Mary J. Singlaub  
Executive Officer  
Tahoe Regional Planning Agency  
128 Market Street  
Stateline, NV 89449

Dear Mr. Singlaub:

Subject: Lake Tahoe Shorezone Ordinance Amendments and the New Preferred Alternative of the Final Environmental Impact Statement

Staff of the California State Lands Commission (Commission) has reviewed the May 2008 Tahoe Regional Planning Agency (TRPA) Preferred Alternative – Program Description and the Revised Appendix 1 (Proposed Code Language for the Preferred Alternative) dated May 2, 2008. We realize that the environmental review process for the EIS and Ordinances has been very lengthy and we appreciate the Board’s consideration of the Commission’s following additional comments:

1. Public Access – Code of Ordinance Section 54.4.B


“As described in proposed Code Section 54.4.B, new, modified, or expanded Shorezone structures that cross public easement or public trust areas along the shoreline of Lake Tahoe would not be permitted to unreasonably impair legal, lateral, public recreational access. Pier design standards would provide for legal, lateral public access over, under, or around the structure as appropriate for each property. Existing structures would be required to come into compliance with legal public access standards to the extent feasible when undertaking any modification or expansion.”

May 2008 – Preferred Alternative – Program Description - Page 2-18

“As described in proposed Code Section 54.4.B, new, modified, or expanded Shorezone structures that cross public easement or public trust areas along the shoreline of Lake Tahoe would not be permitted to unreasonably impair legal, lateral, public recreational access. Pier design standards would provide for legal, lateral public access over, under, or around the structure as appropriate for each
property. Existing structures would be required to come into compliance with legal public access standards to the extent feasible by removing obstacles if feasible, or by including legal public access in design to the extent feasible when undertaking any modification or expansion."

Comment: Commission staff recommends that Section 54.4.B of the revised ordinances provide for legal public access above high water mark in order to accommodate the public to pass and re-pass if the design standard for new piers or for the relocation, modification or expansion of an existing pier cannot feasibly provide for lateral public access.

2. Piers – Code Section 52.2.B


Alternative 6A, described in the Final EIS, would have allowed a total of 537 parcels to build up to 269 new private piers at full buildout. With the density change for visually sensitive lands from one per 200 feet to one per 300 feet, the Preferred Alternative would have 528 parcels eligible for 261 new piers. With the addition of the maximum length/pier functionality rule, and if parcels in areas served by a homeowners' association pier are deducted from the total, 432 eligible parcels could build up to 171 piers. Finally, when only multiple-use piers are allowed in scenic non-attainment areas, and single use piers only in scenic attainment areas, the 267 eligible parcels could build up to 104 new private piers in the Preferred Alternative provided that current scenic attainment areas remain the same. This number is not established as a maximum, but is estimated as the maximum based on the best data available to TRPA.

May 2008 – Preferred Alternative – Program Description - Page 2-9

Alternative 6A, described in the Final EIS, would have allowed a total of 537 parcels to build up to 269 new private piers at full buildout. With the density change for visually sensitive lands from one per 200 feet to one per 300 feet, the Preferred Alternative would have 528 parcels eligible for 261 new piers. With the addition of the maximum length/pier functionality rule, and if parcels in areas served by a homeowners' association pier are deducted from the total, 432 eligible parcels could build up to 171 piers. Finally, when only multiple-use piers are allowed in scenic non-attainment areas, and single use piers only in scenic attainment areas, the 267 eligible parcels could build up to 128 new private piers in the Preferred Alternative provided that current scenic attainment areas remain the same.

Comment: What is the basis for this change from 104 to 128 new private piers?
3. **Fences** – Code Section 54.5.C(5)(b)

Comment: The Commission administers the Public Trust Easement between the high and low water mark at Lake Tahoe. The proposed Ordinance Amendment would allow for the placement of fences below high water only if approved by agencies having jurisdiction, which would include the Commission, or to protect sensitive species or identified cultural resources. Commission staff recommends inserting language in this code section that would stipulate that no fence or replacement of an existing fence will be placed lakeward of high water without TRPA first providing adequate notification to and obtaining approval by the agencies having jurisdiction.

4. **Public Piers** – Code Section 52.2.B(2)

October 2007 – Preferred Alternative – Page 2-4 (Piers – Paragraph 5)

“Public piers would be approved separately from the private allocation, with no limit on the number of new public piers being approved per year. After approval of the first 10 public piers, additional public piers could be allocated at a rate of no more than one per year, with no maximum number set. New public piers authorized under the proposed Shorezone Ordinances of ordinances may not be converted to private use.”

May 2008 – Preferred Alternative – Program Description - Page 2-4

“Public piers would be approved separately from the private allocation. A maximum build-up of 10 new public piers is estimated. This is the maximum number of new public piers that would be allowed at Lake Tahoe. New public piers authorized under the proposed Shorezone Ordinances may not be converted to private use.”

Comment: TRPA has revised this code section to limit the number of new public piers without reasonable justification. The Commission urges no limit on public piers.

5. **Lake Tahoe Public Access Fund (LTPAF)** – Code Section 54.13.A

Comment: The basis of the LTPAF is to mitigate the loss of public access and recreational opportunities as a result of new piers and pier expansions by purchasing substitute public access or enhancing existing access to the shorezone of Lake Tahoe. The code of ordinances provides for increase in fees associated with the LTPAF based upon the Consumer Price Index. Commission staff recommends that any fee increase is based on relevant local and regional
construction costs and land values that have a direct relationship to public access acquisitions and improvements.

