TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION
NOTICE OF MEETING

NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of the Tahoe Regional Planning Agency will conduct its regular meeting at 9:30 a.m. on May 9, 2002, at the Horizon Resort and Casino, Stateline, Nevada. The agenda for the meeting is attached hereto and made a part of this notice.

April 24, 2002

Juan Palma
Executive Director

This agenda has been posted at the TRPA office and at the following locations: Zephyr Cove and Stateline, Nevada post offices, and South Lake Tahoe Library and Al Tahoe, California post office. 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
ADVISORY PLANNING COMMISSION

Horizon Resort Casino (Cabaret Room)                May 9, 2002
Stateline, Nevada                             9:30 a.m.

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

AGENDA

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PUBLIC INTEREST COMMENTS (No Action)

Any member of the public wishing to address the Advisory Planning Commission on any agenda item not listed as a Public Hearing or a Planning Matter item, or on any other issue, may do so at this time. However, public comment on Public Hearing and Planning Matter items will be taken at the time those agenda items are heard.

NOTE: THE ADVISORY PLANNING COMMISSION 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 MINUTES

A. April 2002

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V. PUBLIC HEARINGS

A. Amendment of Tahoe Regional Planning Agency Rules of Procedure, Article IX, Regarding Enforcement of BMP Violations

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B. Amendment of Tahoe Keys Master Plan to Delete Proposed Increase in the Number of Boat Slips and Adjustment in Related Mitigation Measures

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VI. PROJECT REVIEW

A. Lakeside Trail Phase 3 - Commons Beach, Tahoe City Public Utility District, APN 94-070-13, TRPA File Number 20020057

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VII. REPORTS

A. Executive Director

1. Report on Governing Board Actions Relative
   To APC Recommendations

B. Legal Counsel

C. APC Members

VIII. ADJOURNMENT
TRPA ADVISORY PLANNING COMMISSION

North Tahoe Conference Center
Kings Beach, CA

April 11, 2002
9:30 am

MEETING MINUTES

I. CALL TO ORDER AND DETERMINATION OF QUORUM
Called to order at 9:41 am

Members Present: Alice Baldrica, Larry Lohman, Bill Combs, Richard Harris, Robert Jepsen, Lauri Kemper, Eva Krause, Randy Lane, Gary Marchio, Ron McIntyre, Lee Plemel, Leo Poppoff, Alan Tolhurst, Gary Honcoop Late, Tom Porta Late

Members Absent: Kevin Cole, Mimi Moss, and Joe Oden

Ms. Baldrica introduced the new APC member, Richard Harris. Mr. Harris made a brief statement regarding his looking forward to working with and learning from the APC. He stated he hoped to make a contribution.

II. APPROVAL OF AGENDA

Ms. Baldrica asked for agenda changes. Mr. Hasty asked to go to the Executive Director report in order allow for set up of the presentations.

MOVED Mr. Jepsen for approval of the agenda.
SECOND Mr. Poppoff
MOTION CARRIES

III. PUBLIC INTEREST COMMENTS (No Action)

Ms. Baldrica asked for public interest comments. There weren't any.

IV. APPROVAL OF MINUTES

Ms. Baldrica asked for review of the minutes.

MOVED Mr. Poppoff for approval of the minutes.
SECOND Ms. Krause
MOTION CARRIES

V. PLANNING MATTERS

A. Proposed Memorandum of Understanding with Lukins Brothers Water Company, Inc.

Paul Nielsen, Project Review, reviewed MOU's, their relationship to the strategic plan, the types of MOU's and the relationship of MOU's to the permitting process. Mr. Nielsen explained that the Lukins Brother MOU would be an exempt MOU. Staff is recommending that APC review the proposed MOU, relating to maintaining water supplies activities and allowing for implementation of erosion control
BMP’s, grading activities. The proposed language has been discussed with Lukins Brothers and they are in agreement.

Ms. Baldrica asked for questions.

Lauri Kemper asked that a more aggressive date of implementation be added. She also stated she is unsure if a previous Lahontan issued enforcement has been followed through with and she will get TRPA staff that information. Mr. Nielsen agreed and stated that Michele Lukins has asked for the site to be evaluated so that they can pursue funding for what needs to be done.

Ms. Kemper asked if the BMP’s being referenced from the handbook include stockpiling the soil, upgrading trenches and training on using temporary BMP’s? Mr. Nielsen replied that the scope of the MOU was reduced over what Lukins Brothers originally requested in order to ensure that Lukins Brothers are comfortable with their approach. One of the contractors of Lukins Brothers has attended training and it is hoped that Matt Graham and the BMP team will be worked with to provide further training.

Gary Marchio asked if Mr. Nielsen was implying in his written language that on all properties other than the corporation yard the BMP plan would not be reviewed. Mr. Nielsen responded this was an error in the narrative and all permanent BMP’s on all properties will be reviewed.

Leo Poppoff asked if there is a plan to repair emergency leaks at any time on any property? Mr. Nielsen explained that there is a provision that allows for any emergency to be approved by TRPA as long as there is some direct contact. This will allow them to proceed with the repair activity and take care of paperwork later. Juan Palma added that right now, the TRPA has a Hazardous Materials plan and this would be similar to that.

Richard Harris asked where the project is situated. Mr. Nielsen added that it is on south shore on West Way.

Ms. Baldrica asked for public comment.

There were none.

MOVED Robert Jepsen moved to accept staff recommendation including Ms. Kemper’s comments.
SECOND Lauri Kemper
Gary Honcoop Abstained
MOTION CARRIES

Per staff recommendation, Ms. Baldrica moved to the Executive Director report.

VII. REPORTS
A. Executive Director
   1. Report on Governing Board Actions Relative To APC Recommendations

Mr. Palma reported on the addition of Jerry Wells as the second Deputy Director. Mr. Palma described the roles of two Deputies. Mr. Palma discussed his vision to be at full force with EIP. He explained that his role as Executive Director is to focus on working with Governing Board and larger picture issues. He informed the APC of Tom Quinn’s appointment to the Governing Board. There is still an open position of the presidential appointee.
Gary Marchio asked when Jerry starts. Mr. Palma responded April 22, 2002.

VII. REPORTS
B. Legal

John Marshall reported on the College Park appeal.

V. PLANNING MATTERS

C. Proposed Code of Ordinances, Plan Area Statements, Community Plans, Goals and Policies and Other

Peter Eichar presented planning matter item C first. Mr. Eichar covered the context of this agenda and the item following. Mr. Eichar explained the immediate plan amendments would be discussed. The future allocation amendments will be discussed the following day and will come back to APC in June. The recommendations for Appendix B schedule will be discussed and Jerry Dion will review the threshold amendments. Gabby Barrett explained the allocation process, today’s process and the requirements from APC. Carl Hasty added that the discussions recently had revealed that it is necessary to pause, do a process check and determine what the final package means. He explained that the concept is to come forward to APC and the Governing Board in the end with the total package and as much support as possible regarding that package. The final result will be the action plan for the next 4 ½ years.

Peter Eichar explained that what would be presented is an ordinance change that allows the amendments to the Code, the Goals and Policies and the Plan Area Statement. The various amendments that will be changed by the ordinance, include residential bonus units, water quality mitigation fee, turbidity unit change, air quality mitigation fee, vegetation and soils protection during construction, scenic program amendments and Goals and Policies amendments that have to be changed to make all the documents consistent with each other. Two resolutions presented are the change to the Rules of Procedure (BMP Streamlined Compliance Procedure) and to amend the design review guidelines (addition of Appendices for the Scenic Program Proposal).

Mr. Eichar began with the bonus unit change. He explained the use and availability of bonus units. He explained the proposal is to take the bonus units out of the individual plan area statements and put them into one common pool. He read the proposed language.

Ms. Baldrica asked for questions.

Ron McIntyre asked if the bonus units are finite. Mr. Eichar responded they are (1400 in the basin). Mr. McIntyre asked how an area for potential bonus units is protected if the bonus units are finite and put in one pool. Mr. Eichar responded that since 1987 only about 260 units have been used. Mr. McIntyre gave the example that Placer County has not even done a redevelopment project yet. He imagined that their redevelopment projects could go out over 10 to 20 years. In 20 years from now, another area has used all the bonus pool, what is left for incentives to do redevelopment wherever it is needed in Placer County? Mr. Barrett interjected that bonus units sit there until multi-residential is the “only game in town”. Now having to do these amendments to shift the bonus units. In trying to get more multi and more affordable, they need to loosen up. The downside is that maybe Placer County will have a problem. However, this is the first time this information has been brought up. Mr. McIntyre responded that if the goal is to provide for more centralized use or more transit oriented facilities and the potential bonus to do that are taken away, TRPA will find itself in the same situation it has with affordable housing.

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Bill Combs stated he supports this. He can see it as a benefit to Placer County. He can however, understand Ron’s concern, if there was the potential that some other area could consume all of the units, it could be problem. He wasn’t sure if this is a reality or if there exists the potential for any one area to take more then its fair share.

Gary Marchio asked when a developer could know that he has the bonus units in his pocket to do financing, etc? Mr. Eichar answered that under the current system; the units would be allocated once the project is approved. It is first come first served basis.

Ron McIntyre suggested that instead of a lake wide pool, TRPA could look at a countywide pool.

Randy Lane stated that the needs assessment regarding affordable housing revealed that multiple thousands were needed and yet there are only 1400 allocated. Opportunity for affordable housing needs to come more from conversion then from a site that hasn’t been built on. The current quantity is probably adequate for many years into the future. Mr. Lane also stated in areas where there will be tearing down and the conversion will be an enhancement, you not only get the benefit of affordable housing but also BMP’s etc. How will this system allow for a refreshing of the number of units? Mr. Barrett stated this bonus system is for the next 4 1/2 years only. The new system with the new regional plan can take this issue into consideration.

Mr. Eichar added that this proposal did come out of the local government committee.

Ms. Baldrica asked APC if they would prefer to hear public comment on each of the items before APC individually? They responded they would.

Ms. Baldrica moved to public comments.

Gary Midkiff, a consultant, commented he has sat through many of the Local Government Committee meetings and they are working on three or four projects that include elements of affordable housing or employee housing. The biggest single issue is getting bonus units. The crystal ball that was used years ago when the bonus units were assigned was a little cloudy because what is being found is that in virtually every case when they are looking at trying to make a project work, there haven’t been any bonus units available in the plan area. They have had to look at an additional step and several months to go back and evaluate whether projects are realistically doable in order to go forward with planning. Therefore, he was one that suggested to the Governing Board committee that they consider a consolidated pool. As Gabby has indicated we have seen so few of these projects, that when someone comes forward with a project, we want as few impediments to that as we can possibly have. The more steps we put in there the more dollars a proponent has to spend. When they then evaluate what their soft costs are and see extra time and expense to go through a plan area amendment, it can make a difference whether an affordable project is going to be affordable or not. In some cases, it is decided they are going to go ahead and the project is going to be affordable with private money without the bonus units because they don’t want the deed restriction. That can cut both ways. On one hand that can do the affordable housing for a number of years but it may not stay affordable forever. If they don’t get incentives there is no guarantee that the owner won’t convert it. Whereas with the bonus units, you get the deed restriction so they can’t convert it. From the perspective of project proponents, the fewer the impediments there are the better. Therefore, they would urge the bonus units be put into a pool. He does not see enough projects coming forward that will deplete the pool in any accelerated fashion that would create a problem for any jurisdiction. So far he has heard more from North Shore projects then South Shore projects. From his perspective he would urge APC to go with the pool recommended by the Governing Board committee and staff.
There were no other public comments.

MOVED Bill Combs moved to support staff’s recommendation.
SECOND Gary Marchio
Ms. Baldrica asked for a roll call vote.
Baldric – Y
Lohman – Y
Combs – Y
Harris – Y
Honcoop – Y
Jepsen – Y
Kemper – Y
Krause – Y
Lane – Y
Marchio – Y
McIntyre – N
Plemele – Y
Poppoff – Y
Tolhurst – Y
MOTION CARRIES

Ms. Baldrica asked Mr. Eichar to continue.

Mr. Eichar pointed out the language update for the EIP for each plan area.

Ms. Baldrica asked if this language change needed to voted on. Mr. Eichar stated that it did.

Ms. Krause asked if the language taken out is being covered by the EIP plan. Mr. Eichar answered that it was. In addition within community plans there is an implementation chapter that goes into much further detail.

Ms. Baldrica asked for public comment.

There was none.

MOVED Robert Jepsen moved to accept staff recommendation.
SECOND Gary Honcoop
MOTION CARRIES

Mr. Eichar presented the water quality mitigation fees. He reviewed the use of the fees, the need for the increase from $1.34 per square foot to $1.54 per square foot and the code language.

Randy Lane asked if the formula for the increase is scientific. Mr. Eichar responded there is a formula used. Mr. Lane asked what the basis for the formula was. Carl Hasty responded one of the factors is the cost of the program. The mitigation fee is collected as a funding source for offsite improvements.

Lauri Kemper asked how offsite projects are worked out in relation to the fee? How is the size of the project determined? Mr. Eichar responded that the option to do offsite projects is rarely taken. Mr. Hasty interjected that if the offsite project is done, in the past it is related to what is the front of the property.
Tom Porta arrived.

Lauri Kemper asked if this fund is available for things like maintenance, maintenance equipment, etc.? Mr. Hasty responded small percentages of this fund are available for those types of things. That money is held in trust by the TRPA and that is where the five-year list comes into play. The amount now that can be released for operations or maintenance is maybe 10% of the annual release. It is not a reliable source for that kind of cost.

Ms. Kemper asked if there has been any thought to having the fee be associated with the watershed near where the money was collected? Mr. Hasty stated it would be ideal in some ways. When someone opts for doing a project that is the easiest way of connecting the mitigation to the watershed. Otherwise, it falls into the capital improvement program for the Local Government.

Leo Poppoff stated there has been criticism that these mitigation fees pile up in a fund. Mr. Hasty stated that is not valid, they are being used. It is one of the funds of EIP and some other jurisdictions use that money at least once a year. Some jurisdictions more than others. Until recently, that has been matched funds for the state bond money. It is used frequently. Larry Lohman interjected that the project securities are what tend to build up. Mr. Hasty stated there are several million dollars in the mitigation fund pool but that is up to the jurisdiction if the money either sits there or is given to them right away.

Mr. Eichar explained that the next item is also regarding water quality and asked if APC would like to take one vote on both items. Ms. Baldrica thought that would be best.

Mr. Eichar continued with his presentation regarding the switch from JTU to NTU for Turbidity measurement units.

Alan Tolhurst asked what the difference was. Mr. Poppoff answered the difference is in the instrument that is used.

Ms. Baldrica asked for public comments.

There was none.

MOVED Leo Poppoff moved to accept staff’s recommendation.
SECOND Randy Lane
MOTION CARRIES

Ms. Baldrica moved to a break.

