene, toluene, ethylbenzene, and xylenes (BTEX) were the commonly detected compounds in these samples. Most samples from tributary streams and lakes with no motorized boating had no detectable concentrations of gasoline components. Motorized boating activity appears to be directly linked in space and time to the occurrence of these gasoline components. Other sources of gasoline components to Lake Tahoe, such as the atmosphere, surface runoff, and subsurface flow, are minor compared to the input by motorized boating. Water sampled from Lake Tahoe during mid-winter, when motorized boating activity is low, had no MTBE and only one sample had any detectable BTEX compounds.

Soluble pesticides rarely were detected in water samples from the Lake Tahoe Basin. The only detectable concentrations of these compounds were in samples from Blackwood and Taylor Creeks collected during spring runoff. Concentrations found in these samples were low, in the 1 to 4 nanograms per liter range.

Organochlorine compounds were detected in samples collected from semipermeable membrane devices (SPMD's) collected from Lake Tahoe, tributary streams, and Upper Angora Lake. In Lake Tahoe, SPMD samples collected offshore from urbanized areas contained the largest number and highest concentrations of organochlorine compounds. The most commonly detected organochlorine compounds were cis- and trans-chlordane, p,p'-DDE, and hexachlorobenzene. In tributary streams, SPMD samples collected during spring runoff generally had higher combined concentrations of organochlorine compounds than those collected during baseflow conditions. Upper Angora Lake had the fewest number of organochlorine compounds detected of all lake samples. Dioxins and furans were not detected in SPMD samples from two sites in Lake Tahoe or from two tributary streams.

The number of polycyclic aromatic hydrocarbon (PAH) compounds and their combined concentrations generally were higher in samples from Lake Tahoe than those from tributary streams. Areas of high-motorized boating activity at Lake Tahoe had the largest number and highest concentrations of PAH's. PAH compounds were detected in samples from SPMD's in four of six tributary streams during spring runoff, all tributary streams during baseflow conditions, and at all lake sites. The most commonly detected PAH's in tributary streams during spring runoff were phenanthrene, fluoranthene, pyrene, and chrysene, and during baseflow conditions were phenanthrene, 1-methylphenanthrene, diethylnaphthalene, and pyrene. Upper Truckee River, which has an urban area in its drainage basin, had the largest number and highest combined concentration of PAH's of all stream samples.

CHANGES IN MTBE AND BTEX CONCENTRATIONS IN LAKE TAHOE, CA-NV FOLLOWING IMPLEMENTATION OF A BAN ON SELECTED 2-STROKE MARINE ENGINES

Brant C. Allen
John E. Reuter

Tahoe Research Group
University of California, Davis
Davis, CA 95616

ABSTRACT

Effective June 1, 1999, the Tahoe Regional Planning Agency imposed a ban on certain 2-stroke marine engine technologies. Previous studies had shown that while 2-stroke carbureted engines accounted for only 11-12% of the total fuel used by watercraft on Lake Tahoe, they were responsible for approximately 90% of the MTBE emissions to the lake. Lake Tahoe was monitored in late August and over the Labor Day weekend in 1999 to determine if concentrations of MTBE and BTEX were affected by implementation of the new marine engine policy. Samples were taken on three dates, (1) mid-week, (2) weekend, and (3) following Labor Day; peak boating activity traditionally occurs at this time of the year. Samples were taken from a mid-lake (open water locations), a series of 10 stations located around the perimeter of the lake, and at 10 “hot spots” along the south shore where boating and boating related activities are high. The results showed a significant decline in both MTBE and BTEX compounds between 1997-1998 and 1999. Many of the 1999 concentrations were below the 0.06 µg/L limit of analytical detection, whereas much fewer were this low in previous years. High levels of MTBE were still found at certain “hot spots” which were attributed to isolated boating actions not related to overall boating intensity. Combined, the data strongly suggests that the ban on certain types of 2-cycle engines at Lake Tahoe was very successful in reducing both MTBE and BTEX.

INTRODUCTION

Discovery of the fuel oxygenate methyl tert-butyl ether (MTBE) in groundwater, lakes and reservoirs used for drinking water has raised considerable concern among
MEMORANDUM

March 14, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Presentation on Annual Water Quality Report

As requested by the Governing Board, TRPA staff will give a presentation covering the 1999 Annual Water Quality Report. This report was distributed to the Advisory Planning Commission (APC) and Governing Board last Fall. A presentation was given to the APC in January 2000. During this presentation, Governing Board members will have an opportunity to ask staff any questions they might have concerning this report.

For information regarding the report prior to the Governing Board meeting, please contact Rita Whitney at 775-588-4547, extension 258; via facsimile at 775-588-4527, or via email at rwhitney@trpa.org.
MEMORANDUM

March 14, 2000

To: Governing Board Members

From: TRPA Executive Director

Subject: Report on Weize/South Shore Estates, Multi-Family Subdivision, Douglas County APN 007-050-05, File Nos. 970883 and 980089

The applicant and staff have reached an agreement regarding the status of the South Shore Estates project (TRPA File Nos. 970883 and 980089). As indicated to the Governing Board last month, staff’s position is that the Governing Board’s September 1999 action denied the project. Under TRPA’s Rules of Procedure, the applicant cannot bring the same project back for Governing Board consideration for one year.

Recently, the applicant has informed staff that he will not contest a determination that his application for the 26 detached single-family residences was rejected by the Governing Board. Instead, the applicant indicates that he will file a new application for a substantially revised project (as he is entitled to do under TRPA’s Rules of Procedure, Section 5.23). The new application will be subject to all the standard requirements, including new filing fees and new allocations.