6. **Fish Habitat Restoration Bank** – Code Section 54.4.F

Comment: This section provides that projects located in fish spawning habitat must mitigate any impacts through several methods with one option as described in section 54.4.F(4)(c), which provides that no project located in fish spawning habitat (any additional pier, replacement, expansion, or relocation) can be approved until the Fish Habitat Restoration Bank is fully functional. The Shorezone FEIS and/or the code of ordinances should describe the process of developing and implementing of the mitigation bank and the source(s) of funding for implementation.

7. **Blue Boating Program** – Code Section 52.4.F and 54.15.B(3)

Comment: Under the implementation of the Blue Boating Program an application for any new pier, boatlift, buoy, boat slip, ramp or pier expansion will not be accepted by TRPA until the Governing Board approves an implementation plan for the program which is designed to offset the impacts from increased boating activity due in part by the increase in new buoys. The code allows for full development of the 1,686 private new buoys at the implementation phase of the program. It could take several years to become fully functional and in the interim new buoys would already be placed prior to determining if the program is providing effective mitigation of environmental impacts resulting from increase boating. No new buoys should be placed in the Lake until TRPA is able to confirm, as outlined in the Blue Boating Program, that the anticipated impacts from the buoys will be fully mitigated. Additionally, in the event it is determined that the Blue Boating Program is not effective, what steps will TRPA take to reduce the number of buoys that have already been placed?

Thank you again for this opportunity to comment. Commission staff commends TRPA staff's tremendous efforts to complete the Amended Shorezone Ordinance process. If you would like to discuss any of the comments, please contact Barbara Dugal, Chief of the Land Management Division at (916) 574-1940.

Sincerely,

PAUL D. THAYER
Executive Officer

cc: Board Members of the Tahoe Regional Planning Agency
Barbara Dugal
Christine Sproul, Office of the Attorney General
James Frey, Senior Staff Counsel
Board Discussion & Comments:

Mr. Galloway asked what does it mean to say the functionality will not be criteria for eligibility but will be a location standard for a development of a pier.

Executive Director John Singlaub stated that we had mixed eligibility of parcels for a pier with location criteria for a pier. The revised project description makes that clearer by putting eligibility criteria in one place and the location criteria in a second place. We had initially proposed in order for a parcel to be eligible for a pier they had to be able to reach 6219 and 150' for a single use pier or 300' for a multi-use pier. Now we are saying instead of that being an eligibility of the parcel, it is a location criterion for a pier.

Mr. Galloway asked if it makes a big difference if you can’t locate a pier even if you are eligible, how you would build one.

Executive Director John Singlaub stated that part of it means that you are eligible to join with another parcel in a multiple use pier. We have a large pool of eligible parcels.

Mr. Galloway stated 3 weeks ago, he identified another issue which had to do with work that would disturb the sub-straight. There are times when someone would be trying to rebuild or repair a pier and they could not achieve significant material environmental benefit, because it is just a repair. The language you had could have prevented a repair because that is not exempt and requires a permit. He identified that issue and he would like that on a list.

Executive Director John Singlaub stated that kind of action is qualified exempt, so it is not a project anymore.

Agency Counsel Joanne Marchetta stated that all of Mr. Galloway’s issues will be dealt with. She also commits to do a full review of all of the comments and all of the proposed changes and review that against the Code as it is currently drafted.

Mr. Galloway would like a checklist which includes not only things that you think need to be done, but also things that have been done.

Mr. Merrill stated that he is concerned that we have in the Code this ability to try to prove that you have had a buoy since pre-1972, simply because that is a big hassle and with some photos you can determine if it is a buoy or white cap. On the other hand, he can understand that people who have had buoys before this Agency was formed, there should be a
way of potentially recognizing those. His understanding is that between 1972 and today there has been ample opportunity to get any buoy permitted, is that correct?

Executive Director John Singlaub stated not in fish spawning habitat.

Mr. Leslie stated that he likes the idea of having a cut off for the comments, but he feels that the June 30th date, which is four days from now. He feels this could be open for criticism that the date might before someone has a chance to even realize it.

Executive Director John Singlaub stated that if the Board would like to change the date we could certainly do that.

Public Comment:

Sara Ellis, Nevada Association of Realtors, asked for clarification on the Section that talks about exempt activities, "no discharge occurs to the waters of the Region and the structure is in accordance with the Shorezone design standards in Chapter 54". She is confused about this statement. So exempt activities, not QE activities, but exempt activities have to fall into the design standards, which means the existing structure need to be designed under the new design standards that are being adopted. What was the intent of that? She needs clarification on when there was discussion of replacement of piles, does Item No. 2 supersede Item No. 8 where you have put replacement of piles is a QE exempt activity and do you not consider those in-kind? Under B, it says that the pier similar structure may be replaced and in addition to provisions in Section 53.4A, the replacement structures foundation meets the requirements of Section 54.5A2i. If you do an in-kind replacement, by the way this reads, you have to do the foundation that is under the new design standard. So it is not an in-kind replacement, you have to redesign it.

Agency Counsel Joanne Marchetta stated that if we find things that need to be corrected, we will correct them.

Greg Guison, Recreational Boaters of California, stated they are concerned with the Blue Sticker proposal regarding boats and as it is currently cast we would oppose this program. The program proposed to levy significant fees on boats for the purposes of mitigation environmental degradation, which is totally un-related to the operation of boats.

