MEMORANDUM

Date: June 30, 2011
To: TRPA Hearings Officer
From: TRPA Staff
Subject: STPUD Emergency Retention Basin Replacement Project, 1661 Black Bart Avenue, South Lake Tahoe, California, Assessor’s Parcel Number (APN) 025-091-15, TRPA File Number ERSP2011-0652

Requested Action: Hearings Officer action on the proposed project and a finding of no significant environmental effect.

Staff Recommendation: Staff recommends that the Hearings Officer make the required findings and approve the proposed project.

Required Motions: In order to approve the proposed project, the Hearings Officer must make the following motions, based on this staff summary and the evidence in the record:

1) A motion to approve the required findings (see Attachment A), including a finding of no significant effect; and 2) A motion to approve the proposed project subject to the conditions contained in the draft permit (see Attachment B).

Project Description/Background: The South Tahoe Public Utility District (STPUD) proposes to replace the existing basin liner at the STPUD Emergency Retention Basin facility near the corner of Black Bart Avenue and Pioneer Trail. In addition to the liner replacement, the applicant also proposes to remove or replace some of the existing ancillary facilities (pipes and hydrants, check dams, etc.) and to regrade the perimeter of the basins to correct erosion and settling issues, and reestablish the necessary freeboard. No new or relocation of land coverage will result from the project. All material necessary for the perimeter regrading will be obtained onsite from the central basin berm. The project is necessary to repair existing leaks in the basin liner, and prevent future leaks and maintenance problems.

Issues/Concerns: The proposed project (local public health and safety) is a special use within Plan Area Statement 101 – Bijou Meadows, and therefore requires Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances.

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 6 and 18 of the TRPA Code of Ordinances (see Attachments A and C for details).

Contact Information: If you have any questions, please contact Theresa Avance, AICP, Senior Planner at tavance@trpa.org or 775-589-5224.

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AGENDA ITEM V.A
Attachments:
  A. Required Findings/Rationale
  B. Draft Permit
  C. Regional Plan Compliance Analysis
  D. Site Plan
Attachment A: Required Findings/Rationale

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

1. Chapter 6 – Required Findings:

   (a) 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.

   TRPA staff has reviewed the proposal and confirmed that the proposed project is consistent with the Regional Plan, and determined that the project will not adversely affect implementation of the Regional Plan.

   (b) The project will not cause the environmental threshold carrying capacities to be exceeded.

   TRPA staff has completed the “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 the checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Hearings Officer meeting and at TRPA.

   (c) 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 TPRA Compact, the project meets or exceeds such standards.

   (Refer to paragraph (b), above.)

2. Chapter 18 – Special Uses:

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

   The project replaces existing aging and damaged onsite infrastructure, and is necessary to ensure continued adequate operations and maintenance of the existing facility. No changes to the existing use and capacity will result from the project.

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

The existing facility is designed to temporarily store wastewater in case of emergency or maintenance at either the Wastewater Treatment Plant and/or the Luther Pass Pump Station. The facility has been in service since 1959, and is critical to STPUD’s operations and compliance with the 1967 Porter Cologne Water Quality Control Act, which prohibits the discharge of any wastewater in the Tahoe Basin.

Repair and maintenance of the facility, as proposed, will not negatively impact the existing health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, and will reduce risk to the general welfare of the region by reinforcing preventative measures for possible environmental discharge, thus improving the health and safety of the public.

The proposed project will incorporate temporary and permanent best management practices (BMPs) to mitigate potential environmental impacts created by project construction.

The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.

The project is repair and replacement of existing basin liners and ancillary structures that serve an existing, established facility. The project and land use are consistent with the Plan Area Statement, and will not detrimentally affect the existing neighborhood or application of the Regional Plan.
Attachment B: DRAFT PERMIT

PROJECT DESCRIPTION: Emergency Retention Basin Replacement Project  APN 025-091-15

PERMITTEE(S): South Tahoe Public Utility District  FILE # ERSP2011-0652

COUNTY/LOCATION: El Dorado County/1661 Black Bart Avenue

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on July 7, 2011, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire July 7, 2014 without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL:
(1) 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;
(2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA’S ACKNOWLEDGEMENT OF THIS PERMIT;
(3) THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT. TRPA’S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS; AND
(4) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

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
Excess Coverage Mitigation Fee (1): Amount $________ Paid _____ Receipt No.______

Security Posted (2): Amount $5,000 Type ___ Paid _____ Receipt No.______

Security Administrative Fee (3): Amount $________ Paid _____ Receipt No.______

Notes:
(1) Amount to be determined. See Special Condition 3.B., below.
(2) See Special Condition 3.C., below.
(3) $152 if a cash security is posted, or $135 if a non-cash security is posted.

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

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

_____________________________________    ______________________________
TRPA Executive Director/Designee                       Date

SPECIAL CONDITIONS

1. This permit specifically authorizes the replacement of the existing basin liners at the STPU Emergency Retention Basin facility near the corner of Black Bart Avenue and Pioneer Trail. Additionally, this permit authorizes removal or replacement of some of the existing ancillary facilities (pipes and hydrants, check dams, etc.), the regrading of the perimeter of the basins to correct erosion and settling issues, reestablish the necessary freeboard, and repaving of the access driveway. No new or relocation of land coverage will result from the project. All material necessary for the perimeter regrading will be obtained onsite from the central basin berm.