After break, Mr. Eichar continued with a presentation on the air quality mitigation fee. He reviewed the need of the fee, the increase from $25 per commercial trip and $240 per residential trip to $30 per commercial trip and $270 per residential trip and the change to the language.

Alice Baldrica asked if this increase keeps up with inflation? Mr. Eichar answered it did. Mr. Barrett responded that inflation is not the sole factor. Each formula uses different criteria. Air quality mitigation uses projected drive trips. Ms. Baldrica asked if there was a change in percentage of attractions versus productions? Mr. Barrett responded the actual fees are not the same percentages. John Marshall stated the 90-10 has stayed the same.
Gary Honcoop asked if the projects seen as receiving this funding are more transit oriented? Mr. Hasty agreed that yes the projects do tend to be more transit oriented. There is a small percentage that goes to equipment and some to operations but the majority is to improvements.

Lauri Kemper asked if that many DVT's would possibly come before the TRPA? What is the basis for that? Mr. Barrett stated there is a transportation model that takes in factors such as growth of traffic over the passes. The TRPA does not approve who or how many people travel over passes. There are existing businesses that have growth in trip rates associated to them and future businesses are what are considered. Those trips by type are broken down and distributed in the formula.

Tom Porta asked if these fees are going to be used to reduce the VMT's. Mr. Barrett said they would.

Ron McIntyre asked if any of the data has been collected from actual surveys of trip origination? To his knowledge very few have been done. Mr. Barrett agreed this is correct. The models and numbers are based on very old data. TRPA is in the process of getting a whole new model and trying to figure out how to get this information.

Gary Honcoop asked if some data is received from Cal Trans? Mr. Barrett answered originally the model and numbers came from a Cal Trans/NDOT project done in the 70s. Now the TRPA does the modeling. However they do use Cal Trans and NDOT data to calibrate traffic counts.

Alan Tolhurst asked if of the 2700 single-family residences TAU’s considered single family? Mr. Barrett answered houses, motel rooms, campgrounds or anywhere you reside is important. This is where a family sets up and drives from. Mr. Tolhurst responded he believes that there is a ratio of TAU to single family residence. If a hotel is torn down, do they get a rebate? Mr. Barrett answered no this fee does not apply to tearing down old buildings and putting new ones up it only applies to new units.

Juan Palma commented on transportation being a great concern and the fact that this fee increased does not meet all the funding needs. There are grants received from EPA, FTA or other places where the dollar amounts do not cover the needs. There is also money the private sector puts in. Without these other pieces, it would not be enough. There is a need to continue to get that money because it is expensive to run all over the basin.

Ms. Baldrica asked for public comments.

Gary Midkiff, consultant, stated Ron McIntyre’s question is very good. What is the basis for the fees and the increase? What is the basis? What are the assumptions? To have credibility there needs to be more data to support it. If in fact El Dorado County’s new models could be evaluated and adopted, solid data obtained, and know what the assumptions are and disperse that information to the public we could avoid controversy and distrust. Mr. Midkiff thought that otherwise, we would continue to build the grumble that is out there. It is important to build public support rather than undermine it.

Gary Honcoop stated what is being found is that the ratios that are used for trip generation in the past are continuing to increase. If we are comparing conceptually, we might find that there are more trips then is being projected.

Randy Lane stated he sees that internal traffic is being affected by the conversion from teardowns to rebuilds. TRPA needs to recognize the internal trips are created from both rebuilds and new rather than just the new construction. Right now, rebuilds are not charged this fee.
Ron McIntyre stated his major concern on trip origination comes from faulty data as it relates to the day user and the effect they have on the basin. Daytime population growths within 3 hours over the past 5 years are huge.

Alice Baldrica stated that certainly the new or enlarged buildings stemming from the tear down or enhancement of older buildings is not being taken into account.

Larry Lohman stated the Lake Valley Fire protection district charges a fire fee for additions if the square footage is 75% or greater of the existing structure. There is precedence for charging those kind of fees. Mr. Hasty answered as we go forward; comments will be taken into consideration and be developed as this gone through. Mr. Barrett stated TRPA policy was geared towards new structures so as not to tax the enhancement of older buildings. He believes he is now hearing that the desire is to put fees on the remodels or additions. That would be a significant heavy-duty shift. Ms. Baldrica asked Mr. Barrett to consider that some additions are so overwhelming large, they don’t really look at them as adding on a room. John Marshall interjected that he did not know for sure that is true. A lot of the large homes are not necessarily adding the number of people occupying them. Trip generation may change but it should be looked into before making a policy change. Ms. Baldrica commented that it would also mean looking at the long-term shift.

Gary Honcoop stated he is hearing that there is a sentiment by APC that staff look at this over the next couple of years. Comprehensively they need to look at every aspect.

Larry Lohman stated he remembers conversations to get money to offset development. The older development never paid to build a home. There is a fair share equation and the new development needs to pay for the impact it may have had.

MOVED Lauri Kemper moved to accept staff recommendation with consideration of today’s issues.
SECOND Gary Honcoop
Gary Marchio asked if staff could include more background information into the report to Governing Board as to where the data came from. Ms. Kemper and Mr. Honcoop agreed to this change.
Baldrica – Y
Lohman – Y
Combs – Y
Harris – Y
Honcoop – Y
Jepsen – Y
Kemper – Y
Krause – Y
Lane – Y
Marchio – Y
McIntyre – Y
Plemel – Y
Popoff – Y
Tolhurst – Y
Porta – Y
MOTION CARRIES

Mr. Eichar continued with vegetation soils protection, an amendment to two Code chapters to facilitate review of applications and provide clear understanding of the rules. Mr. Eichar reviewed the language for installing temporary fencing. He introduced Jerry Dion to take questions.
Alan Tolhurst asked if there are new drawings? Mr. Dion responded those would be gotten. Mr. Tolhurst asked if the soil, marahe, will be upgraded or is this just fencing around the trees? Mr. Eichar responded that the purpose of this Code section is to protect the vegetation and not only the trees but also the shrubs. Matt Graham interjected that right now they are evaluating which measures are working and which aren’t and will provide cut sheets for contractors and architects.

Lee Plemel asked if this is a codification of what the current policies are or is a significant change. Mr. Eichar responded that clarity is what is achieved. It is on the plans so it is clear. Jerry Dion interjected staff is looking at some sort of pasture fencing or allowance of different types if there is a good reason.

Ron McIntyre asked how 65.2.1 (2) is going to be enforced? Mr. Eichar responded when inspectors go out to a site they will look at the fencing and location of the materials. John Marshall interjected generally; they are staging areas for pregrade and other various types of inspections. This language is not substantially different then language you have in the Code. Mr. McIntyre asked whether there is a materials list. Mr. Marshall answered no; this is just where or where you can not store materials. Larry Lohman responded that El Dorado County has inspectors out on the site 15 to 20 times per construction. It is their jobs to ensure all conditions of a permit are followed. This would fall under a permit condition. Mr. McIntyre stated that it seems to him a materials list needs to be available based on the wording of the language. Steve Chilton responded that the language suggests that nothing is to be placed outside of that fence without TRPA or their MOU partner’s approval. Therefore, to enforce it will be much simpler then before. It is easier for MOU partners and inspectors to go to a site and drive by another site and notice they are out of compliance. The point being made is that contractors have to ask TRPA first. But having this is place will reduce the possibility of having it happen. Alan Tolhurst interjected that he has never had a problem with this.

Mr. Tolhurst asked if grass is vegetation. Mr. Chilton answered everything 10 feet out of construction area site is vegetation. This will constrain a contractor to have all of the material delivery staggered. There is evidence of sites getting trashed. The whole idea of having coverage and revegetation standards is to protect the surrounding area.

Ron McIntyre asked if he was building a house on a lot and he wanted to change a piece of equipment would he have to get TRPA approval? Mr. Marshall answered yes, if it is going to go beyond the barriers. Mr. McIntyre stated that the way he reads this language, everything on the construction site as far as method and means are concerned, he would have to get approval from TRPA. Mr. Hasty responded at the extreme, yes. It would be in the interest of the contractor to say this is the range of items I am talking about to have them pre-approved. Mr. Marshall added that it goes more to space. If you are occupying the same kind of space regardless of what you are occupying it with, then you are still within your approval. If you all of a sudden want to take up more space, then you would have to ask TRPA. A lot of rules have that same effect. You may operate within your approval. If you need to go outside that approval, you have to ask.

Gary Honcoop asked what side of the protective enclosure is being talked about when it says “behind”? Mr. Hasty responded that “behind” refers to the protected area. Mr. Honcoop asked if in the unprotected area, you are allowed to take in and out whatever you want. Mr. Hasty answered yes.

Lee Plemel asked for clarification on that issue. Materials are only limited in the protected area and not the unprotected area? John Marshall agreed it needs to be re-worded.
Alan Tolhurst stated that the problem he has is correlating Chapter 30 Design Standards with Chapter 65 Vegetation Protection. You need to correlate them or it is very confusing. Mr. Hasty agreed that the correlation of those two tie together.

Gabby Barrett asked if it was clear what the area being protected is. Gary Marchio interjected that it is clear the way Mr. Tolhurst stated it.

Alice asked for public comment.

Gary Midkiff, consultant, agreed with Gary Marchio. It is refreshing that others have problems with the same ambiguities that he has. He would like to get involved in the re-write of this rather in just being APC and staff. That way when this gets to the point it gets adopted; it will be in a form that everybody understands.

Jon-Paul Harries, League to Save Lake Tahoe, strongly supports these amendments. It has been his experience that much of the site gets abused in ways that it shouldn’t be while a construction project is going on. It is not what the architects or consultants plan out, it is what happens on the ground. The language should be clear but he believes it already is to some extent. Staff is saying they want to put a barrier between what can be disturbed and what can’t. That is appropriate. It may have challenges, but he would remind everyone to go to urban areas homes and businesses are often right on top of each other and construction can only be done within their foundation. Contractors figured out how to do this and it is not that difficult to do.

Melvin Laub, attorney, commented that he just got a newspaper today that indicated this a hearing. He thinks there should be at least one or two days notice to the public. Mr. Laub stated he would like to speak out of turn. Ms. Baldrica asked him to submit his comments in writing. Mr. Laub stated he has and asked Mr. Marshall to read them into the record when it is appropriate.

Ms. Baldrica brought the item back to APC.

Alan Tolhurst asked staff to take this back and work on the wording some more. Tom Porta asked if it is necessary for it to come back? Instead of that, can we just ask staff to move forward to Governing Board with APC’s concerns or recommendations? It seems everyone agrees on the intent, the language should be worked on but the intent is the same.

John Marshall stated he is working on a language recommendation. Alan Tolhurst stated he would like to see the language reference back to Chapter 30. Mr. Marshall did not think that could be done in the context of the APC meeting. Leo Poppoff asked if it could be worked on and taken up at the end of the day? Richard Harris stated it seemed to him that within the planning process you would show a plan and the protective fence. Based on that he drafted the wording of “during the planning process, the applicant shall depict on the site plan the location of a fence which will separate the construction area from the protected area. Prior to construction the contractor shall erect a fence in compliance with section 6.5.2.I, which divides the construction and protected areas. No construction or storage activity shall take place within the protected area.” Mr. Marshall thought that clearly delineates what is allowable and what is not and connecting it in with the design standards needs to be worked on. Mr. Harris will work with John Marshall and come back later.

Juan Palma interjected that this topic may work for house projects but they get a little more complex when dealing with larger projects. He thought it might be wise to work on this a little more rather than attempt to get it done today.
Gary Honcoop stated if this is not critical then there is time to bring it back.

MOVED Robert Jepsen moved to advise staff to consult with other groups regarding the language and to bring it back to APC.
SECOND Alan Tolhurst
Lauri Kemper and Tom Porta voted against the proposal.
MOTION CARRIES

Ms. Baldrica moved to a lunch break.

Gary Honcoop left after lunch.

Ms. Baldrica explained a need for a vote on amending Chapter 2 and Chapter 7 regarding residential bonus units. The morning’s vote was to make the changes within the ordinances. This vote would be for clean up language that would integrate the Goals and Policies with what was voted on in the morning.

MOVED Bill Comps moved to adopt staff recommendation.
SECOND Larry Lohman
MOTION CARRIES

V. PLANNING MATTERS

D. Amendments Resulting from the 2001 Threshold Evaluation.

Peter Eichar presented the outline of this agenda item and introduced Matt Graham.

Matt Graham, Erosion Control Compliance Team, presented amendments to the BMP retrofit program. He reviewed the program, the need, the clean water act, the 208 Water Quality Management Plan, the 1987 Regional Plan, the Clean Water Act, the five prong approach (education or community outreach, one on one technical assistance, implementing BMP’s, monitoring BMP’s and adaptive management), priority 1 watersheds, priority group 2, the retrofit timeline and he highlighted community outreach efforts. Mr. Graham passed out a brochure and reviewed the enforcement strategy and its expected outcomes.

Leo Poppoff asked if people would be eligible for this action if they did not comply by the deadline. Mr. Graham agreed. Mr. Poppoff asked if once a determination has been made, the property owner is informed and then fined, what happens if he still does not comply? Elizabeth Harrison, erosion control, explained that agency counsel may pursue litigation. Mr. Marshall responded that pursuing litigation will be used to accomplish compliance as well as monetary compensation. Mr. Graham explained that there is no option to just pay a fine and not do the BMP’s. Mr. Poppoff commented that he doesn’t see any avenue for an appeal. Mr. Marshall responded that most of the violations are fairly clear. The factual basis simplifies a fairly cumbersome process. The delegation is to the Executive Director to decide what applies or not. An appeal to the Executive Director is available. Juan Palma interjected time is given for response and due process and anyone can appeal any decision the Executive Director makes to the board.

Randy Lane stated the graph showed the basin as being in 80% implementation. Is that a goal or what is anticipated? Matt Graham said that is what is anticipated.

Lauri Kemper asked if this applies to all properties. Mr. Graham responded it does. Ms. Kemper asked if there is a way to expand this for enforcement outside the priority 1 watersheds? Is there another
mechanism in place? Mr. Marshall responded not implementing BMP’s would be a different situation if it were affecting a threshold standard or some other type of activity. There is probably some flexibility to pursue this but it would be very fact intensive. Mr. Hasty commented one of things being researched, is a concerted effort to have BMP efforts built into erosion control projects. Those things are going hand in hand. Doing this would help educate the community. If there was something really egregious then there is a procedure that could be done.

Ms. Kemper stated the language in the Code being proposed does seem like something that says that implementation is required is needed. Mr. Graham stated the answer might be the last sentence of number 4 on page 50, “property owners shall not be given the option of non-compliance with the TRPA Code.” Ms. Kemper asked when it has to be implemented because she did not feel that was clear. Mr. Marshall responded the intent within the plan itself is to come up with an implementation plan. If they don’t meet the plan then we are going to come after them for not meeting their plan. Mr. Marshall asked if the concern is there is no articulation as to what happens if you don’t meet what is set forth in the plan. Ms. Kemper agreed.