Jan Brisco, Tahoe Lakefront Owners' Association, stated that she has heard nothing but rave review about the boat inspections from a variety of property owners and boat users who have been through the inspections at Cave Rock. The inspectors are courteous and they are knowledgeable and enthusiastic about preventing the spread of aquatic invasive. When you read the ordinance as drafted, we have to be cognizant of what that is. We would like to see thing clarified in a simple way. Instead of building
on the current ordinances, you are coming up with completely new ordinances and one of the things that he heard say, there were specific issues for backshore – from high water up into the upland. Sometimes your backshore can go all the way to the road on some properties. So what are we doing? We are overlapping ordinances with other sections. Let’s get this straightened out. She asked for time through the fourth of July to provide their comments to staff. Any project, whether it is a pier decking or a couple of pilings that exceed $8500, right now they cannot submit an application for a pier repair nor for a pier re-decking because the cost will exceed $8500. She has no problem putting off projects that are expansion or brand new pier. She thinks that if this can be clarified, that would go along way for their organization for the people who need to do those repairs.

Agency Counsel Joanne Marchetta stated that it is within the Board discretion to exempt this category of project until the new Shorezone ordinances are in effective.

Ms. Adlean stated that what we could do is under the recommended revised Shorezone schedule and procedure, we could just say exempt and qualified exempt Shorezone activities and all in-kind repairs and replacements will be processed at any time based on the regulations in effect.

Jennifer Quashnick, Sierra Club, stated that there has been no official comment period on the current version or the version that came out on May 2. We were expecting to have 30 days to review this version. The Compact requires the 60 days comment period, but they request at least a 30 days period once the final version is released. How can the public comment on the final ordinances that is yet to be released when you will cut off the public comment period before you even release the final ordinances? The environmental documentation requirements have not been met in this process. There has been no environmental impact analysis of the final proposed ordinances. There was no public comment period provided for the January 2007 SEIS that contained the Blue Boating Program. They would recommend that you perform an environmental analysis on the final proposed ordinances after which you then provide the official comments periods that are required by law.

 Gregg Lien stated that the law as a whole seems to work at its best when you have a social consensus coming together in a clear concise document; you have really done your job. This is an especially daunting process because there is not a social consensus. He feels that we have made some real progress in trying to clarify some of the key issues. He feels that we need to go further. Another week would be requested to provide comments to staff. He represents a couple of commercial marinas and there is language that says no new projects may be approved in spawning habitat until we have fully-functional fish habitat restoration project mitigation. This will be difficult. His clients would like to legitimize their buoy fields. He doesn’t know that the test drives have
been to the level to where we can actually determine numbers and impacts. There may be a problem with the 350' buoy standard and are they precluded from maintaining their buoys. The vast majority will not be able to meet that 350 standard even though they may have been there since the 1960s.

Raina Patrocinio, League to Save Lake Tahoe, more buoys mean more pollution mean more boats which will lead to more pollution. Under the Shorezone ordinances, 6300 buoys will be permitted in the Lake. Currently there are 4500 buoys on the lake of which 1500-2200 are un-permitted. This means that in order to reach the allowed 6300 buoys between 3300 and 4000 buoys will be permitted above the number that is permitted now. These numbers are excessive and do not reflect historical placement of buoys. The final EIS indicated that boat use is increasing by 1.5% per year. In the trend toward larger boats will only increase pollution further. Lake Tahoe is designated as "outstanding national resource water" because of its exceptional ecological and recreational significance. This means that absolutely no degradation is permitted to Lake Tahoe. Engine powered watercraft emit pollutants such as carbon monoxide, hydro carbons, nitrogen oxides, particulate matter and green house gases. These pollutants impact air quality, water quality and also water clarity. Damage can also be done to vegetation because of ozone pollution. It was determined that a traditional boat emits 1600 times more pollution than a Subaru Outback. Clearly this pollution needs to be curtailed. One solution for doing so is the use of catalytic converters. Boats with catalytic converters average a 78% reduction in emissions. TRPA should establish and enforce limits on the amount of air, water and noise pollution for any watercraft using Lake Tahoe as components for the Blue Boating Program. Require catalytic converters using a phased in approach similar to the TRPA's successful ban on 2-stroke engines. Create boat sticker fees that are based on horsepower and emission star ratings and create incentives for hybrid, solar and wind powered watercraft. Utilize real-time monitoring stations at launch sites and in the Lake with a higher density of this monitoring equipment in higher traffic areas. Hire the Tahoe Science Consortium to conduct random monitoring to prove the effectiveness of mitigation strategies. Establish performance standards with specified triggers for implementing pre-designated pollution abatement measures. Combine the Blue Boating Program and aquatic invasive species inspections to ensure that these are being conducted in conjunction with one another. To prevent boats from sinking when attached to buoys during storm events, implement and enforce a deadline for boat removal in the fall or ensure boats are adequately are protected. The League strongly encourages the Board to extend the comment period.

Gary Midkiff stated he is tremendously encouraged by the discussion today with regard to maintenance and repair, in-kind replacement, etc. The continued use of 6219 as a one size fits all limitation and factor when the Lake will be held at least a couple of feet lower under the Truckee River Operating Agreement may not make a lot of sense. So what he is suggesting is one final look. He would hope there would be sufficient
flexibility in certain circumstances so that just closely the door on these special circumstances, you leave the possibility for unique circumstances to be able to at least make a proposal and potentially be approved. Steep rocky shorelines around the Lake, lakefront property owners without a walkway down to the water and some sort of a pier don’t even have the ability to get to the water for swimming.

Mary Hassen, California State Lands, stated that they provided written comments to staff yesterday. Their staff wants to commend TRPA staff for all of their work in this effort and they have been very receptive to them to clarify certain sections of the Code as it has been changing and very helpful to them on a daily basis.

Ms. Aldean moved approval and direct staff to adhere to the revised Shorezone schedule and procedure as set forth in Attachment A and amended to read as follows: Exempt and qualified exempt Shorezone activities and all in-kind repairs and replacements based on the current Code will be processed at any time based on the regulations in effect. The date for submission of final comments will be amended from June 30th to July 3rd, 2008.

Motion carried.