2. The Standard Conditions of Approval listed in Attachment Q shall apply to this permit.

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

   A. The permittee shall provide a site plan for the project area, without an aerial overlay, that includes:

      (1) All property lines.
(2) Site plan scale and north arrow.

(3) Topographic contour lines at two (2) foot intervals, where available.

(4) Mapped land capability district boundaries.

(5) Locations and dimensions of existing structures and land coverage.

(6) Locations of proposed construction staging areas.

(7) The following land coverage calculations:
   (a) Lot area.
   (b) Mapped land capability delineations.
   (c) Allowable land coverage for each land capability district.
   (d) Existing land coverage for each land capability district.
   (e) Previously mitigated land coverage for the project area.

(8) Location of areas of the existing access driveway to be paved or repaved. Any part of the dirt road/driveway that is required to be plowed for winter access shall be paved.

(9) Temporary erosion control structures located downslope of the proposed construction and staging areas. Please Note: Straw bales are no longer acceptable for temporary erosion control or mulch material in the Lake Tahoe Basin. The use of straw has contributed to the spread of noxious weeds throughout the basin. The use of alternatives to straw bales, such as pine needle bales, filter fabric, coir logs and pine needle or wood mulches for erosion control purposes is required.

(10) Vegetation protective fencing around the entire construction site. The fencing shall be no more than 12 feet from any area of approved disturbance. Trees located within the construction area that are to be retained shall be individually protected by fencing or other means as necessary.

(11) Permanent infiltration facilities for the existing and proposed paved driveway.

(12) The permittee shall submit calculations demonstrating that the infiltration and conveyance facilities are sized accordingly for the
slope and soil type of the property and will capture and infiltrate a 20 year/1 hour storm event.

(13) A note indicating: “All areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices and Living with Fire, Lake Tahoe Basin, Second Edition.”

(14) A note indicating: “Dust control measures shall be in place during construction. Broadcast mulch shall not be permitted as a dust control measure within 35 feet of structures.”

(15) Location of all recorded easements inherent to the property or resulting from this project.

B. The affected property has approximately 311,821 square feet of excess land coverage. The permittee shall mitigate a portion or all of the excess land coverage on this property by removing coverage within Hydrologic Transfer Area 5 – Upper Truckee, or by submitting an excess coverage mitigation fee.

To calculate the amount of excess coverage to be removed, use the following formula:

Estimated project construction cost multiplied by the fee percentage of 5.0% (as identified in Table A of Subsection 20.5.A.(3), Chapter 20 of the TRPA Code of Ordinances) divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

Coverage reduction square footage (as determined by formula above) multiplied by the coverage mitigation cost fee of $8.50 for projects within Hydrologic Transfer Area 5 – Upper Truckee. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than $200.00.

C. The security required under Standard Condition I.B. of Attachment Q shall be $5,000. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

D. The permittee shall submit three sets of final construction drawings and plans to TRPA.
4. The permittee shall submit a projected construction completion schedule to TRPA prior to commencement of construction. Said schedule shall include completion dates for each item of construction, as well as BMP installation for the entire project area.

5. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

Included within the Permittee's indemnity obligation set forth herein, the Permittee agrees to pay all fees of TRPA's attorneys and all other costs and expenses of defenses as they are incurred, including reimbursement of TRPA as necessary for any and all costs and/or fees incurred by TRPA for actions arising directly or indirectly from issuance or implementation of this permit. Permittee shall also pay all costs, including attorneys' fees, incurred by TRPA to enforce this indemnification agreement. If any judgment is rendered against TRPA in any action subject to this indemnification, the Permittee shall, at its expense, satisfy and discharge the same.

6. Excavation equipment shall be limited to existing areas of coverage and the area of approved disturbance to minimize site disturbance.

7. By acceptance of this permit, the permittee agrees that no snow plowing will occur over unpaved areas.

8. By acceptance of this permit, the permittee agrees that all mitigation measures outlined in the project application are hereby included as conditions of project approval and will be implemented as such.

9. Prior to release of security funds, the following conditions shall be met:

   A. The project shall be completed according to approved plans.

   B. The permittee shall apply for and receive the results of a Land Capability Verification for the entire project area.

   C. The permittee shall apply for and receive the results of an existing land coverage verification for the entire project area.
**Attachment C: Regional Plan Compliance Analysis**

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

B. **Plan Area Statement/Community Plan:** The project is located within Plan Area Statements 101 – Bijou Meadows. The Land Use Classification for the Plan Area Statement is Recreation, with a Management Strategy of Mitigation. Local and Regional Public Health and Safety Facilities are a special use for the Plan Area Statement. Agency staff has reviewed the Plan Area Statement and has determined that the project, as conditioned in the attached permit, is consistent with the applicable planning statement, planning considerations, and special policies, and is considered a permissible use.

C. **Land Coverage:** No modifications to land coverage are proposed.