Ms. Kemper stated she was not sure that 30 days is a realistic amount of time for compliance. 45 days may be more reasonable. Mr. Graham explained 30 days is the time to respond to the fact they are out of compliance. Ms. Kemper stated it does not say that. It says if the property owner completely installs their BMP’s by the end of the 30 days, no monetary restitution will be sought for this violation. It implies that after that time period they will be fined. Mr. Barrett stated Gary Honcoop informed him he had this same concern.

Ms. Kemper stated it would seem that since these people are out of compliance it would right of way put them in to the second category and they have not even been notified directly. She recommended that once they are notified the first time the fine would be one amount and the dollar amount would go up if they had to be notified again. The fine now in there is not high enough to persuade John Marshall to go to court. $5,000 should be the minimum fine. A graduated scale might work better. These amounts are not even what it would cost someone to install BMP’s.

Randy Lane commented that he shares the idea that the 30-day response time is contradictory to the 3 year matrix for compliance. In addition, the fee needs to be an incentive to get into compliance.

Larry Lohman commented there could be a clause for cost recovery.

Juan Palma stated in, for example, the Sierra Tract in South Lake Tahoe, we should to be mindful of what those people can afford. He can think of several families that cannot afford such prices. He asked APC to keep this in mind. For someone who lives on the shorezone, this could be petty cash. Lauri Kemper responded they are not looking at penalizing those that don’t have enough money. The fines are for those who are blatantly disregarding the rules. There is grant money for putting the BMP’s in the ground. Mr. Graham’s approach to do the right thing is what they are looking at.

Alice Baldrica asked if Mr. Graham has discussed with Locan Governments how to look at all of the lots not in compliance? Mr. Graham replied they are looking at working with Placer and El Dorado Counties. Those meetings are ongoing and will continue. Mr. Graham added that Larry Lohman, project review and himself have discussed how better to utilize El Dorado County’s field inspectors. They are going to have more eyes and ears in the community. They do see this as a critical step.

Mr. Eichar added the proposal over the next couple of months do tie to the installation of these BMP’s.
Ms. Baldrica asked for public comment.

Michael Burgwin, Sierra Club, stated he applauds the completion of the cumulative threshold report. He applauds Matt Graham for making an effective tool. He feels this is a critical step in the right direction. Sierra Club takes exception to the anemic and paltry resources the TRPA is directing to the program that is designated to correct the monumental accumulation of human impacts. Clearly if there is to be one iota of chance to turn this lake around, we are going to need a full and rapid assault on every past or future human impact that is contributing to the degradation of the Tahoe ecosystem. The Sierra Club recommends that TRPA upgrade its commitment to the BMP project in the following ways: 1) Immediately implement a system of BMP enforcement as outlined by Matt Graham that is easy to execute and carries stiff penalties to comply. The time is long overdue for TRPA to stop the mixed message that has accompanied its compliance enforcement policies and stymied its staff’s ability to carry out the Compact’s mandate. A clear and determined message directed to Tahoe area property owners can go a long way toward making up for these shortcomings. 2) Immediately redirect a higher percentage of TRPA staff resources to the BMP retrofit monitoring and certification program so that the program can accelerate its goals and have all Tahoe Basin properties and projects in BMP compliance no later than the onset of Winter 2004. 3) TRPA institute, on an ASAP basis, an ongoing BMP re-certification program for properties in sensitive and critical areas. This program can be similar to the periodic auto emissions re-certification program and many urban areas. All properties in no less than 300 feet of the high water mark of lake shoreline and within no less then 300 feet of streams and wetlands areas and any other sensitive areas should be re-certified at the property owners expense preferably every year and no less frequent than every two years so that TRPA can assure the BMP performance in those areas remains functional and effective. 4) The TRPA immediately institute a BMP hotline with one toll free telephone number to a central dispatch for basin wide inter-governmental and inter-agency BMP monitoring, assessment, certification and re-certification services. Furthermore, a basin wide, high profile, BMP public awareness and education campaign, as out lined and then some, be publicized and promoted. 5) The Lake Tahoe Environmental Education Coalition be assigned and paid to coordinate this task beginning ASAP. TRPA expedite staff recommendation, water quality D.1 entitled realtor disclosure and BMP installation as property sale requirement so that it is implemented on a ASAP immediate time frame. That disclosure should include wording that realtors inform prospective purchasers that they the buyer are considering purchasing property in a sensitive and highly regulated environmental area, the Lake Tahoe Basin, and that evolutionary efforts to save the basin may cause property use regulations to change. They can expect limits to what they can do the ground and structures on the ground that they may eventually own in the basin. Mr. Burgwin handed the written copy of his testimony to the APC clerk.

John Marshall submitted Mr. Laub’s letter into the record. Mr. Marshall stated the letter has very little to do with the BMP enforcement but more his disagreement with the process of his particular tree limbing violation. Ms. Baldrica asked for a copy.

Jerry Zelt, Zephyr Cove resident, stated he fully supports the plan to streamline the BMP’s because he believes BMP implementation is the most effective way to improve the clarity of the lake.

Dale Dahnio, Incline Village resident, stated page 51 item 2 regarding the 30 day time frame to implement a BMP without penalty. The TRPA has at least 120 days to respond to everything the public submits. He thinks the property owners should have the same. There should be some flexibility written that on a case by case basis, if more than 120 days is needed, TRPA has the latitude to grant that.

Darrel Cooper, Lake Village resident, stated that most often when he comes before a group like this, he is critical. Today he would like to compliment Matt Graham on his program. He did however suggest that a Gestapo mentality not be adopted. On the other hand, he thought the level of acceptance of this program
suggests that people view the TRPA as a paper taker and he does think the TRPA needs to get a little tougher. It doesn’t make a lot of sense to make a lot of rules you don’t intend to enforce. If you don’t come forward with enough resources to enforce them, then he suggests you just wasting your time doing it.

Leo Popoff suggested staff bring this item back next month with the new language.

Richard Harris suggested the language of “within 30 days a land owner receiving a notice of violation either implement the BMP practices or present to TRPA staff a plan and definite schedule for approval by TRPA staff with implementation not to exceed 120 or 180 days.” Recognizing that $1,000 may not be enough, he recommends a fee of a minimum of $1,000 up to 10% of the property owner’s annual property tax. Mr. Marshall reiterated the motivation is not to recoup the money but to get the work done. We want to go after them to get the work done. In addition, there are limitations imposed by the Compact as to what types of fees can be assessed.

Alan Tolhurst recommended going with the security deposit method and base the fine on the amount of BMP’s required. In addition, if you are going to take a security or a fine there ought to be a way to put in place the work with the money received.

Tom Porta asked what resources are needed per the public comments. Mr. Graham responded he is involved in a process of looking at a master plan or strategic plan with securing resource needs. At the very minimum, he believes they would require a dedicated compliance inspector.

Ms. Baldrica asked if staff had enough direction. Mr. Hasty said they did.

No vote was taken.

John Hitchcock presented the Scenic Program Amendments. He reviewed the language changes to Chapter 4, Chapter 30, Chapter 53, Chapter 57 and the design review guidelines to add Appendix G (the visual assessment tool). He reviewed the specifics of the new scenic review system, the visual assessment tool (visual magnitude), the design standards, findings and mitigations. He used a specific example to illustrate these points.

Alan Tolhurst asked who does the initial site assessment? Mr. Hitchcock responded staff does. Mr. Tolhurst asked if the entire process would take a year? Mr. Hitchcock stated this scenic process is part of the current review process. Mr. Tolhurst asked if the site assessment would have to be done in the spring? Mr. Hitchcock answered that they would use summer conditions and not winter conditions. Mr. Tolhurst asked if someone brought a project in in October, wouldn’t they then have to wait until May or June for a site assessment? Mr. Hitchcock answered as a part of the application process, an applicant should submit photographs prior to the site assessment to establish baseline and possible mitigation measures. Mr. Barrett added the concept is once a picture is submitted; it doesn’t matter when an application is submitted. It can be reviewed then. The photo can determine the baseline for that project and future projects. The site assessment idea is to combine all three and get it all done at once. Mr. Tolhurst asked Mr. Hitchcock to include dark gray as an earth tone color.

Larry Lohman asked if there is a fee for the scenic site assessment. Mr. Hitchcock answered it is the standard fee for all site assessments. Mr. Lohman asked what types of existing vegetation need to be identified? Mr. Hitchcock stated the meaning is all native vegetation. Mr. Lohman asked if this is for screening purposes only? Mr. Hitchcock replied screening is what is the major concern and does sometimes include ground coverage. Mr. Lohman asked if the 3rd party report could be provided by
anyone? Mr. Hitchcock replied it is any individual qualified by the TRPA. Mr. Lohman asked if one of those individual’s reviewed this and said the TRPA was wrong, TRPA would go with that person? Mr. Hitchcock said yes. Mr. Lohman stated it doesn’t seem quite right that one person could change staff recommendations. Could there be a review by three experts? Mr. Hitchcock stated currently there are three experts on the list and the idea was to just have one review it but that doesn’t preclude the option of having peer review by documentation. Mr. Lohman stated he would like this. He has a copy of Santa Barbara County’s innovative building design review committee process. He would give it to staff for information. Mr. Lohman also noticed a few typos within in the document. Mr. Hitchcock agreed.

Eva Krause asked if the general standards apply to every building in the entire basin. Mr. Hitchcock stated there are a wide variety of earth tones and they might allow brighter colors as accent for trimming. Ms. Krause stated she has a hard time telling those that do not affect the scenic corridor they cannot use different colors. Mr. Hitchcock responded in the beginning they had said only roadway or scenic units are subject to these guidelines but then they were criticized for discrimination. Ms. Krause stated that outside of the scenic corridor, it is a matter of taste. Mr. Barrett stated that the community design policy gives the direction to TRPA to get into this area. The question is how far to get into it. Alan Tolhurst stated we have a VM for houses on the lake and we have absolute forbidden colors to use on any other house not visible on the lake. If you have a house on the lake, and you are not in compliance, you can plant trees to make up for it but under the general design standards (not on the lakeshore) you can’t do anything. Mr. Hitchcock stated that is true. This will be looked at. He stated that they could go back to having standards that only apply to roadway and shoreline units and would not apply to outside of those corridors. Mr. Tolhurst stated he was in favor of some sort of control. He doesn’t want to go to VM for every new project or remodel in the city but he doesn’t know if there isn’t some sort of happy medium. Mr. Hitchcock stated the VM will only apply in the immediate shorezone and upland area and won’t be applied outside of it. Mr. Tolhurst stated that was his point.

Richard Harris commented that he lives in a community in Reno where there is architectural control and as a result, there was a realization the community looked boring. Now there is more variation. He would hate to see this happen to the lake. That could be a recipe for bland and boring. Mr. Hitchcock agreed that in one view this could be true however, the idea is not to regulate architectural design. They are trying to encourage design that blends and fits with the natural landscape. Mr. Barrett added what is talking about is shorezone. Today, a Tudor house could not be built that match these color limitations in the shorezone. White is not an option tan or sand is closest.

Leo Poppoff stated that he understood the VM regulations only pertain to the first 300 feet. If the picture seen is moved upward, he could build it and be even more visible. Mr. Hitchcock responded that the parcel shown is a littoral parcel. For littoral parcels standards apply to the entire parcel. The ridge line area has not been dealt with. Mr. Barrett added these comments have been taken into consideration when developing the work schedule. They are going to take on the upland. Hopefully by next winter or spring they will have that scenic system in place. The shore zone has the most impact on scenic and so that was taken on first.

Randy Lane asked if you want to build a house in this shorezone unit and you have a lot with sand and no trees. Is your only option to mitigate on that lot or can you mitigate elsewhere? Mr. Hitchcock stated the owner would have to look at ways to bring in vegetation or increasing the contrast of the structure. Mr. Lane stated a two-story house would be difficult to get under this system. In all likelihood there would be a requirement for mitigation. What are the mitigation opportunities if there is nothing to mitigate in that unit? Mr. Hitchcock stated currently you are restricted to that unit. It might be possible to do offsite mitigation in another non-attainment unit, but you could not offset mitigation from an attainment unit. As envisioned right now you would have to mitigate in the same unit. Mr. Lane asked if the decision is made
now or will TRPA wait until they run up against it? Mr. Barrett responded there is currently a consultant working on this question. Right now there is not enough information to look at yet. Mr. Lane asked if the option could be preserved? Mr. Barrett stated they were.

Alan Tolhurst asked if these apply to the commercial as well? Mr. Hitchcock answered they do. Mr. Tolhurst asked if on remodels you do a scenic site assessment and you have a three story tower on the site and you want to add a one story building and tear down the three story building, do you get points for improving the existing conditions. Mr. Barrett explained that this type of situation would be similar to the excess coverage system. It is measured

Leo Poppoff asked if you were to build the house Mr. Lane was talking about on light colored sand and got a contrast of 25 to help build the house, it would be even more obvious then if the house was light colored. Mr. Hitchcock stated that the factor is the backdrop. If the backdrop is lighter, it may need to go to the full review and the lighter colors taken into account.

Eva Krause agreed with both Mr. Poppoff on the problems of light backdrops and Mr. Lohman on the need for outside peer review. It is a taste issue and can be subjective.

Bill Combs stated he is trying to figure out how windows are going to be factored in. Mr. Hitchcock stated the glass comes in in the plane and texture rating score. If you have a lot of glass you would get a lower score because of the smooth service. Mr. Combs also commented that the packet jumps around too much and needs to be made more cohesive.

Mr. Lohman asked if an MOU jurisdiction issues a permit, who is going to do the monitoring? Mr. Hitchcock stated TRPA staff would. The original intention was to work with compliance to ensure mitigation measures were applied. Mr. Lohman asked what the process for the qualified exempt activity of painting a house would be. Mr. Hitchcock stated it would still be exempt, however the plan is to send out flyers and information brochures to inform owners of the colors available.

Ms. Baldrica asked for public comments.