Ms. Aldean moved to direct staff to modify the draft Code and/or the EIS project description to adhere to the recommended changes. Motion carried.
July 2, 2008

TRPA Governing Board Members
John Singlaub
Jason Ramos

RE: Shorezone Comments on New Ordinances

To Whom It May Concern,

I would like to congratulate staff and the board for many long years and numerous meetings to finally get to the point of a new shorezone plan. It has been a long time in the making and I think reaching a conclusion will be a relief to all. In the past several months staff has had several public meetings, listened to comments and has made changes. I applaud these changes as I feel they add clarity to the new code language.

On a practical side however, I am concerned that staff and the consultants have not run “real life” scenarios to test run the ordinances. Lots of questions have been answered however taking a project from inception to final permit stage is another matter. Examples should be part of the ordinances as well as several test runs before the code language is finalized.

(I would be glad to offer several of our projects for analysis).

Repairs and in kind replacement:

TRPA should have flexibility and discretion in allowing repairs to “in kind” replacements by allowing modifications that would make the project better or more conforming. Code language that is too strict will result in repairs not being made, which could result in detrimental situations.

Shoreline protective structures should be encouraged to replace vertical walls, however; there are instances where a wall is more practical and should also be considered.

Clarification of what is a shoreline protective structure vs. a bulkhead or sea wall should be clarified.

Buoys:

54.5.B. (1)(b) The code change increasing projection line from 20’ to 25’ setbacks should not apply to existing or “grandfathered” buoys. This should only apply to new buoys.

How will TRPA effectively regulate buoys in Lake Tahoe? There are property owners who make a living out of renting buoys to others and have more buoys than would be
otherwise permitted. What about non-littoral buoys with deeds attached to them. Will TRPA code language allow non-littoral buoys to remain? Will there be fines for those that put buoys back into the lake illegally? When will be blue sticker program be put in place?

Buoys should be allowed to go past 350 feet, especially in low drought years. There are currently many buoy fields and buoys past the 350 feet and the new ordinances should have provisions for these buoys. I think at last count over half of the existing buoys are out farther than 350 due to shallow waters. (Again, there are areas of Lake Tahoe that are very shallow and if the buoy is not a navigational hazard it should be allowed).

**Functionality:**

I am glad that TRPA put in new code language regarding pier functionality. There are still piers that can not reach the pier head line in 150 or 300 feet. Will these piers be denied forever even if the overall pier numbers are under the total piers allowed in the future?

There should be some flexibility for multiple use piers that cannot reach elevation 6219' in 300' based on either number of properties involved or linear lake frontage. The net environmental benefit for retiring more properties or lake frontage may outweigh the need for additional length.

**Miscellaneous:**

I would like to see a test run period that allows flexibility in modifications to the rules depending on how the test runs turn out. There is no sense in implanting rules if they are contradictory or redundant. Once there have been a sufficient number of examples run through the system then the rules can become more final.

A step by step guide for consultants and property owners with the pier criteria should be drafted by TRPA staff to assist in the application process. A training for consultants should also be offered once the new ordinance is passes.

Thank you for the opportunity to comment.

Sincerely,

Leah Kaufman
Principal Planner
July 3, 2008

Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89449

RE: Proposed Revisions to Shorezone Program Description and Draft Code of Ordinances

Dear TRPA staff, Madam Chair and Members of the Governing Board,

The League to Save Lake Tahoe recognizes the involvement and substantive comment provided by a multitude of agencies, organizations, Governing Board members, Lieutenant Governors of both California and Nevada, and the public to draft a Shorezone plan. Although, progress has been made in formulating an “improved” plan, numerous significant concerns have not been addressed and corrected.

**Environmental Threshold Carrying Capacities and ONRW**

Under the Clean Water Act, Lake Tahoe has special classification as an Outstanding National Resource Waters (ONRW) which affords it strict antidegradation protection, such that “no degradation is allowed in the waters designated as ONRW” and “the EPA interprets this provision to mean no new or increased discharges to ONRWs and no new or increased discharge to tributaries to ONRWs that would result in lower quality in the ONRWs.” Article 1(a)(1) of the TRPA Compact states “it is found and declared that the waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.” Consistent with the TRPA Compact, TRPA needs to implement “ordinances which will achieve and maintain such [environmental threshold carrying] capacities while providing opportunities for orderly growth and development consistent with such capacities.”

The proposed Shorezone plan threatens the threshold standards and the “exceptional ecological significance” of the ONRW classification, with the potential for substantial environmental impacts. In its current form, there is a lack of the necessary level of environmental impact analyses for the SEIS, Shorezone Ordinance changes, and climate change impact potential, a lack of specification and detail on how identified environmental impacts in the FEIS will be mitigated, the absence of performance measures, and a lack of scientific review requirements to confirm the effectiveness of mitigation methods. As Lake Tahoe’s extraordinary scenic beauty is
threatened, any Shorezone plan must ensure attainment and maintenance of scenic and environmental thresholds.

Comment Period and Need for Environmental Review

The TRPA has stated that July 3, 2008 is the “last day to submit comments to TRPA that will be addressed in the packet of written material submitted to the Governing Board for action in August.” The League to Save Lake Tahoe objects to the short comment period for the June 18, 2008 Proposed Revision Shorezone Program and Draft Code of Ordinances document, especially considering the Governing Board approved an extension for the TRPA to further revise and complete the Ordinances for a August 28 or 29, 2008 vote. Some of the changes introduced in the June 18 document were substantially different than the May 2, 2008 version.