If you have any questions, please call Jerry Wells or John Marshall at (775) 588-4547.
MEMORANDUM

March 14, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: Status Report on Project Applications

Project Review Applications: The following applications are currently under review by the Project Review Division and have been complete for more than 120 days:

<table>
<thead>
<tr>
<th>APN/County</th>
<th>Applicant</th>
<th>Application Type</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>03-161-15/DG</td>
<td>Milligan</td>
<td>Pier Expansion</td>
<td>10-25-99</td>
</tr>
<tr>
<td>98-300-10/PL</td>
<td>Wherritt</td>
<td>Administrative Determination</td>
<td>11-08-99</td>
</tr>
<tr>
<td>05-090-25/DG</td>
<td>Peak Trust</td>
<td>Land Coverage Verification</td>
<td>10-08-99</td>
</tr>
<tr>
<td>05-021-17/DG</td>
<td>Bisniets Trust</td>
<td>Fish Habitat Verification</td>
<td>11-15-99</td>
</tr>
</tbody>
</table>

Due to the recent loss of two staff members from the Project Review Division these applications have not been acted on. However, the Division has recently filled these positions and staff anticipates that action on these applications will occur within the next 30 days.

Action on this project has been delayed until a site visit can be conducted which has been delayed due to weather.

05-344-01/DG Thompson New Single Family Dwelling 12-08-99
At the request of the applicant's representative, staff is delaying action on this application in order to allow time to obtain a variance with Douglas County.

The receiving parcel is ineligible to receive coverage from the sending parcel. Staff has delayed action on the project in order to allow the applicant to find an eligible parcel from which to buy land coverage.

115-070-02/PL Gohl Slope Protection/Stabilization 11-05-99
This project is scheduled to be considered at the March 27, 2000 Hearings Officer meeting.

AGENDA ITEM XIV.A.4
Land Capability and IPES Applications: The following applications are currently under review by the Long Range Planning Division and have been complete for more than 120 days:

<table>
<thead>
<tr>
<th>APN/County</th>
<th>Applicant</th>
<th>Application Type</th>
<th>Date Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>29-412-14/EL</td>
<td>Tomasello</td>
<td>IPES Appeal</td>
<td>10-27-99</td>
</tr>
<tr>
<td>540-102-99/WA</td>
<td>Washoe County</td>
<td>Land Capability Verification</td>
<td>11-08-99</td>
</tr>
</tbody>
</table>

Due recent weather conditions, and unforeseen planning tasks (i.e. floodplain and IPES issues) action on these applications have been delayed. Staff anticipates taking action on these applications within 30 to 60 days with the possible exception of additional weather related delays.

Compliance Division: There are no applications that will exceed a review time of 120 days.
MEMORANDUM

March 13, 2000

To: TRPA Governing Board

From: TRPA Staff

Subject: 1999 IPES/Land Capability Status Report

The status of IPES/Land Capability Determinations, and Backshore Evaluations for the period of January 1, 1999, through December 31, 1999 is shown below. Applications received may not equal the number of applications pending and processed, as some applications were submitted before January 1, 1999, and some applicants were required to submit additional information that was not received prior to December 31, 1999.

<table>
<thead>
<tr>
<th>Land Capability/Backshore</th>
<th>Douglas</th>
<th>CSLT/El Dorado</th>
<th>Placer</th>
<th>Washoe</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications received</td>
<td>56</td>
<td>132</td>
<td>199</td>
<td>110</td>
<td>497</td>
</tr>
<tr>
<td>Verifications processed</td>
<td>54</td>
<td>138</td>
<td>204</td>
<td>108</td>
<td>504</td>
</tr>
<tr>
<td>Verifications pending</td>
<td>3</td>
<td>4</td>
<td>6</td>
<td>9</td>
<td>22</td>
</tr>
</tbody>
</table>

| Land Capability Challenges        |         |               |        |        |       |
| Applications received             | 7       | 2             | 6      | 6      | 21    |
| Challenges processed              | 5       | 2             | 4      | 5      | 16    |
| Challenges pending                | 2       | 0             | 1      | 0      | 3     |

| IPES Coverage Determinations      |         |               |        |        |       |
| Applications received             | 6       | 2             | 8      | 5      | 21    |
| Determinations processed          | 6       | 2             | 8      | 5      | 21    |
| Determinations pending            | 0       | 0             | 1      | 0      | 1     |

| IPES Reevaluations                |         |               |        |        |       |
| Applications received             | 1       | 4             | 3      | 1      | 9     |
| Reevaluations processed           | 1       | 4             | 2      | 1      | 8     |
| Reevaluations pending             | 0       | 0             | 1      | 0      | 1     |

| Initial IPES Evaluations          |         |               |        |        |       |
| Applications received             | 4       | 12            | 6      | 3      | 24    |
| Evaluations processed             | 5       | 14            | 8      | 3      | 30    |
| Evaluations pending               | 0       | 0             | 0      | 1      | 1     |

| IPES Appeals                      |         |               |        |        |       |
| Applications received             | 1       | 1             | 2      | 1      | 5     |
| Appeals processed                 | 2       | 0             | 0      | 1      | 3     |
| Appeals pending                   | 0       | 1             | 0      | 0      | 1     |

| Governing Board Hearing Requests  |         |               |        |        |       |
| GB hearing requests received      | 3       | 1             | 3      | 2      | 9     |
| GB hearing requests processed     | 3       | 3             | 2      | 3      | 11    |
| GB hearing requests pending       | 0       | 0             | 0      | 0      | 0     |

SD/dmc 151

AGENDA ITEM XIV.A.5.