Dale Dahnio, Incline Village resident, stated he had a special concern because he is a lakefront owner and he has unique property because he does not have the ability to plant lots of trees. The property is too steep. He wants to improve the look of the property, but under this system he can’t. He stated he has been to most of the workshop meetings and today is the first opportunity he has seen to see anything in writing. Staff is asking the APC recommend this to Governing Board without the public being able to see what has been written down as the final conclusion. In building, there is the IPES system that controls the coverage on the land. The Counties control the height. The building envelope is controlled already by other methods and this scenic system does that all over again without any regard to IPES. 900 Square feet is a building 21 feet wide. The maximum allowed is 45 feet wide. You can get extra visibility if your building is greater then 200 feet wide. How many parcels around lake are more than 300 feet wide? Not very many. His is but that isn’t going to help him a lot because he can’t screen 50%. He is afraid he is not going to be able to build a home that practically fits with the cost of the land. If he pays x millions of dollars and has 300 feet of lakefront, then he has lost. He can’t do the mitigation he would like to do. When they had the workshop meetings the question that came up was “why are we doing this scenic evaluation now.” The answer was the areas around the lake are in non-attainment of the Scenic Threshold. The asked what the Scenic Threshold was. The answer was the Scenic Threshold is basically a 1982 view of natural versus man made structures. That was set as the standard. They don’t want to see any more man made now then what was in 1982. Yet there are millions more people that come up to Lake Tahoe and use the shoreline. That threshold is impossible to maintain. There was discussion
regarding having a broken yardstick and fixing the yardstick to measure attainment. Staff said they will not address that until 2004. His thought was 2004 is not far away. This system is extremely complicated. Everywhere else in the world, they use architectural control committees. Why not here? Why not make it relatively simple instead of being so complicated. The objective is to make the man made structures invisible. At the meetings they had people that owned marinas testify that people came to rent boats to look at the houses. They don’t go down to just look at the trees. In addition, Peter Eichar said that from their geographic information system, public ownership of the lakeshore has increased from 18% in 1970 to 47% in 2000. 47% of the lakeshore is preserved. How much is enough? Where in the scenic evaluation have we evaluated how many people enjoy the shoreline from the shoreline looking out at the lake versus how many people are on the lake looking back at the shore. We may have 1% of the visibility being from the lake to the shore and 99% from the shore to the lake yet we want to screen 50% of the windows on the houses. There went the view. These are just a few thoughts. He stated his purpose was to ask that 1) APC recommend to TRPA staff to take their written system back to workshop people and see how their final program plays out. Let them have a chance to go through all of this numerical analysis and see how practical it is. Let TRPA do an economic study regarding what this restriction of visibility does to the economics of a piece of property. That is TRPA’s mandate, to balance economics with the environment. Ms. Baldrica interjected. She stated that although economics is not a threshold, scenic is. And although we can debate what congress’ intent regarding the compact was, scenic is what is before us now. She stated all of the comments are being taken seriously. She is not sure they are ready to act on this issue today. She also pointed out that there are other members of the audience wishing to make comments.

Gregg Lien, Nevada Pacific Development Co. and other clients, stated he was interested in some of the comments using this building as an example. It is a good example of the problem being more with the yardstick then with what there is in the built environment. He stated he has been on the lake dozens of times and he enjoys cruising along the shoreline. In all the years of being along the shoreline with out of town guests or family, no one has ever thought to be offended by this building and yet when you look out the window, you can see the lake. It is unobstructed. There is absolutely no screening. There are a few mature trees. There is one plane, 80% of glass and yet when you go along the shoreline, he does not think that people find it offensive. He believes the flip side of that is very often more true. When the rental boats go out, they do not offer a natural shoreline tour. There is not the market for it. If there were, the market place would speak. A cost / benefit analysis has been alluded to. When you consider whether in fact, the built environment is offensive to the majority of people and then look at the cost to the private sector in attempting to comply with this standard, he thinks there may be a problem in the balance. Any time you threaten millions upon millions upon millions of dollars in property value, and that is what this thing is going to result in, there better be a commensurate benefit to the public at large by having to do so. Another way to say it is, he thinks TRPA better have clear and convincing evidence that such a program that has so much of a cost is essential to environmental preservation before the step is made. That is fundamental fairness. It is constitutional. He thinks that is what needs to be done. He understands they are going to start doing public preference surveys in the next few years but knowing how things go, this interim system is going to go on for quite some time. Looking at some of the individual points that have been made, Mr. Lien expressed a desire to speak to the new points he hears. They had a mini consensus building workshop that staff put on in this room. He thought they had worked through what they thought would be a compromise but he has heard some major new points being made that he knew nothing about until this moment. The first of these was the discussion about whether the existing baseline, which in the old system of visual evaluation you have to have no degradation because of the project comparing existing to proposed. Now he is hearing that there may not be any credit for the existing but everyone may have to, to some degree, comply with the new system. That is a major shift. He gave the example of why he thinks that is going to be fraught with problems. He had a client in Incline who had about 800 feet of lakefront, obviously a multi-million dollar parcel, who when closed escrow there were
environmental problems along the line of homes surrounding the parcel. They did not want to have the liability of those structures, so they worked out a deal with Jerry Wells where they would demolish those homes. This, in TRPA’s mind, had a visual benefit over time, which was not a bad deal. In the documentation generated out of that, that landowner was interested in preserving that level of scenic impact as what would be the baseline against which a new project would be compared. Until today, the expectation was that at least the degree of visual impact existing before the demolition of the homes could be reinstated. Now it sounds like they may not be able to do that. Had they known what they agreed to be in peril, he is sure the owners never would have subjected themselves to such a potential loss. In the interest of fairness, this needs to be looked at. Much like with existing coverage, TRPA has found the rigorous method of remodel permitting from the past created such ill will that it was determined that whatever is on the ground could be kept. If he was to draw and analogy to this area, he would say sure you can put in some scenic BMP’s. As far as expecting people to cut back, he suspects TRPA will be in for a bigger fight then it wants. In addition, the idea that it is going to be applicable basin wide in varying iterations may too be a problem. Along the lines of creating sameness, he does not think there is anything uglier then a public housing project. The public as a whole is usually not the most creative in terms of its bureaucratic institutions in helping people come up with something that is visually attractive. He does not think that is the way most people react. He appreciated Mr. Harris’ example. What happens in over regulated areas is a discouragement of creativity and that really comes through over a few years. That may be a scenic impact of its own. This is a totally new system and it is the only one. The third party analysis is very important. It is the only valve you have to deal with unique situations. He can think of beautiful structures that we would want to have gracing the shoreline of Lake Tahoe. Something designed to be visible but harmonious. There has been an example of a house on North Shore that was referred to by one of the TRPA mentors as her favorite house and yet it failed this system when it was scored. The third party analysis is the safety valve. He directed everyone’s attention to the wording of allowing the expert to go through the new system and come up with a new level of scoring but also to allow that expert to use other systems. You have to let experts use everything in their tool kit. You can’t limit this system to one tool. He thinks that is the intent. Mr. Barrett disagreed. There would be third party review but only under the existing rules. Mr. Lien apologized for mis-understanding. He stated he wanted to object in the strongest possible way to only having one methodology to evaluate these things. He hopes TRPA will amend that to allow a broader approach either through a larger body, outside mentors, experts, etc. Comparison to the thresholds should be the final determiner.

Ron McIntyre Left for the day.

Alice Baldrica commented that understanding all the comments; the APC needs to go back to the compact. Surely this could be a subjective process. It is to staff’s credit that we are now looking at ways to making this more objective. This is the direction John Hitchcock was set on. Juan Palma interjected the section from the Compact that directs the scenic threshold.

Larry Lohman asked to clarify his comments from earlier. He did not intend to suggest that a design review committee replace the TRPA review. His suggestion was that the third party expert review be more than one person.

Gary Midkiff, consultant, stated he has been actively involved in the scenic analysis process for a number of months. He has to say that the proposal before APC today is a lot better than what was started with. He complimented John Hitchcock and TRPA staff for working with everyone affected by this on a day-to-day basis and trying to recognize the need for equilibrium. The present day system and what is being presented today contains a lot of subjectivity. A determination of what is equilibrium or what compliments the natural environment is in large part in the eye of the beholder. There is a lot of room for interpretation. It still comes down to a lot of personal opinion. Whether it is on the part of a third party
reviewer, staff, a mentor, or whoever, there is still a tremendous amount of room for subjectivity. That creates concerns. A lot of what Greg Lien said Mr. Midkiff agrees with and he won't repeat. The affect of what this system is going to be needs to be looked at. This system is still penalizing what is man made. Without a realistic way to evaluate it. When the VM system and the contrast ratings are talked about, you look at Mr. Hitchcock's proposal that says with a tiered approach 900 square feet and you slip through with no big deal, up to 1800 square feet you go through at the minimum level of review and after that you go through major hoops and hurdles. There is nothing magic about 900 or 1800 square feet. That is a subjective number that has been arrived at, in his opinion, needs to be looked at. In areas such as shown, where there is a lot of trees and opportunity for natural screening, this system can work. He sat down with Mr. Hitchcock and applied this system to a pending project. With substantial amounts of shading, etc. you can make it work. Mr. Dahnio mentioned his Crystal Bay parcels where there is very little opportunity to add screening. The system needs to allow for opportunity in cases like that to match the natural environment and still make something work. There is no way to realistically do it. The system has to give a realistic opportunity. One of the issues there is a continued problem with is with larger parcels. Where there is a parcel that is 200 or 300 or more feet of lakefront, you should be given more than 10% recognition for that. Most parcels around the lake are 100 feet or less in lake width. The ratio of visibility for 100-foot parcels should be the same as 300-foot parcels. In order to mitigate you have a 1 ½ to 1 ratio. What is the basis for that? Attaining the threshold is what they are told. Then the question is why 1 ½ to 1. The design criteria listed has to be met 100%. Originally, it was some that needed to be met. More and more options are getting limited. Mr. Midkiff asked how many APC members have seen a Munsel Color chart. The options are limited. More and more monotony is starting to be seen. The point about what people want to see when they go out on the lake has been made. He did not want to tell APC that what people want to see are houses. He believed that what people want to see is a little bit of everything. We need design flexibility for colors, materials, and design options. At some time we will be so milk toast, it will not be attractive. The rest of his concerns have been heard. After he has read the draft ordinance, he believes he will have more concerns because this is the first time he has seen anything in writing as well. The key point is that this is a very important element. Progress has been made but it needs more work. He would urge staff to work through this more. The point values are too subjective.

Jon-Paul Harries, League to Save Lake Tahoe, stated he and the League are supporting staff with these measures. They believe more has to be done but they believe they are on the right path. The League is deeply concerned about the status of the thresholds. The scenic, especially the shoreline scenic, is the threshold most severely in decline. The League is pleased to see TRPA take action on this. They feel good about it. It strikes him that the public may feel that talking about scenic is in left field. He does not see this as being the case. Design guidelines and design standards are used throughout the country in communities all over the place. This is not an unusual area to be delving in. Communities often identify traits of that community, sometimes natural, sometimes built, and promote those through ordinances and guidelines. That is not uncommon. In Lake Tahoe, our greatest gift is the natural beauty. There is no other place like it in the world. You can to a lot of places and look at a lot of beautiful homes. You can go to Lake Tahoe and look at homes too. But there is only one Lake Tahoe to look at and it is threatened by the development along its shoreline. The shoreline only has the ability to absorb so much development and that is where we are going with this. It has to be limited. Otherwise we will and are impact the lake. Clear lake once was a thriving community and as a result of no regulation, its shoreline is trashed and it is not appealing and the tourism there is in shambles. There is a need to preserve these qualities. He hoped the APC would go with staff. Speaking as a past TRPA employee, he cannot tell the amount of criticism received over scenic. This has always been a huge problem. Staff has been asked over and over and over again to fix the system. Subjectivity will not every be done away with entirely, nothing is ever devoid of some subjective ness. Staff is already trying to do what the thresholds require. It is just harder to do the way scenic is being reviewed now. Everyone has heard a lot about what people may or may not be able to
do. This system allows a baseline of impact. That did not exist before today. Properties that were in attainment couldn’t do anything before because they did not have anything to bargain with. This new system levels out that playing field. The system may look complicated but it is not as complicated as it looks. Over and over developers and consultants have said no broad-brush strokes. That is what is happening. In addition, this conversation tends to go back to environment versus man made over and over again. Mr. Harries argued that is not the case. There is no question that this is already a man-influenced area. We are not trying to get back to that natural state. He suggests that if you look at the development there will be overwhelming consensus about what was good development and what was not done appropriately. There is common ground there.

Michael Burgwin, Sierra Club, commended TRPA staff and John Hitchcock for developing a less subjective system. If scenic concerns stand by themselves, then they are vulnerable to the “I like to go to Lake Tahoe and look at the houses” arguments. When scenic is integrated with water quality, soils and vegetative concerns, he thinks everyone can see how scenic is part of the overall process of improving the environment. The different thresholds reinforce each other. The real problem seems to be that people with lots of money can bring that money to Tahoe, buy some property without doing their homework about property limitations and then scream bloody murder when the limitations cause them problems. The issue is not beautiful homes, design options and property values. The issue is about making homes that are too close to the lake and are allowed to reconstruct the sensitive shore zone environment, making new sins blend in with the natural environment. Regardless of whether you are in a power boat, kayak, treading water, driving around the lake or whether everyone went home and nobody was looking, that natural endowment stand.

Leo Poppoff stated that staff has worked very hard to come up with a more objective process. He appreciates the workshops and input from the public. Architecture should respect the location. In looking at the examples and the scores that are laid out, he can only come to the conclusion that houses should disappear. That is neither practical nor rational. Nicely designed properties in scale with the natural environment make sense. He can’t agree to the way this is laid out.

Larry Lohman stated that Mr. Dahnio’s point that he can’t do screening is appropriate. He thought it would be reasonable to add this type of situation to the scoring based system. Mr. Barrett stated that just like with IPES, there is a minimum of 1800 square feet. Over that you have to make findings. Dealing with the vacant lot will be dealt with. Staff can bring back a demonstration of how that works. Mr. Hitchcock added that the VM is a measurement of visibility not the measurement of the actual house.

Alan Tolhurst commented that as an architect, he has not seen anything that will prevent him from designing a good building.

Ms. Krause agrees with Mr. Poppoff that homes should blend with the environment, and where this system is trying to achieve that, it doesn’t quite make that. She would like to see the design review idea explored further.

Larry Lohman asked if the full level review opens up the review if the person is willing to make the effort?

Bill Combs asked Mr. Hitchcock to explain the interim nature of this system. Mr. Hitchcock reiterated that although it is an interim process certain aspects of it, if they work, will be drawn into the new plan. Mr. Combs stated he is sympathetic to the program and if there is benefit in holding this over to next month he would be supportive of that. Mr. Hasty proposed that unless there is real specific direction and
conceptual differences, a recommendation that would include staff spending time with the public to test the ordinance would be appropriate.

MOVED Leo Poppoff to accept Mr. Hasty’s suggestion and staff’s recommendation.
SECOND Larry Lohnan
Gary Marchio asked that this include a report back to APC.
This was agreed to come back with changes based off another workshop and to not be used basin wide yet.
Ron McIntyre voted no
MOTION CARRIES

Quorum was lost.

VI. Planning Matters


Brent Richmond, environmental compliance division, presented the Code Amendments regarding the buoy identification program. He reviewed the background, problems, need for identification of current buoys, the logistics of the identification program and the implementation.

Ms. Baldrica asked for questions.

Robert McDowell asked what would be done about buoys that should be grand fathered in. Coleen Shade, long range planning, stated what went out in the 1999 draft, addressed the new system as having an allocation system for new buoys but there would be a grace period for those that have one permit and not the others or not. These would not be counted against the allocations. Most buoys have at least one permit.

Ms. Baldrica asked for public comments.