It is the League’s contention that revisions in the proposed ordinances constitute substantial changes to Alternative 6A and therefore a revised EIS is required. TRPA has prepared the FEIS in accordance with NEPA as well as CEQA regulations:

“Acknowledging that state and federal agencies in both California and Nevada would likely wish to use the EIS to adopt those portions of the ordinances over which they have jurisdiction, TRPA also prepared the DEIS—as well as the SDEIS and this FEIS—to meet the requirements of the California Environmental Quality Act (CEQA) (Pub. Res. Code Section 21000 et seq.), the State CEQA Guidelines (Cal Adm. Code Section 15000 et seq.), and the National Environmental Policy Act (42 U.S.C. 4321 et seq., 40 C.F.R. 1500 et seq.).” [2006 FEIS, p 1-8].

Supplements to the FEIS would be required if the agency makes significant changes to the proposed action that would warrant additional environmental concern (NEPA 1502.9 (c)):

“(c) Agencies:
1. Shall prepare supplements to either draft or final environmental impact statements if:
   (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or
   (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
2. May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.
3. Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.
4. Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council [on Environmental Quality].”

Following the public release of the revised EIS the TRPA should provide a comment period of at least 60 days as required by the Compact (Article VII b). TRPA also prepared the FEIS in accordance with CEQA. Currently items remain in the FEIS contrary to CEQA policy including deferred mitigation (for the Blue Boating Program) and inadequate performance measures. The League requests the TRPA to bring these items into compliance with CEQA.
Previous Comments

The League to Save Lake Tahoe hereby incorporates by reference all previous comments, whether oral or written, including Governing Board comments or presentations and the May 20, 2008 Shorezone Workshop Proposed Scenarios.

General Comments

The Shorezone Program and Draft Code of Ordinances are unacceptable in the current form and need to include the following elements that are currently lacking from the plan:

1. All new Shorezone structures (piers, buoys, ramps, slips, etc...) should be limited on an annual basis consistent with no more than the historic average and only allowed if:
   - Programs have been implemented that fully mitigate the environmental impacts of new shorezone development and any associated watercraft impacts.
   - Monitoring stations have been placed and are operational throughout the Lake (including launch ramps and a greater density of monitoring facilities in high traffic areas, such as Emerald Bay). Ideally speaking, these need to provide real time data for review by an independent scientific entity such as the TSC.
   - Performance measures have been fully developed and specified, so that should threshold standard levels exceed a certain "trigger" level, measures are implemented on a timely basis to avoid environmental degradation.
   - The programs have been scientifically reviewed and verified on their effectiveness by an independent scientific entity, such as the Tahoe Science Consortium (TSC).

2. Visually Sensitive areas are "highly scenic or visually vulnerable landscapes exhibiting the influence of man-made modifications within an otherwise natural setting." In addition to naturally dominated and Shorezone Preservation Areas (SPAs), Visually Sensitive areas should be prohibited from any new Shorezone structure development and furthermore, restrict existing structures within those areas to modifications that do not increase length, visible mass, etc...

3. No development should occur in fish spawning habitat until Lahontan completes a Basin Plan amendment to lift the prohibition and is then conducted on a limited (pilot project) basis only with significant mitigation and monitoring by an independent science entity (such as the TSC). After a scientific entity (TSC) certifies the effectiveness of mitigations in a majority of monitoring sites in each area (such as different shoreline character types, stream-mouth Protection Zones, etc...), then development may occur in those specific areas with the prescribed mitigations, or more stringent ones if necessary.

4. When impacted by shorezone development structures, the requirement for "in-kind" restorations needs to be 2:1. This applies to shorezone areas, riparian zones, and fish habitat.
5. During any phases of the Shorezone plan implementation, any Shorezone structures (piers, buoys, ramps, slips, etc.) need to be phased in depending on attainment and maintenance of any of the associated environmental thresholds. With regards to specific structures, the following also apply:

- **Private piers.** No more than 5 per year with a strong preference for multi-use piers. No private piers should be allowed for properties served by multi-use piers such as homeowners’ association piers. There should be a maximum number of piers allowed for any future development on the Lake, and not just specified for the duration of the 20 year plan.

- **Buoys.** All unlawful buoys need to be removed in both California and Nevada. As Lahontan suggested (at least for the interim plan approach), there should be a cap on the total allowable buoys on the Lake (4454). Considering that TRPA has publicly estimated that the number of un-permitted buoys on the lake is between 1/3 and ½, this means that approximately between 1500 and 2200 buoys are currently unauthorized. Assuming an average of 1800 illegal buoys on Lake Tahoe, this translates to only about 2654 buoys that have been legally permitted for approximately over four decades! The TRPA proposal suggests allowing 6316 legal buoys on the Lake in the next 20 years, which is an extraordinary increase in the rate of legal buoy placement (183/yr) versus historic average (66/yr since 1972). This represents a 270% increase. At full build out, these buoys would create an additional 77,000 additional boat trips/yr along with emissions of 10 tons/yr of hydrocarbons and 18 tons/yr of NOx. This is clearly represents an excessive and unprecedented rate of buoy placement, along with significant environmental impacts. Buoy fields with greater than three buoys need to undergo scenic review.

- **Ramps.** Considering the TRPA emergency declaration and Governing Board actions to prevent the introduction of invasive species (such as quagga and zebra mussels, which are destructive both economically and environmentally) into Lake Tahoe, no new ramps should be allowed until all existing ramps are controlled during operation hours with inspectors and provide on-site or offsite boat washing stations.

- **Breakwaters, jetties, rock crib piers, and sheet pile piers.** Although TRPA proposes a prohibition on any new structures (including transfer or relocation), any expansion (as approved through a TRPA marina master plan process) of such structures should demonstrate no adverse environmental impacts.