Gary Midkiff, consultant, stated there is a very real issue regarding pre-existing buoys that existed prior to the requirement of permits. If it is indicated they are not allowed, it will start a war. This issue does not address this. Clearly this issue is a step in that direction.

Tom Porta asked how many pre 1972 non-permitted buoys exist. Mr. Richmond stated there is no number. Mr. Porta asked how that is identified. Mr. Richmond stated that is part of the problem and will be solved by the eventual EIS and shorezone program.

Jon-Paul Harries, League to Save Lake Tahoe, stated he has done a lot of shorezone permitting. He knows that in 1993 and 1994 a little over 3000 buoys were identified. During that time, 3000 buoys were not permitted. Buoys are popping up every night. Numerous lakefront owners also see this as a problem. There are issues that are real regarding how to identify who had a buoy from pre-1972. This, however, is the first step on how to solve that problem. He would add as well though that staff should look at not just tagging in front of public lands but also in front of lakefront owners lands.

Greg Lien, Lakefront Property owners, echoed Mr. Harries statement. They are concerned about the pirate buoys. They are very happy about this step. When you get to the buoys in front of the private lots there are a lot of legal problems but this first step is great. He stated he wanted to make the comment
though that the moratorium on the issuance of new buoy permits is causing the pirate buoys. The two-year study that was promised 16 years ago still has not been done.

Leo Poppoff commented regarding the consideration of the Dollar Point problem, it was brought up that TRPA should do something about the buoy problem. They are and he thinks its great and he supports it.

The APC indicated their approval of the program.

V. PLANNING MATTERS

B. Proposed Environmental Threshold Amendments (Resolution 82-11) Resulting from the 2001 Threshold Evaluation.

Jerry Dion, long range planning, presented the recommendation to add new plant communities, the removal of one rare plant species and the addition of another.

Larry Lohman asked if public access would be restricted to these areas. Mr. Dion answered it would not. Mr. Lohman asked if they were located on private land would they be protected. Mr. Dion answered that they could be.

Mr. Barrett pointed out that the Forest Service is supportive of this designation. CTC has not commented.

Ms. Baldrica asked for public comment. There wasn’t any.

Mr. Poppoff asked how the species are protected. Mr. Dion stated the only way is really through project application or hopefully public land agencies will increase their protection efforts.

APC indicated their approval of the recommendation.

VI. REPORTS

C. APC Members

Mr. McDowell indicated his new email address.

Mr. Marchio indicated that the worry about not having enough staff is now a reality in his engineering department.

VII. ADJOURNMENT

Time: 4:41 pm
MEMORANDUM

April 30, 2002

To: TRPA Advisory Planning Commission
From: TRPA Staff
Subject: Amendment of Tahoe Regional Planning Agency Rules of Procedure, Article IX, Regarding Enforcement of BMP Violations


The proposed Rules of Procedure amendment is contained in Resolution 2002-___ (see Attachment A):

- Best Management Practices Amendments (see Exhibit 1)

Staff Recommendation: Staff recommends that the APC conduct a public hearing as noticed for the second time on this matter and recommend approval of the proposed Rules of Procedure amendment to the Governing Board.

April APC, TRPA Legal Committee and Rules Committee Recommendations, and Staff Response: Please note that subsequent to the April APC hearing, staff consulted with the TRPA Rules and Legal Committees on the APC recommendations and concerns regarding penalties, grace periods, and appeals. The results of these consultations are reflected in the subsequent responses.

1. There was discussion at APC regarding the 30-day grace period to install BMPs without receiving a penalty (after receiving the Notice of Failure to Implement BMPs). The APC felt that property owners should be granted additional time to install the required BMPs without receiving a penalty.

Response:
In regard to this concern, staff has amended Subsection 9.20(b) of the proposed language to provide property owners a choice either to submit a BMP Retrofit Plan for approval per Chapter 25 of the TRPA Code of Ordinances or completely install prescribed BMPs that are in compliance with the BMP Retrofit Program Chapter 25 of the TRPA Code within this 30-day grace period without receiving a penalty. Any submitted plan must also include an implementation schedule to be reviewed and approved by TRPA. The approved implementation schedule will be based on the extent of work required to implement BMPs and extenuating circumstances such as the time of year for construction, the grading season, etc.
2. There was discussion at APC whether the amounts within the penalty matrix were sufficient to encourage compliance with the BMP Retrofit Program. There were suggestions to base the penalties on a graduated scale or the actual cost of BMP implementation.

Response:
After careful consideration, staff has amended the penalty matrix to raise the penalties for property owners that are in noncompliance for 2 and 3 years. Staff feels that a set schedule of penalties is necessary for a streamlined enforcement plan rather than a graduated scale or a penalty based on BMP costs. The process proposed is intended to be simple and straightforward with minimal deliberation measures in order to get BMPs on the ground.

3. Some APC members expressed the opinion that Priority One watershed property owners will be at a disadvantage with the adoption of the proposed enforcement procedures because they would already be in noncompliance with the BMP Retrofit Program for 2 years.

Response:
The implementation of BMPs for Priority One watershed areas is critical because they tend to produce more sediment and nutrient flow than other areas of the Basin. It should also be noted that these property owners have already had a two-year grace period that will not be made available to Priority 2 and 3 watershed areas. In addition, most of the public education and outreach in the last several years has been focused in the Priority One watershed areas. Lastly, the revised enforcement procedure allows property owners an additional opportunity to comply with the BMP Retrofit Program without being fined. Based on this rationale, staff is not proposing changes to the recommended language.

4. The APC wanted to ensure that any enforcement action, including litigation, required the installation of BMPs.

Response:
This is the intent of staff and the proposed language. The language set forth in Subsection 9.20(e) specifically allows Agency Counsel to initiate litigation pursuant to Article VI of the Compact to seek civil penalties and injunctive relief to ensure compliance with the BMP Retrofit Program. The pursuit of injunctive relief would allow Agency Counsel to pursue compliance with the BMP Retrofit Program. In addition, Subsection 9.20(d) specifically states that property owners will not be given the option of non-compliance with Chapter 25, of the TRPA Code. Therefore, staff feels that the existing language sufficiently addresses this concern and therefore no changes have been proposed.

5. The APC inquired as to what sort of appeal process is available for property owners to appeal the Executive Director violation determination. The TRPA Governing Board Legal Committee and Rules Committee recommended that appeals of the Executive Director violation determinations be prohibited.
Response:
Staff has recommended language in Subsection 9.20(d) to prohibit appeals of Executive Director violation determinations to the TRPA Governing Board. This change is consistent with the recommendations of the TRPA Governing Board Legal Committee and Rules Committee. Determining whether a property is in compliance with the BMP Retrofit Program is reasonably straightforward. This proposal is intended to be a streamlined mechanism for resolving violations of the BMP Retrofit Program. If Executive Director violation determinations are consistently appealed to the TRPA Governing Board, the enforcement procedure no longer is streamlining the resolution process. Staff intends to review this procedure within six months after adoption to determine if amendments are necessary. The combination of staff and court procedures provides property owners with all necessary legal process.

6. Jim Galloway, a TRPA Governing Board Legal Committee member suggested that the proposed procedures should include language stating that BMP implementation schedules will provide property owners a minimum of 90 days, during the grading season, to install the required BMPs. He wanted to ensure that property owners are given adequate time for the installation of BMPs.

Response:
This suggestion was considered and discussed by internal staff. Staff feels that the proposed language could be amended to provide more guidelines to determine what length of time could be permitted for the implementation of BMPs. However, staff also feels that each property will warrant individual consideration based on the time of year, the amount of excavation to take place and the cost of BMP installation. Therefore to address this concern, Subsection 9.20(b)(i) was amended to include the following language:

The BMP implementation schedule, which must be reviewed and approved by TRPA, shall set forth the timeline in which prescribed BMPs must be installed. In approving the BMP implementation schedule, TRPA shall consider the TRPA grading season, extent of excavation and the cost of implementation.

Background Discussion: TRPA staff is proposing an amendment to the TRPA Rules of Procedure, relative to enforcement actions for violations of the TRPA Code of Ordinances Chapter 25, Best Management Practice requirements.

To date, TRPA’s actions to retrofit existing development have been focused on a public education and instructional outreach program aimed at increasing BMP implementation on private residential, commercial, and public service properties in the Lake Tahoe Basin. This program has been very effective in achieving compliance among responsive members of the community. However, some property owners with significant erosion problems have not responded to this approach. Therefore a segment of the population will need “regulatory-based encouragement” (i.e., enforcement action) for the BMP Retrofit Program to achieve basin-wide success. The compliance deadline for parcels located within Priority One watersheds has passed (October 15, 2000) and TRPA must now engage an administrative process to enforce the BMP regulations as to the non-responsive property owners.
TRPA's current enforcement procedures are set forth in Article IX of the Rules of Procedure. The necessary steps to bring forward an enforcement action include:

1. Issuance of Correction Notice to property owner;
2. Cease and Desist Order;
3. Notice of Violation and Violation Report;
4. Preparation of a Hearing Summary for Governing Board;
5. Show Cause Hearing — Board Action;
6. Imposition of offer of settlement by the Board; and
7. Civil Court Proceedings;

This procedure is time-consuming and not necessarily nimble. Given the large volume and relatively straightforward nature of BMP violations, staff believes that an abridged procedure should be enacted to enable their processing and resolution in an efficient and timely manner. Any proposal must fit within the confines of the Tahoe Regional Planning Compact ("Compact") and ensure that alleged violators are provided due process.

Staff is proposing to amend Article IX of the TRPA Rules of Procedures ("Rules") to set forth a streamlined mechanism for processing violations of Chapter 25 of the TRPA Code. This approach delegates the ability to assess offers of settlement for BMP violations to the Executive Director based on a Governing Board approved penalty matrix/schedule. The proposal will further delegate the authority to initiate litigation if payment is not forthcoming and/or the property is not brought into compliance to Agency Counsel. Although prior Governing Board authorization will not be required, the Board will promptly be notified of any BMP enforcement actions by the Executive Director or Agency Counsel pursuant to the proposed amendment to Article IX.

For processing and resolving violations of Chapter 25 of the TRPA Code, the following enforcement procedure is proposed:

1. Properties identified by the Executive Director to be out of compliance with the BMP Retrofit Program, as outlined in section 25.3 of the TRPA Code of Ordinances, shall be served a Notice of Failure to Implement BMPs ("Notice"). The Notice shall include, at a minimum, a statement of facts supporting TRPA's initial determination that the subject property is out of compliance.

2. Property owners receiving Notices shall have 30 days to file with TRPA a Response ("Response") to the Notice. The Response shall include, at a minimum, a statement relevant to the facts contained in the Notice and any circumstances that may mitigate or excuse the alleged failure to comply. Prior to the end of this 30-day period, if the property owner submits a BMP Retrofit Plan that is in compliance with Chapter 25 of the TRPA Code of Ordinances and a BMP implementation schedule and then timely installs those BMPs, or has completely installed prescribed BMPs in compliance with Chapter 25 of the TRPA Code of Ordinances, TRPA will not seek monetary penalties for this violation. The BMP Retrofit Plan submitted may either be a BMP prescription completed by TRPA staff or a BMP Plan that was designed by a registered engineer and approved by TRPA. The BMP implementation schedule, which must be reviewed and approved by TRPA, shall set forth the timeline in which prescribed BMPs must be installed. In approving the BMP implementation schedule, TRPA shall consider the TRPA grading season, extent of excavation and the cost of implementation.
3. Based on the Notice and Response, the Executive Director will make a determination as to whether a violation of the BMP Retrofit Program has or has not occurred on the subject property. If the Response is not timely filed, the Executive Director will make this determination based only on the Notice.

4. Once a determination has been made, the property owner will be informed and an Offer of Settlement of BMP Violation (“Offer”) will be made. Every Offer will contain a monetary amount based on a Board-approved penalty matrix to be paid within 30 days. Every Offer will also require the submission of a BMP Retrofit Plan that is in compliance with Chapter 25 of the TRPA Code of Ordinances and BMP implementation schedule within 30 days. The BMP Retrofit Plan submitted may either be a BMP prescription completed by TRPA staff or a BMP Plan that was designed by a registered engineer and approved by TRPA. Property owners shall not be given the option of non-compliance with Chapter 25 of the TRPA Code. Notwithstanding Article XI of these rules, a property owner may not appeal the Executive Director violation determination.

5. If the monetary amount and/or Retrofit Plan requested in the Offer are not received in a timely manner, or if BMPs have not been completely installed within the deadlines set forth in the TRPA-approved BMP Implementation Schedule, Agency Counsel may initiate litigation pursuant to Article VI of the Compact seeking the civil penalties and injunctive relief requesting compliance with the BMP Retrofit Program.

6. The Governing Board shall be informed of any actions taken by the Executive Director or Agency Counsel at the next scheduled Board meeting.

A streamlined enforcement procedure, such as that outlined in this memorandum, is essential to the continued success of the BMP Retrofit Program. The goal is to have these procedures operational for the 2002 field season. See Attachment A, Exhibit 1.

**Required Findings:** the following section provides findings to approve Resolution 2002-___. Article IX, Rules of Procedure.

**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 amendment to Article IX of the Rules of Procedure, will not adversely affect implementation of the Regional Plan. The Water Quality subelement of the Goals and Policies directs TRPA to implement a regulatory program to require retrofit of BMPs on existing land uses in the Tahoe Basin in accordance with the priority watershed system. Compliance procedures currently exist to resolve violations of the BMP Retrofit Program. The proposed enforcement procedure is intended to streamline the existing process. The amendment is consistent with the Regional Plan Package.

/\EH

AGENDA ITEM VA

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

Rationale: The amendment will not cause the environmental thresholds to be exceeded. The amendment is intended to assist with the attainment of the Water Quality, Soil and Air Quality threshold standards directly, and many other threshold standards indirectly.

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

Rationale: The Air Quality subelement of the Goals and Policies identifies that the implementation of both permanent and temporary Best Management Practices (BMPs) can significantly reduce the amount of wind-blown soils and re-entrained dust in the Region. The installation of BMPs is part of a program developed to reduce sources of PM10 to meet the California PM10 air quality standards. The proposed amendments will provide additional methods to bring all property owners into compliance with the BMP Retrofit Program, providing for an overall reduction of fugitive dust. Any project resulting from this amendment shall comply with all local, federal and state air and water quality standards.

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

Rationale: See findings 1 and 2 above.

5. 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.

Environmental Documentation: Staff has completed an Initial Environmental Checklist (IEC) and proposes a Finding of No Significant Effect (FONSE).

Recommended Action: Staff is requesting that the APC recommend approval of this item to the TRPA Governing Board.

If you have any questions about this agenda item, please contact Matt Graham at (775) 588-4547.

Attachments: A. Adopting Resolution with Exhibit 1, Best Management Practices Amendments, Rules of Procedure, Article IX
TAHOE REGIONAL PLANNING AGENCY

RESOLUTION 2002-__

RESOLUTION OF THE TAHOE REGIONAL PLANNING AGENCY TO AMEND THE RULES OF PROCEDURE, ARTICLE IX

WHEREAS, the Rules of Procedure shall be adopted or amended by resolution of the Board.