6. A mitigation and boat sticker program needs to be implemented without delay. This program needs a sufficient fee structure based upon engine horsepower and emission star rating, sufficient inspection capability for all access points during all hours of operation on the Lake, and enforcement regulations and capacity to ensure compliance with engine requirements and tuning, boat pollution reduction goals, bilge containment, sewage controls, noise ordinances, invasive species inspection and boat washing requirements, etc... In addition, mitigations need to offset the direct impacts of increased boat use
impacts (such as emissions and noise) associated with new Shorezone structures on the Lake, as well as increased boat use on the Lake in general. With clearly articulated performance measure conditions specified, water quality monitoring sites throughout the Lake would be used to monitor the conditions that would trigger a response to pollutant increases by restricting boat use and/or eliciting responses or changes to the program. Incentives need to be offered to encourage the use of non-motorized, non-polluting, and cleaner technology (such as hybrid, electric, wind, and solar powered boats or the use of catalytic converters which can reduce emissions by up to 2/3). The TRPA needs to advance further beyond its regulations on the two-stroke engine. Inspections for both the boat sticker program and aquatic invasive species need to be combined.

7. As a result of the significant impacts on water quality, no new dredging operations should be allowed. However, maintenance dredging should be allowed with appropriate measures to prevent adverse environmental impacts.

8. To prevent boats from sinking while attached to mooring structures during storm events, TRPA needs to develop and enforce a program so that boats are adequately covered to protect from wave inundation and/or institute a deadline for boat removal from the Lake (i.e. fall).

9. Consistent with NEPA, CEQA, and/or AB 32 requirements, the Shorezone plan needs to evaluate green house gas emissions, mitigation plans, and evaluate likely and potential climate change scenarios with regards to the thresholds. For example, research indicates that if present trends are to continue, temperatures throughout the year in the Sierras could rise significantly. Warmer temperatures will translate to higher levels of NOx from the burning of fossil fuels (especially diesel). Ozone formation results from the interaction of hydrocarbons and NOx with UV radiation from the Sun. Ground-level ozone and the resulting smog have deleterious effects on vegetative growth, photosynthetic processes, and the respiratory systems of humans, wildlife, and plants. Currently, the highest levels of ozone are observed during the summer, but with increased temperatures forecast throughout the year in decades to come, ozone levels will likely increase the most dramatically during the spring and fall, when vegetation is more susceptible to the effects of ozone exposure stress. Trees and other forest vegetation will respond to this increased exposure with stunted growth and be more vulnerable to disease, pest infestation, shallower root systems, mortality, and increase fire susceptibility.

Specific Comments on Draft Code of Ordinances

The following questions or suggested corrections correspond to the Shorezone Draft Code of Ordinances:

Chapter 2 Definitions

**Bouy:** Buoy is defined as “a float anchored to a lake bottom which serves as a boat mooring, a navigation guide, hazard warning, or similar use. Seasonal or event marker buoys used to mark
swim areas or identify boat race courses. The marker buoys are not used to moor watercraft.” Will navigation buoys, hazard warning buoys, seasonal buoys, or event marker buoys be part of the 6316 total buoy count or will these be counted as additional buoys? In 52.4 the document redefines buoy as a “mooring buoy that is either in use or capable of use to moor watercraft.” The definition in 52.4.B for “maximum number of buoys on Lake Tahoe” includes berths in boat houses and boat lifts in the total counts. More consistent definitions are needed throughout the document.

**Charter Boat Service:** What qualifies as a support facility (refueling stations, docks, maintenance structures, toilets, sewage pumps)?

**Commercial Boating Uses:** Do sea planes qualify as “other vessel?”

**Dredging:** Define “earthen materials” (rocks, sediments, trees, etc.).

**Linear Lake Frontage:** The use the word “generally” allows for ambiguity and interpretation.

**Manipulation:** Should include any change (not just killing or damaging), any alteration, including pruning, or any other thing that will change the natural growth of the vegetation. Does this include invasive species such as Eurasian milfoil?

**Multiple-Use Facility:** “A shorezone facility, usually but not always a pier, which is available for use by a homeowners association or functionally similar private or public entity, or two or more littoral parcel owners.” What is a shorezone facility that is not a pier?

**Public Use Facilities:** Please define “open.” Does open mean that the public can use some or all of actual buoys, piers, ramps, etc…

**Water Bourne Transit:** Concerning “people and goods”. Can this be used exclusively for transport of goods? Also, “schedule” should be revised to the grammatical correct form of “scheduled.”

**Chapter 12 TRPA Regional Plan Maps**

**Chapter Contents**

12.2 B (1)
What is "other relevant information"?

**Chapter 13 Plan Area Statements and Plan Area Maps**

13.5. B. 1 (b) (iii)
Please correct spelling error: “environ mental” to “environmental.”

13.5. B 2 (c)
The use of word “and” in “…..scenic quality and provide…” implies that all of the items mentioned will be included in the redirection of development.
Chapter 30 Design Standards

30.1.A
Spelling error: please change “Kings bury” to “Kingsbury.”

30.5 A.(1)
The code reads “…to the greatest extent feasible.” What will determine what is feasible and who and how will this be decided?

30.15.C (3)
1) The first sentence should read “All projects on existing visible structures in the shoreland altering or increasing the lakefront area 20 percent or less and the result is 1,500 square feet or less of additional lakefront façade.
2) It seems unjust that if the cost of mitigation is too high (greater than 10 percent of the cost of project) that the public will pay the price of loss of scenic quality. It also seems unjust that the public will have to pay the price of loss of scenic quality if it is impossible to mitigate.

30.15. C (4) (a) (i)
It seems unjust that if the cost of mitigation is too high (greater than 20 percent of the cost of project) that the public will pay the price of loss of scenic quality. It also seems unjust that the public will have to pay the price of loss of scenic quality if it is impossible to mitigate.

Chapter 50 The Shorezone

50.2.A. 4. (d)
“Access to buoys shall be designed to cause the least possible environmental harm to the foreshore and backshore.” Least possible environmental harm needs to be defined so there is no ambiguity.

50.2. A. 4. (e)
Again “least possible environmental harm” needs to be strictly defined.

50.2 A. 6. (b)
Please define the parameters of “significant” in “use without significant shelf erosion.”

50.4 A
Please define “significant” in “affecting significant biological, scenic and other natural resources values and low impact recreation.”

50.4. B
Any development in SPAs is very concerning. Language should be revised to read “…the plan or project….demonstrates no impacts to applicable TRPA thresholds.”

50.6 A
Please define “generally” in “Stream-mouth Protection Zones shall generally represent the historical meander pattern of creek and....”

Chapter 51 Permissible Uses and Structures in the Shorezone and Lakezone

51.2.A (1)
Please change “are assumed to be” to “must be” in “Allowed uses are assumed to be compatible with the direction of the Regional Plan and surrounding areas.”

51.2. E (1)
How will the TRPA determine that use has been discontinued for a period of one year? What kind of documentation will be involved?

Chapter 52 Allocation of Shorezone Development

52.2.
How will the piers be allocated to other lakes in the basin?

52.2. C (2)
Why was “meet the location criteria set forth in Chapter 54.5.A” removed from this section?

52.3. A (2)
Please define what “other information” the TRPA may deem as appropriate.

52.4 B
1) The impacts of 6,316 buoys, berths and boat lifts should be reconsidered because of their impacts on water quality, air quality, fisheries, noise, and scenic quality
2) Where will the 200 public access buoys be located? What will the usage fees be? What criteria are in place to determine the need of these?
3) Does the 6316 count include the number of platforms?

52.4. C.
“Only littoral parcels shall be eligible to place a mooring buoy and to receive a permit for buoys from the TRPA.”
1) Do non-littoral property owners have access to mooring rights?
2) The TRPA should be the only entity permitting buoys. The language seems to leave room for non-littoral properties getting buoy permits from other agencies aside from the TRPA. If that is the case, would it be possible for the number of buoys to eventually exceed 6,316?

52.4. D (3)
1) Who will have access to the public buoy fields?
2) Has it been assessed how a 50 grid will be functionally navigable by windsurfers?

52.4. D. (6)
The language regarding “littoral parcels landward of homeowner association buoy fields” is incomprehensible. Please clarify how a littoral parcel can be landward of a homeowner
association buoy field. Also, please clarify why the language was changed from the previous version.

52.4. E (1)
This section conflicts with the information in 52.4.D. Section 52.4.D states that private littoral properties with less than 50 linear feet of lake frontage shall only be eligible for one buoy. The same issue applies for properties with more than 50 linear feet of lake frontage where 52.4.D states that the maximum number of buoys is 2 where 52.4.E states that they may be eligible for 3 buoys.

52.4. E (1) (a)
Please clarify if approval by a state or federal agency with appropriate jurisdiction has to occur by a certain date or if it is in perpetuity.

52.4 F (1) and (2) (c)
1) The TRPA states that they shall not issue permits for buoys that result in the total number of buoys on Lake Tahoe exceeding 4,454 until TRPA has adopted and implemented a Blue Boating Program. The number of buoys already exceeds 4,454 buoys at 4,477.
2) The Blue Boating Program should be proven effective in reducing pollution before any additional buoys are placed on the Lake. 52.4 F (1) should read “until TRPA has adopted and implemented a successful blue boating program with monitoring results and analysis approved by the Tahoe Science Consortium......”

3) There is an inconsistency with 1 and 2a. 52.4 (1) states that the “TRPA shall not issue permits for buoys that result in the total number of buoys on Lake Tahoe exceeding 4,454 until………..” However, 2a states the TRPA will issue permits to applicants who currently do not have an existing buoy. Please fix this inconsistency.

4) What is going to be done to rectify the situation concerning the illegal buoys on the Lake? According to TRPA estimates, anywhere from ½ to 1/3 of buoys currently on the Lake are illegal. These should be removed before anymore permitted buoys are placed on the Lake. Why has the clause (3) been stricken from the code language? Why will there not be a fee for an illegally placed buoy?

52.5. A
Considering the issues that Lake Tahoe is currently facing concerning keeping aquatic invasive species out of Lake Tahoe, the number of additional boat ramps should be reconsidered. Six additional boat ramps will only increase the efforts that will have to be invested to make sure that infected watercraft are not entering the Lake.

52.5. B (1) and (2)
These are inconsistent because 1 states that TRPA will not authorize additional floating platforms and 2 states that the TRPA will authorize the additional floating platforms if it is in exchange for a buoy. Does this mean the lake could have 6316 floating platforms instead of 6316 buoys?
Chapter 53 Shorezone Project Review and Exempt Activities

53.4. A (2)
What happens if the replacement occurs in fish spawning habitat?

Chapter 54 Shorezone Project Findings and Development Standards

54.1
54.1 reads, “The standards in this chapter apply to all projects and activities in the Shorezone, which includes the nearshore, foreshore, and backshore and lagoon areas of Lake Tahoe and other lakes in the Region.” Please add, “In order to be applicable projects and activities must avoid degradation of fish habitats, creation of navigational hazards, interference with littoral drift, and interference with the attainment of thresholds.

54.3. A (5) (7) (9)
1) (5) states that the TRPA must find that the proposed use in the lakezone, nearshore, foreshore or lagoon is water-dependent. What does water-dependent consist of? Would backshore use have to be water-dependent as well?

2) (7) states that the TRPA must find that the project will not adversely impact navigation or create a threat to public safety pursuant to the determination of agencies. However, structures within the nearshore and foreshore areas will disrupt the navigation of non-motorized watercraft, low impact recreation, and could jeopardize public safety.