WHEREAS, Rules adopted by the Board, and any amendment or repeal thereof, shall become effective at the next regular meeting unless the Board, by unanimous vote, declares the rule to be effective immediately.

WHEREAS, Article IX of the Rules of Procedure sets forth the procedures for Governing Board review of alleged violations of the Compact, Regional Plan Package or TRPA permits. These quasi-judicial procedures are intended to provide notice and an opportunity to be heard, to promote settlement of the violation without litigation, to facilitate Board hearings and to promote resolution of violations at the administrative level.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board, based on the recommendation of Staff, the Advisory Planning Commission and substantial evidence in the record, hereby amends Article IX of the Rules of Procedure by amending Section 9.1 and adding Section 9.20, as shown on Exhibit 1, dated April 30, 2002.

Passed and adopted this 22nd day of May 2002, by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

Ayes:

Nays:

Abstain:

Absent:

________________________________________
Dean Heller, Chairman
Tahoe Regional Planning Agency
Article IX
COMPLIANCE PROCEDURES

9.1 Purpose: This article sets forth the procedures for Governing Board review of alleged violations of the Compact, Regional Plan Package or TRPA permits. These quasi-judicial procedures are intended to provide notice and an opportunity to be heard, to promote settlement of the violation without litigation, to facilitate Board hearings and to promote resolution of violations at the administrative level. Investigation and resolution of violations of Chapter 25 may be conducted pursuant to Section 9.20 of this Article.

9.20 Violations of Chapter 25, Best Management Practices Retrofit Program: Violations of the BMP Retrofit Program shall be resolved as follows:

(a) Owners of properties identified by the Executive Director to be out of compliance with the BMP Retrofit Program shall be served a Notice of Failure to Implement BMPs ("Notice"). The Notice shall include, at a minimum, a statement of facts supporting TRPA's initial determination that the subject property is out of compliance.

(b) Property owners receiving Notices shall have 30 days to file with TRPA a Response ("Response") to the Notice. The Response shall include, at a minimum, a statement relevant to the facts contained in the Notice and any circumstances that may mitigate or excuse the alleged failure to comply.

(c) Prior to the end of this 30-day period, if the property owner submits a BMP Retrofit Plan that is in compliance with Chapter 25 of the TRPA Code of Ordinances and a BMP implementation schedule and then timely installs those BMPs, or has completely installed prescribed BMPs in compliance with Chapter 25 of the TRPA Code of Ordinances, TRPA will not seek monetary penalties for this violation. The BMP Retrofit Plan submitted may either be a BMP prescription completed by TRPA staff or a BMP Plan which was designed by a registered engineer and approved by TRPA. The BMP implementation schedule, which must be reviewed and approved by TRPA, shall set forth the timeline in which prescribed BMPs must be installed. In approving the BMP implementation schedule, TRPA shall consider the TRPA grading season, extent of excavation and the cost of implementation.

(d) Based on the Notice and Response, the Executive Director shall make a determination as to whether a violation of the BMP Retrofit Program has or has not occurred on the subject property. If the Response is not timely filed, the Executive Director will make this determination based only on the Notice.

(e) If the Executive Director determines that a violation of the BMP Retrofit Program has occurred, the property owner shall be so informed and an Offer of Settlement of BMP Violation ("Offer") shall be made by TRPA. Every Offer shall contain a monetary amount to be paid within 30 days pursuant to the penalty matrix set forth below. Every Offer shall also require the submission of a BMP Retrofit Plan...
that is in compliance with Chapter 25 of the TRPA Code of Ordinances and a BMP implementation schedule, as described in Subsection 9.20(b)(i), within 30 days; property owners shall not be given the option of non-compliance with Chapter 25 of the TRPA Code. Notwithstanding Article XI of these rules, a property owner may not appeal the Executive Director violation determination.

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(f) If the monetary amount and/or Retrofit Plan requested in the Offer is not timely received, or if BMPs have not been completely installed within the deadlines set forth in the TRPA-approved BMP Implementation Schedule, the Agency Counsel may initiate litigation pursuant to Article VI of the Compact seeking the civil penalties and injunctive relief to ensure compliance with the BMP Retrofit Program.

(g) The Governing Board shall be informed of all actions taken by the Executive Director or Agency Counsel pursuant to this Subsection at the Board meeting immediately following any action(s) taken.
MEMORANDUM

April 25, 2002

To: Advisory Planning Commission

From: TRPA Staff

Subject: Amendment to the Adopted Tahoe Keys Marina Master Plan and Partial De-certification of the Related Master Plan EIS to Settle League to Save Lake Tahoe v. TRPA, Eastern District of California Case No. CIV S 01-1651 EJG PAN

Background: Acting on the positive APC recommendation, the TRPA Governing Board in June 2000 adopted the Master Plan for the Tahoe Keys Marina (TKM) and certified its accompanying EIS. Among other improvements, the TKM Master Plan contemplates the expansion of the Marina by 150 boat slips. Adoption of the TKM Master Plan makes the document part of the Regional Plan but does not authorize any construction; each improvement, including new slips, must be separately permitted through the TRPA project review process. The EIS analyzes the impacts associated with the Master Plan build-out, and identifies measures necessary to mitigate all significant impacts. Mitigation measure Hyrdo-6 requires testing for poly-cyclic aromatic hydrocarbons (PAH) and only authorizes slip expansion in the event that the levels do not increase and are otherwise within specified allowable limits.

The League to Save Lake Tahoe (League) sued TRPA alleging that the TKM Master Plan adoption and EIS certification violate the Tahoe Regional Planning Compact and other laws. The League also sued the City of South Lake Tahoe (City) for approving the TKM Master Plan. As part of a comprehensive settlement, the League, TRPA, the City, and TKM (collectively the "parties") have agreed to a modified Master Plan and EIS that eliminates references to numeric slip expansion. TKM will be able to implement all other aspects of the Master Plan, including a restaurant expansion and increased boat rack storage. Further, all mitigation measures will remain intact except those directly relating to the slip expansion.

TKM currently has an application pending with TRPA to enlarge 44 existing slips in the marina. A component of the agreed-upon settlement is a study to determine the environmental impacts associated with a trend towards larger boats on Lake Tahoe. TRPA has agreed to undertake the study with TKM funding and hold a hearing concerning the results prior to 2003.

Proposed Action: In order to effectuate the settlement, the following actions must be taken:

1. De-certify the TKM Master Plan EIS as to the proposed slip expansion.
2. Amend the TKM Master Plan to delete all references to slip expansion.
3. Amend the TKM Master Plan to eliminate or modify the mitigation measures that directly relate to slip expansion. Specifically:
   - Adjust the Air Quality Mitigation Fee required by Traf-1, Air-2 and Air-3 so that the fee no longer encompasses the traffic increase resulting from slip expansion (Attachment A);
- Delete Traf-2 (Highway 50/ Venice improvements), Traf-3 (Highway 50/ Keys improvements), and Traf-4 (South “Y” improvements) because they mitigate the traffic increase resulting from the slip expansion; and
- Re-write Hydro-6 so that all references to slip expansion are eliminated but PAH monitoring is nonetheless required (attachment B).

**Staff Recommendation:** Staff believes that the agreed-upon settlement represents a fair and appropriate resolution of the litigation. Staff recommends that the TKM Master Plan be modified and the TKM EIS be decertified as set forth above to facilitate dismissal of the lawsuits.

**Required Findings:** The following findings must be made prior amending the Regional Plan to include the modified TKM Master Plan (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 master plan provides a long range planning tool for orderly modifications to the Tahoe Keys Marina and provides a mitigation and monitoring plan to assure the accomplishment of environmental goals. All applications received under this master plan must be reviewed for compliance with other Code provisions. All project applications received and approved must be within the scope of the master plan and meet all Regional Plan Standards.

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

   **Rationale:** TRPA Ordinance 01-12 amends the Regional Plan to include the TKM master plan. That Ordinance states: “The Governing Board finds that the master plan 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.” Because the Board was able to make these findings for the original TKM Master Plan, it follows that the findings can be made for a reduced plan that eliminates reference to an increase in the number of boat slips in TKM marina.

Additionally, all projects that are approved under the amended master plan must make separate findings that no threshold will be exceeded.

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.

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

If you should have any questions concerning this item, please call John Marshall at (775)588-4547 ext. 226 or by E-mail at jmarshall@trpa.org.

**Attachments:**
- A. Table indicating adjusted air quality mitigation fees to modify Traf-1, Air-2, and Air-3.
- B. Hydro-6 with deleted language.
POOR
QUALITY
ORIGINAL (S)
TO FOLLOW

HIGH DESERT MICROIMAGING, INC.
1225 FINANCIAL BLVD
RENO, NV  89502
(775) 359-6980
### Table B: TRPA Air Quality Impact Fee – Without Increase in Berths

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<td>daily lessons</td>
<td>4.67</td>
<td></td>
<td>50</td>
<td>$1,400</td>
<td></td>
</tr>
<tr>
<td>Submarine Tour</td>
<td>3</td>
<td>tours</td>
<td>15.97</td>
<td></td>
<td>47</td>
<td>$1,175</td>
<td></td>
</tr>
</tbody>
</table>

**Total: 446** $11,150

*Note 1: KSF = 1,000 square feet gross floor area*

### Table C: Estimated VMT – With No Increase in Berths

<table>
<thead>
<tr>
<th>Trip Type</th>
<th>Trips Generated</th>
<th>Average Trip Length (Miles)</th>
<th>VMT Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee External</td>
<td>6</td>
<td>3.02</td>
<td>18</td>
</tr>
<tr>
<td>Employee Internal</td>
<td>100</td>
<td>3.97</td>
<td>396</td>
</tr>
<tr>
<td>Customer External</td>
<td>34</td>
<td>0.62</td>
<td>225</td>
</tr>
<tr>
<td>Customer Internal</td>
<td>307</td>
<td>4.02</td>
<td>1,235</td>
</tr>
</tbody>
</table>

**Total: 446** 1,938

- Original Master Plan EIR Figure: 4,028
- Change from Original Master Plan: (2,090) -50.40%
<table>
<thead>
<tr>
<th></th>
<th>TKM/TRPA/</th>
<th>Required as a condition of approval for Phase I permit.</th>
<th>Laboratory/TRPA</th>
<th>Develop and implement PAH monitoring plan.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Laboratory</td>
<td>Six samples during the months of June and August; six samples July 3, 4, 17, 18, with one week of Labor Day weekend, the Sunday immediately before Labor Day, and 14 days after Labor Day; three samples in October and November.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TKM shall coordinate with Labrador Regional Water Quality Control Board (Labsantr) to design and implement a monitoring program for PAH concentrations in the water in which the marine is situated (the lagoon) which program shall be consistent with the following. TKM will pay the costs of such monitoring. Labrador will oversee the monitoring activities and will review the results. Labrador shall select the sampling points, the frequency of sampling, and the frequency of analysis. The sampling points shall include a sample located at the TKM Oil Change, a sample located in the water area occupied by the Tahoe Beach and Harbor Association, and a sample located outside the TKM at the red navigational buoy located outside of the Homeowner's Lagoon in the Tahoe Bay. The sample shall be collected in accordance with Standard Operating Procedure (SOP 2.1.0) developed by the University of Nevada, Reno, Department of Environmental Sciences, Core Analytical Facility. The sample shall be analyzed for the nine species of PAH as identified in SOP 2.1.0 using the analytical methods specified by Standard Operating Procedures (SOP 2.1.0) developed by the University of Nevada, Reno, Department of Environmental Sciences, Core Analytical Facility. The frequency of monitoring, the number of occupied slips at the marina, TK1DA, and TK3HA, and boats launched in the lagoon, will be monitored.

The monitoring program shall be designed and carried out to:

1. Develop three PAH baselines for the lake water (i.e., pre-boating season baseline PAH concentrations; IL bridge for post-act; and in-service baseline PAH concentrations).
2. Determine, prior to the installation of each phase of boat slips, whether PAH concentrations (baseline PAH concentrations) in the lake water are within the PAH criteria (the PAH criteria) before and after.
3. Determine, after the installation of the final phase of boat slips, whether PAH concentrations (post-act PAH concentrations) are within the criteria before and after.

**Note:** This change recommended by the Advisory Planning Committee (APC) of Tahoe Regional Planning Agency Governing Board and the South Lake Tahoe City Council.
The PAR criteria is the lower of:

1. Total PAR constituent concentrations of 0.002 μg/L for the protection of aquatic life (or more appropriate PAR criteria as developed from reference stream segment studies conducted in the CTR) measured just below the water surface, or
2. The PAR numeric criteria specified in CTR for protection of human health, or
3. The pre-project PAR baseline for compliance with policies adopted to protect Lake Tahoe's ONLW status, provided
4. A measurement of one or more PAR constituents or the total PAR concentration which exceeds any of the immediately preceding criteria shall not be regarded as to exceeding if the concentration of the constituent(s) remains at a value equal to or less than the criterion within a 14 day period following the measurement.

The three baseline PAR concentrations would be determined after the removal of the best dredged and fills as required to be removed from the water within 40 days of TPEA Governing Board approval of the Settlement Agreement signed by TPAA April 4, 2001 and signed by TPEA April 11, 2001 (TPEA Agreement).

At a minimum, the sampling program to determine the three baseline PAR concentrations shall consist of 15 samples distributed among the three baselines as directed by Lake Tahoe. The sampling will include:

- For the baseline seasonal baseline, a total of six samples shall be collected in the months of June and August 2001. Three of the samples shall be taken in June and three in August. Samples should be taken within a 14-day period (for instance, on June 5th and 19th).
- For the holiday baseline, six samples shall be taken, one immediately before July 4, 2001, one on July 4, 2001, one on July 5, 2001, one within a week before Labor Day weekend, one on Labor Day immediately before Labor Day, and one 13 days after Labor Day.
- For the off-season baseline, three samples shall be taken in the period of October and November, 2001.

All samples shall be collected between noon and 6 p.m. and analyzed within appropriate holding times.
If PAH concentrations are reported by the laboratory as less than 0.003 μg/L, the actual concentration ranges between 0.001 μg/L and 0.002 μg/L. If PAH concentrations are reported by the laboratory as ND (no-detect), the actual concentration ranges between 0.003 μg/L and 0.002 μg/L. For purposes of establishing a baseline for detection, if concentrations are reported by the laboratory as ND or <0.003 μg/L, the highest reported concentration will be used to determine the average baseline for individual and total PAHs (see Table below). For purposes of documenting PAH concentrations at TRPA, the sampling data will be reported as a concentration range if concentrations for PAHs are reported as ND or <0.003 μg/L (see Table below).

The table below illustrates how the average baseline should be established. Assume all samples were collected in June and August and analyzed to establish the baseline summer average baseline. The results are presented as follows for one PAH, Benzofuran.

<table>
<thead>
<tr>
<th>Sample</th>
<th>Concentration Range</th>
<th>Used for Purpose of Establishing an Average Baseline for PAHs</th>
</tr>
</thead>
<tbody>
<tr>
<td>June Sample 1</td>
<td>&lt; 0.003</td>
<td>0.001-0.002</td>
</tr>
<tr>
<td>June Sample 2</td>
<td>&lt; 0.003</td>
<td>0.001-0.002</td>
</tr>
<tr>
<td>June Sample 3</td>
<td>&lt; 0.003</td>
<td>0.001-0.002</td>
</tr>
<tr>
<td>August Sample 1</td>
<td>0.003</td>
<td>0.001-0.002</td>
</tr>
<tr>
<td>August Sample 2</td>
<td>0.003</td>
<td>0.001-0.002</td>
</tr>
<tr>
<td>August Sample 3</td>
<td>0.003</td>
<td>0.001-0.002</td>
</tr>
<tr>
<td>Average Summer Range Used by Laboratory for Total Analysis</td>
<td>&lt; 0.003</td>
<td>0.001-0.002</td>
</tr>
</tbody>
</table>

Concentrations reported as < 0.003 are below 0.003 μg/L. Samples between 0.001 and 0.002 μg/L. Concentrations reported as < 0.003 μg/L are below 0.003 μg/L. Samples between 0.001 and 0.002 μg/L.

After Phase I is implemented, post-construction monitoring will be conducted to ensure that the facility is operating within the parameters fixed for the project. Monitoring will evaluate whether the pre-construction (i.e., pre-project) baseline established for this facility is being maintained.

Installation of secondary and tertiary tanks shall be performed in these stages. Phase II shall consist of no more than capacity for 60 additional tanks and 50 hank tanks. Phase II, following the completion of Phase I, shall consist of no more than capacity for 60 additional tanks and 50 hank tanks. Phase III, following completion of Phase II, shall consist of capacity for 60 additional tanks and 50 hank tanks. The regulations governing the number of tanks to be built in each stage shall be updated to reflect the current requirements. The total number of tanks shall be subject to change as the project progresses to meet the specifications of the project.
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Party Responsible for Implementation</th>
<th>Timing of Mitigation Implementation</th>
<th>Agency Responsible for Monitoring</th>
<th>Action by Member</th>
<th>Monitoring Timing</th>
<th>Monitoring Compliance Record (Name/Date)</th>
</tr>
</thead>
</table>

- The monitoring program helps to determine the effectiveness of the measures implemented following the construction of each of the three phases until Leucatema determines that the program may be terminated, modified, or continued.

- The monitering program shall be taken for at least one data collection year, on the days of the week identified for the baseline samples, to determine if pre-project baseline conditions are being maintained.

**Subject to TMD obtaining the necessary permits:**

1. Installation of Phase I may commence on or after January 1, 2006, if the three baselines are within the PAH criteria. Installation of subsequent phases may proceed only if construction of the Phase I facilities is complete, and the Phase II facilities are completed before June 30, and if TMD has obtained an agreement with Leucatema stating the additional capacity of the immediately prior year is at least 75 percent during the testing season.

2. Installation of Phase II may commence on or after January 1, 2007, if the continued monitoring program establishes that PAH concentrations remain within the PAH criteria following construction and use of Phase I.

3. Installation of Phase III may commence on or after January 1, 2008, if the continued monitoring program establishes that PAH concentrations remain within the PAH criteria following construction and use of Phase II.

4. No more than one phase will be constructed in any one calendar year.

If PAH sampling after construction of each phase indicates that there are concentrations of leucatema to marine water, then the following additional mitigation measures would be required and would be implemented and financed solely by TMD:

1. In order to promote cleaner-burning boat engines, marinas must contain least one marina with a new, fuel-injected engine and require proof of proper engine testing for Leucatema elevations.

2. Proof of proper engine testing would be required by TMD for all boats with regular and dry boat storage constructed as a result of the Master Plan. Proof of appropriate engine testing would be required annually for Leucatema elevations.

3. TMD would be required to implement a boater education program in informal settings of the environmental effects of poorly fueled engines.
4. The number of boat launches shall be limited if undesirable water quality targets are exceeded, and exceedances can be attributed to boat launching.

5. If none of the above four measures succeeds in reducing PAH levels to acceptable concentrations, TKMA shall remove boats from the marina until PAH levels have returned to acceptable concentrations.

The alternative policy consists of retrofitting the existing TKPOA water treatment plant by installing the capability to remove petroleum derivatives including PAHs, benzene, toluene, and xylene. Such removal may be achieved through activated carbon filtration, coagulation, or other means. Implementation of this option is contingent on the outcome of an engineering and feasibility study to ensure that proposed modifications to the plant would be capable of meeting the above-referenced conditions, and that operations of the plant would result in maintaining PAHs concentrations below the current 0.003 mg/L level (or more appropriate PAH criteria as developed by the states for the protection of aquatic life) and below all CDF criteria.

Since TKMA's funding is only a portion of the total PAHs funding, TKMA, Lakeview, and TRPA are encouraged to jointly enter into an agreement with TKPOA and the Tahoe Keys Association and other Associations for the responsible parties to fund treatment plant costs, construction, and increased operation costs commensurate with their share of PAHs loading into the marina ingress.

[Initials on page]
MEMORANDUM

April 29, 2002

To: TRPA Advisory Planning Commission (APC)

From: Kathy Canfield, Project Review Division

Subject: Lakeside Trail – Commons Beach Phase, APN 94-070-13, File 20020057

The Lakeside Trail project has been placed on the APC agenda pursuant to the request of the APC at their May 1998 meeting. At the May 1998 meeting, the APC recommended that the TRPA Governing Board certify the Environmental Impact Statement (EIS) that was associated with the lakeside Trail project. The Governing Board certified the EIS at their May 1998 meeting.

This draft Governing Board summary is for a phase of the trail which is located on Commons Beach. The trail will extend from the southern end of the parking lot to the railroad-tie steps leading to Watson Cabin. The plans have been revised from the initial submittal to end the trail at the steps, rather than extending the trail to the property line. A future project will address the trail from the bottom of the steps north to Grove Street.

Plan reductions and a draft permit are included at the end of this staff summary. If you should have any questions, please contact Kathy Canfield at 775-588-4547.
Lakeside Trail – Commons Beach Phase
Page 2

DRAFT

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD STAFF SUMMARY

Project Name: Lakeside Trail – Commons Beach Phase

Application Type: Public Service/Recreation

Applicants: Tahoe City Public Utility District (TCPUD)

Applicant's Representative: Auerbach Engineering Group

Agency Planner: Kathy Canfield, Project Review Division

Location: Commons Beach, Tahoe City, Placer County

Assessor's Parcel Number/File Number: APN 94-070-13 / 20020057

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

Project Description: The applicant is proposing to construct a phase of the Lakeside Trail project. This phase of the trail is proposed to be located entirely on the Commons Beach parcel, from the southern end of the parking lot to the bottom of the railroad-tie stairway leading to Watson Cabin along the bottom of the bank from Highway 28. The “at-grade” trail begins as an eight-foot wide path and transitions into a ten-foot wide path and will be approximately 740 lineal feet. A retaining wall, landscaping and Best Management Practices (BMPs) are also included in the project.

Site Description: The project area for the proposed trail will consist of a linear easement which will encompass the proposed improvements through Commons Beach, a public park operated by TCPUD, located adjacent to Lake Tahoe. The project area is a combination of Class 5, 3, 2 and 1b land and is relatively flat with a steep bank up to Highway 28. Because of the use as an urban public park, the area contains existing land coverage and disturbance, including existing paths. No new land coverage or disturbance is proposed within the backshore of Lake Tahoe.

Advisory Planning Commission (APC): Because an Environmental Impact Statement (EIS) was prepared for the total Lakeside Trail project, the APC members requested to review the proposed project prior to the Governing Board reviewing the project. (Discussion of APC comments to be included after meeting.)

Issues: The proposed project was studied in an EIS and therefore requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. The primary project related issues are:
1. **Environmental Impact Statement (EIS):** The TRPA Governing Board certified the Tahoe City Public Utility District's Community Trail Interm Project EIS at the May 1998 meeting. This staff summary relates to only a portion of the entire trail system analyzed in the EIS. As a condition of project approval, the applicant will be required to provide a written summary of the mitigation requirements for the entire project and how the proposed mitigation relates to this phase of the project.

2. **Land Coverage:** As a public access easement, the project area is calculated based on the area of the easement, not the underlying parcel, consistent with Subsection 20.3.D of the TRPA Code of Ordinances. Because of the public service/recreation nature of the project, the applicant is permitted to transfer additional land coverage to the easement project area for the Class 5 portion of the site and to provide additional restoration for the new land coverage in the Class 1b and 2 areas consistent with the findings in Chapter 20. The applicant has worked with the California Tahoe Conservancy to obtain all needed land coverage and restoration credits for the project.

**Staff Analysis:**

A. **Environmental Documentation:** The TRPA Governing Board has certified an Environmental Impact Statement (EIS) for the proposed project. No significant environmental impacts were identified, and staff has concluded that this portion of the trail project, with the mitigation measures identified in the attached permit, will not have a significant effect on the environment. A copy of the certified EIS will be made available at the Governing Board hearing and at TRPA.

B. **Community Plan/Plan Area Statement:** This project is located within the Tahoe City Community Plan (TCCP), Special Area 3 – Recreation Area. The Land Use Classification for TCCP is Commercial/Public Service and the Management Strategy is Redirection. Agency staff has determined that the project is consistent with the applicable planning statement, planning considerations and special policies. The proposed trail (transportation route/day use area) is an allowed use.

C. **Land Coverage:** The TRPA verified land capability districts for the project area are Class 1b, 2 and 5. The project proposes 1,111 square feet of additional land coverage in Class 1b land, 1,888 square feet of additional land coverage in Class 2 land, and 3,761 square feet of additional land coverage in Class 5 land. All needed Class 1b and Class 2 land coverage shall be mitigated by demonstrating restoration of Class 1b for the new land coverage in Class 1b and restoration in Class 1a, 1b, 1c, 2 or 3 land for the new land coverage in Class 2. All restoration shall be at a rate of 1.5 to 1. The new land coverage in Class 5 shall be mitigated by the submittal of a water quality mitigation fee and by transfer of land coverage to the site.

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

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 trail is an allowed use (both transportation route and day use area) for the Tahoe City Community Plan. Surrounding land uses in addition to Commons Beach Park include commercial to the west and north, tourist accommodation/residential to the south and Lake Tahoe to the east.

   b. Transportation: The proposed project is not expected to generate any additional daily vehicle trip ends (dvtc). The proposed trail is expected to reduce vehicle congestion with the Tahoe City community consistent with the analysis in the EIS.

   c. Conservation: The proposed trail is “at-grade” and will not be visible from Highway 28 or readily visible from Lake Tahoe. The project includes the installation of one retaining wall which may be visible. As a condition of project approval, the colors and materials of the retaining wall demonstrating that the wall blends, rather than contrasts with natural surroundings shall be submitted for TRPA review and approval. Landscaping shall also be added to the site. There are no known special interest species, sensitive or uncommon plants. As a condition of project approval, the applicant will have a qualified archaeologist onsite during all grading activities to identify and protect any cultural or historic resources that might be discovered. The applicants shall install temporary and permanent Best Management Practices (BMPs).

   d. Recreation: The proposed project is a phase of a proposed trail system that will extend through Tahoe City and connect to existing trail systems. Expanding trail systems and encouraging opportunities for dispersed recreation is consistent with the TRPA Goals and Policies and the Tahoe City Community Plan. The placement of the trail on Commons Beach will connect trail users with the park.

   e. Public Service and Facilities: The linear nature of the project can be considered a transportation route which is identified as a public service facility. No other additions to public services or facilities are required.

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

2. The project will not cause the environmental threshold carrying capacities to be exceeded.
The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.B of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. In addition, the TRPA Governing Board has certified an EIS for this project. A copy of the certified EIS and the completed checklist will be made available at the Governing 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.)

Chapter 20 – Land Coverage:

4. The project is on the list of additional public service facilities if required pursuant to Section 33.5.

This project is not considered additional public service as defined by Section 33.5.B of the TRPA Code of Ordinances.

5. There is no feasible alternative that would reduce land coverage.

The EIS studied alternatives to the proposed design and this design and location was identified as the preferred alternative. The applicant has proposed a design which provides access for several types of users of the trail system. Reducing land coverage would create the potential for users to leave the trail system.

6. The project, because of its unusual configuration or service requirement, requires special consideration.

The trail is proposed to provide the general public with access and recreation opportunities in a controlled environment. Although these areas are accessible today, the access is through existing vegetation and not defined to a single pathway.

7. The facility primarily serves the needs of persons other than those who are, or will be, residents of the lands in question, or the owners of the land in question.

The trail system is open and available to the general public. The general public is encouraged to utilize the trail system.

8. The project is necessary for public health, safety or environmental protection.

This finding is necessary to allow for additional land coverage in the Class 1b and 2 portions of the project. The new land coverage in the Class 1b and 2 will allow for access through the Commons Beach parcel. Because of the land capability
of the parcel, there is no way to avoid impacts to low capability land within the parcel. By providing a defined access area, the project will reduce the potential for users to leave the trail system and disturb vegetated areas. The EIS analyzed safety of the trail users and this alternative was the preferred route.

9. **There is no reasonable alternative, including bridge span or relocation, which avoids or reduces the extent of encroachment in the stream environment zone.**

As analyzed in the EIS, this alignment alternative meets the most objectives for the trail system. Although the trail does encroach into the Class 1b, this portion of Class 1b is currently utilized as a public park.

10. **The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in Subparagraph 20.4.A(2)(e), with the exception that the restoration requirement in such Subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.**

The applicant has coordinated with the California Tahoe Conservancy to obtain the needed Stream Environment Zone and Class 2 restoration. The applicant will demonstrate that land coverage or disturbance at a rate of 1.5:1 has been restored.

E. **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 D above, and a finding of no significant environmental effect.

II. A motion to approve the project, based on the staff summary, subject to the Standard Conditions of Approval listed in Attachment Q and the Special Conditions of Approval listed in the attached draft permit.
DRAFT PERMIT

PROJECT DESCRIPTION: Lakeside Trail – Commons Beach

PERMITTEE(S): Tahoe City Public Utility District

COUNTRY/LOCATION: Placer/Commons Beach, Tahoe City

APN 94-070-13
FILE # 20020057

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on May 22, 2002, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on May 22, 2005 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. 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 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 PREGRADED INSPECTION HAS BEEN CONDUCTED.

TRPA Executive Director/Designee _______________________________ Date _______________________________

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
4/29/02

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AGENDA ITEM VI.A
Lakeside Trail – Commons Beach Phase
Page 8

APN 94-079-13
FILE NO. 20020057

Water Quality Mitigation Fee:  Amount: $3,500.08  Paid __________  Receipt No. _________

Security Posted:  Amount $*  Posted __________  Receipt No. _________  Type _________

Security Administrative Fee:  Amount $**  Paid _________  Receipt No. _________

*  To be determined.
** $139 if cash security posted, $72 if non-cash security posted, 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:

TRPA Executive Director/Designee ________________________________  Date __________

SPECIAL CONDITIONS

1.  This permit is for the Commons Beach phase of the Lakeside Trail project. The trail will
be "at-grade" and will extend approximately 740 lineal feet from the southern parking lot
to the bottom of the railroad-tie steps leading to the Watson Cabin.

2.  Prior to acknowledgement of the permit, the permittee shall demonstrate that the
following special conditions of approval have been satisfied:

A.  The site plans shall be revised to include the following:

(1)  Existing, proposed and allowable land coverage calculations.

(2)  The project area and/or location of all existing and proposed easements,
shall be shown on the site plan.

(3)  Location of construction staging area. No staging shall occur on unpaved
areas. No storage of materials shall be permitted in Class 1b or
backshore areas.

B.  The permittee shall demonstrate that 1,666.5 square feet of Class 1b land
coverage (1,111 s.f. x 1.5 = 1,666.5 s.f.) has been restored within the Lake
Tahoe Basin. Please note that restoration is not limited to the hydrologic
boundaries.

/kc
4/29/02

AGENDA ITEM VI.A

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C. The permittee shall demonstrate that 2,832 square feet of Class 1a, 1b, 1c, 2 or 3 land coverage (1,888 s.f. x 1.5 = 2,832 s.f.) has been restored within the Lake Tahoe Basin. Please note that restoration is not limited to the hydrologic boundaries.

D. The permittee shall submit a water quality mitigation fee of $3,500.08. This fee is based on the creation of 2,612 square feet of new base allowable land coverage assessed at $1.34 per square foot. Transferred land coverage is not subject to water quality mitigation requirements.

E. The permittee shall transfer 1,149 square feet of land coverage to the project area. All transferred land coverage shall consist of Class 1 through 5 land, be located within Hydrologic Area 8 and be consistent with the requirements of Chapter 20. Separate TRPA review and approval of the transfer may be required.

F. The permittee shall submit a project security based on the cost and installation of all required Best Management Practices (BMPs) for the project area. The security shall be equal to 110% of the estimated cost. Please submit an estimate prepared by a qualified professional. Please see Attachment J, Security Procedures, to determine appropriate methods to post a security and for calculation of the required Security Administrative Fee.

G. The permittee shall prepare an EIS mitigation compliance report for TRPA. This report shall identify all mitigation measures identified in the certified Community Trail Intermie Project Environmental Impact Statement and this how this phase of the project complies with the required mitigation measures.

H. Engineered calculations demonstrating that the proposed infiltration devices are sized appropriately for the slope and soil type shall be submitted.

I. The permittee shall submit a landscape plan for TRPA review and approval demonstrating that all areas disturbed by construction have been revegetated. The proposed landscaping shall be consistent with the mitigation measures outlined in the EIS and the vegetation shall be appropriate for the slope and soil type.

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

3. Prior to, or at, the TRPA pre-grade inspection, the permittee shall submit a construction schedule to the TRPA Environmental Compliance Inspector for review and approval. Scheduling of the installation of temporary and permanent BMPs shall be included.

4. By acceptance of this permit, the permittee agrees to have a qualified archeologist onsite during all grading activities. If cultural or historical resources are identified, all work shall cease immediately and the TRPA shall be contacted. A resource protection plan consistent with Chapter 29 of the TRPA Code of Ordinances shall be prepared.

\[\text{\today}\]
Private Aids To Navigation

Eleventh Coast Guard District
Alameda, California

Brian Aldrich
Private Aids to Navigation Program Manager
(510) 437-2983 Office
(510) 437-5836 Fax
BAldrich@d11.uscg.mil

Commander (oan)
Eleventh Coast Guard District
Bldg. 50-6, C.G. Island
Alameda, CA. 94501-5100
Private Aids to Navigation
Temporary and Private

The authority for approving both Temporary and Permanent Private Aids to Navigation (PAtoN) rests with the U. S. Coast Guard per Title 33, Code of Federal Regulations, Part 66 (33CFR66).

**Temporary** aids are those that will be on station six months or less for which no application is required. These aids only require notification, by fax or email, for publication in the Local Notice to Mariners (LNM).

**Permanent** aids require a completed and approved application, Form CG-2554, enclosure (3). General information is provided in enclosure (1) regarding usage and types of marking, and specific information is provided in enclosure (2).

**Point of Contact Info:** Brian Aldrich, Private Aids to Navigation

**Mailing Address:** Commander (oan)
Eleventh Coast Guard District
Bldg. 50-6, CG Island
Alameda, CA 94501-5100

**Phone:** (510) 437-2983
**Fax:** (510) 437-5836

**Email:** BAldrich@d11.uscg.mil
**Web Address:** http://www.uscg.mil/d11/oan

**General Information:** The following types of Temporary or Permanent Private Aids to Navigation would be approved by the Coast Guard.

1. **Information and Regulatory Buoys:**
   - **Size:** 3ft diameter with 3ft showing above the water.
   - **Color:** White with (2) horizontal Orange stripes
   - **Marking:** Black lettering
   - **Orange shapes and borders**
   - **Light Characteristics:** White lights only, with any rhythm except Quick flashing or Flashing (2) as in (2) flashes followed by a time interval more than the time interval between the two flashes.
   - **Light Range:** 3-7NM, depending on location of Aid.
2. Information and Regulatory fixed aids (Lights and Daybeacons):
   Size: 10-20ft high poles w/3 ft by 3 ft daymarks
   Color: White daymarks w/ Black letter, surrounded by orange border
   Marking: Black lettering with Warning information
   Light Characteristics: White lights only, with any rhythm except Quick flashing or Flashing (2) as in (2) flashes followed by a time interval more than the time interval between the two flashes.
   Light Range: 3-7NM, depending on location of Aid.

3. Lateral System Buoys:
   Size: 3ft diameter with 3ft showing above the water.
   Color: Red or green, depending on position in channel.
   Marking: Red or green reflector. Numbered if part of a channel system, lettered if isolated or marking a particular point/object.
   Light Characteristics: Red or green lights only.
   Light Range: 3-7NM, depending on location of Aid.

4. Lateral System Fixed Aids (Lights and Daybeacons):
   Size: 7-147 ft height, depending on location of Aid.
   Color: Red or green, depending on position in channel.
   Marking: Red or green reflector. Numbered if part of a channel system, lettered if isolated or marking a particular point/object.
   Light Characteristics: Red or green lights only.
   Light Range: 3-7NM, depending on location of Aid.

Many retailers carry acceptable types of buoys. For more information consult sources such as your local yellow pages or the internet.

Encl:(1) Excerpts from COMDTINST M16500.3 (series) Aids to Navigation Manual - Technical
      (2) Excerpts from COMDTPUB P16502.6 Light List, Volume VI
      (3) Form CG-2554, Private Aids to Navigation (PATON) Application
B. Short Range Aid Marking Systems.

1. The U.S. Marking System. The U.S. marking system is a predominantly lateral system which conforms to the Region B requirements of the IALA Maritime Buoyage System. The below color schemes for lateral marks apply to IALA Region B. Marks located in the IALA Region A exhibit reversed color significance; port hand marks will be red when following the Conventional Direction of Buoyage, and starboard hand marks will be green. The meaning of daymark and buoy shapes is identical in both regions. Specific marking and signal requirements can be found in the Aids to Navigation Manual-Technical (COMDTINST M16500.3), the IALA Maritime Buoyage System Implementation (COMDTINST 16501.4 series), and Section E.2. of this chapter.

a. Types of Marks.

(1) Lateral: Lateral marks define the port and starboard sides of a route to be followed. They may be either beacons or buoys. Their most frequent use is to mark the sides of channels; however, they may be used individually to mark obstructions outside of clearly defined channels. Lateral marks include sidemarks and preferred channel marks. Sidemarks are not always placed directly on a channel edge and may be positioned outside the channel as indicated on charts and nautical publications. Port hand marks indicate the left side of channels when proceeding in the Conventional Direction of Buoyage: Beacons have green square daymarks, while buoys are green can or pillar buoys. Green lights of various rhythms are used on port hand marks. Starboard hand marks indicate the right side of channels when proceeding in the Conventional Direction of Buoyage: Beacons have red triangular daymarks, while buoys are red nun or pillar buoys. Red lights of various rhythms are used on starboard hand marks. Preferred channel marks indicate channel junctions or bifurcations and may also mark wrecks or obstructions. Preferred channel marks have red and green horizontal bands with the color of the topmost band indicating the preferred channel. Buoy or daybeacon shape and the color of the light is determined by the color of the uppermost band. Preferred channel marks display a composite group flashing light rhythm
B. 1. a.(2) **Isolated Danger:** These marks are erected on, moored over, or placed immediately adjacent to an isolated danger which may be passed on all sides by system users. This mark will be incorporated into the U.S. system in 1990 after all black and red horizontally banded, preferred channel marks have been changed to green and red horizontally banded, preferred channel marks. These marks will be colored black with one or more broad horizontal red bands and will be equipped with a topmark of two black spheres, one above the other. If lighted, these marks display a white group flashing two light with a period of five seconds.

(3) **Safe Water:** Safe water marks indicate that there is navigable water all around the mark. These mark fairways, mid-channels, and offshore approach points, and have unobstructed water all around. Safe water marks have red and white vertical stripes. Beacons have an octagonal daymark; buoys are spherical or display a red spherical topmark. They can be used by a mariner transiting offshore waters to identify the proximity of an intended landfall. When lighted, safe water marks show a white Morse Code “A” rhythm.

(4) **Special:** Special marks are not primarily intended to assist safe navigation, but to indicate special areas or features referred to in charts or other nautical publications. They may be used, for example, to mark anchorages, cable or pipeline areas, traffic separation schemes, military exercise zones, ocean data acquisition systems, etc. Special marks are colored solid yellow, and show yellow lights with a slow-flashing rhythm preferred.
B. 3. (a) (5) **Information and Regulatory:** Information and Regulatory Marks are used to alert the mariner to various warnings or regulatory matters. These marks have orange geometric shapes against a white background. When lighted, these marks display a white light with any rhythm not reserved for other types of aids. The meanings associated with the orange shapes are as follows:

a. A vertical open-faced diamond signifies danger.

b. A vertical diamond shape having a cross centered within indicates that vessels are excluded from the marked area.

c. A circular shape indicates that certain operating restrictions are in effect within the marked area.

d. A square or rectangular shape will contain directions or instructions lettered within the shape.

(6) **Mooring Buoys:** Mooring buoys are white with a blue horizontal band. This distinctive color scheme facilitates identification and avoids confusion with aids to navigation. When lighted, these marks display a white light with any rhythm not reserved for other types of aids.

(7) **Cardinal Marks:** These marks indicate, in the cardinal points of the compass, the direction of good water from the aid. At the present time, they are not used in the U.S. marking system.

(8) **Lighthouses (substantial structures, and/or structures in prominent positions), large navigational buoys, ranges, sector lights, and crossing marks do not fall under the IALA agreement. While their signal characteristics are largely discretionary, these aids should be marked to provide maximum information to the mariner while avoiding conflicts with nearby aids displaying IALA markings.**
GENERAL USE PORT AND STARBOARD MARKS

System: General Use.
Function: Laterally significant port and starboard marks.
Nominal Range: 3 nm.
Additional Data: For three numerals on a 6SG, use 16-inch characters at a height of 28 inches from the base. For three numerals on an 8TR, use 16-inch characters at a height of 14 inches.

General Use port and starboard marks.
GENERAL USE PREFERRED CHANNEL MARKS

System: General Use.
Function: Laterally significant preferred channel marks.
Nominal Range: 1 nm. (*as designated in Figure 5-7, below—use Table 5-13 for dimensions of preferred channel marks with nominal ranges of 1-, 2-, and 3-n).
Additional Data: For both JG and JR markers, letters are vertically centered on the dividing line of the dayboard film. The letters on a JG dayboard are green, while those on a JRs are red.

General Use preferred channel marks.
ALL WATERWAYS WARNING MARKS

System: All waterways.

Function: No lateral significance warning marks.

Nominal Range: 1 nm (as designated in Figure 5-11, below—use Table 5-5 for dimensions of warning marks with nominal ranges of 1-, 2-, and 3-nm; except that the letter sizes for the word "DANGER" will be 6-in for a 3NW, 8-in for a 4NW, and 10-in for a 6NW. Other wording will have 3-in letters on a 3NW, 4-in on a 4NW, and 5-in on a 6NW.).

Additional Data: The word "DANGER" will be centered on the daymark. Informational words may be placed above and/or below, as necessary (see examples below). Warning marks are used in the 1GW without addition of the yellow strip.

All waterways warning marks (nominal ranges, 1, 2, and 3 nm).
ALL WATERWAYS INFORMATION & REGULATORY MARKS

System: All waterways.
Function: No lateral significance information & regulatory marks.
Nominal Range: 1 nm (typical).
Additional Data: Information and regulatory marks do not have designators, as described in section B of this chapter. The border and center mark are orange retroreflective material. The remainder of the daymark is white dayboard film. Use black vinyl characters for informational wording, as necessary. Figure 5-12 illustrates the three types of information and regulatory marks, with typical wording. Information and regulatory marks are used in the ICW without addition of the yellow strip. Note—the warning mark, described in Data Sheet 5-E(8) is preferred to the “danger” version of the information and regulatory marks.
SPECIAL AID MARKS

Radar Reflector Type:

Color. Yellow Munsell chip number 2.5 Y 8/12.

Characters. Largest black nonretroreflective LETTER, (Federal color no. 27038) not to exceed 16 in., that will fit in the available area without crowding. Located offset to the right, on the right-hand radar reflector. Multiple characters are displayed horizontally (side by side). Mount the black letter on a yellow retro panel.

Retro Panels. Yellow panels, one on each left-hand radar reflector, height to fit in area of reflector and minimum width of 6 in.

Nonradar Reflector Type:

Color. Same as for Radar Reflector Type.

Characters. Largest black nonretroreflective LETTER, not to exceed 16 in. or one-quarter of the buoy freeboard, that will fit without crowding. For buoys with daymark plates, install the letters to the right of or under the retro panels. For buoys without daymark plates, install 3 letters spaced 120° apart. Mount the letters on yellow retro panels.

Retro Panels. Yellow panels, one sized to fit each daymark plate, with a minimum width of 6 in. or three panels spaced 120° apart, with a height of 6 in. and a width of two-thirds of the buoy diameter at the point of attachment.

Plastic radar reflecting buoys shall be marked like metal nonradar reflecting buoys because they both have similar shapes.
Lighted

Unlighted

Special Aid Marks