54.4. E
1) Coverage and permanent land disturbances in backshore areas should be monitored carefully, as these areas lay directly adjacent to the foreshore. Water quality is put in jeopardy when development in backshore areas takes place.
2) If the need for mitigation truly exists, shouldn’t the rate of mitigation be larger than 1: 1.5?
3) The language regarding allowable base land coverage is confusing.

54.4. F (2) (4 a,b,c)
1) Dredging should be prohibited in feeding and/or escape cover habitat. Buoys should be prohibited in “fish habitat” including spawning, feeding, and escape/cover areas.
2) Activities in fish habitat should not be permitted. The presumption that replacement “in-kind” will make up for degradation in natural fish habitat is appalling – as is the suggestion in (c) that the purchase of restoration credits for similar habitat function from a fully functioning fish spawning habitat could actually make up for the degradation. Impact from humans cannot be completely mitigated – there will always be permanent and residual effects. Admitting that the need for mitigation exists is the same as admitting that harm is being done to the environment. Is our need for development so great that we would go so far as to permanently disrupt environmental function?

54.4. I
Recreation Projects: “All projects classified as recreation use shall be required to submit an operating plan...demonstrating that spatial conflicts with other recreational uses will not be significant...” Why is it only the recreational projects that have to submit reports concerning impacts to other recreational uses? Private piers cause disturbances and so do buoys.

54.4. J
Projects that impact sensitive or uncommon plants should not be permitted.

54.5 A. (1)(b)(i)(B)
Piers should not be permitted in scenically sensitive areas.

54.5. A. (1) (g) (i)
Who will pay for this assessment?

54.5. A (2) (c) (iii)
Define “minimal.”

54.5. A. (2) (g)
Boat lifts will be allowed to be placed if a parcel has buoy eligibility. Does this mean that there could potentially be at least 906 boat lifts assuming that each pier owner uses a buoy eligibility to install a boat lift?

54.5. B. (1) (c)
1) What are the environmental impacts (including scenic) of moving an entire buoy forward into the lake?
2) What are the impacts to low impact recreation by moving buoys lakeward beyond 350 feet?

54.5. B. (1) (e)
How many nonconforming buoys does the TRPA expect to permit?

54.5. B. (1) (f)
Shorezone Preservation Areas should not contain any development – SPA’s are important for ecological, scenic, and low-impact recreation.

54.5. C(1)(c)
No structures should be permitted in fish habitat.

54.5. D. 4.
What are the environmental impacts of having to move a mooring each time the lake is at low water?

54.10. C.
Please define remedial to mean restorative

54.11. B.
Please define appropriate materials for beach nourishment making sure to specify materials that are not high in inorganic phosphorous and are not fine sediments.

54.13. B. (1)
Is there no fee for the first buoy?

54.15 B. (3)
The section should be revised to “unless or until (a) the Governing Board has established and demonstrated a successful blue boating program with monitoring and environmental benefit analysis approved by the Tahoe Science Consortium....”

54.16. C (3)
If mitigation strategies do not work and boat launches at peak times are limited it would be important to not just limit pier launches, but spread out the launch limitation so boats on moorings and boat lifts are equally affected. Otherwise, there may be an inequality in differences between private and public launches which would favor owners of private moorings and boat lifts.

54.16. D.
Suspension of Shorezone Development Approvals should be available prior to 2012.

Chapter 83

Why is 25.7 placed at the end of this chapter?

Summary

Please contact me at 530.541.5388 if you have any questions in regards to this letter.

Sincerely,

Carl Young
Program Director
League to Save Lake Tahoe
Tahoe Regional Planning Agency
Governing Board Members and TRPA Staff
PO Box 5310
Stateline, NV 89449

July 3, 2008

Subject: Proposed Shorezone Ordinances

Dear Governing Board Members and TRPA staff,

The Tahoe Area Sierra Club (TASC) appreciates the hard work of TRPA staff to continue to evaluate appropriate levels of development in the shorezone within the bounds of environmental protection and public access. However, we submit these comments under protest because the comment period, which should provide at least 30 days after the release of the final proposed Ordinances (which as explained at the 6/26 GB meeting, are not even written yet let alone available for public review), was shortened to just 4 business days after your GB meeting (and just 14 days after release of the most recent version available 6/19/08). This shortened time period is both legally questionable and indicative of bad faith regarding public process. Further, it provides inadequate time for the public to fully consider the 6/19/08 version of the proposed Ordinances. However, these issues are all exacerbated by the fact that the final proposed Ordinance language is not even available yet, nor has TRPA completed an updated environmental analysis of the impacts of the proposed Ordinances. As stated at the 6/26/08 meeting, how can we, the public, comment on proposed Ordinances when they are not even available yet? And how can the public make informed decisions when adequate information is not available (through an updated environmental impact analysis).

As a result of this shortened comment period, we first incorporate our previous comment letters by reference (see below). We realize that some of the comments and questions may be outdated; however, we are concerned that if we do not submit a complete set of comments by the 7/3/08 cutoff, we are afraid we will not have due public process.

TRPA should provide a 60 day comment period (per the Compact) once the final proposed Ordinances are available and have been analyzed in a supplemental EIS document (discussed later in this letter) since the revised Ordinances represent a revised Alternative in the EIS. The Compact requires a period of ‘no less than 60 days’ for public circulation of EIS documents [Article VII (b)].

Incorporation of Other Comments:
We hereby resubmit our written comments dated October 28, 2004, August 31, 2005 (submitted by Marsha Burch on behalf of TASC) and the collective results of our postcard survey (August 2005). We also herein incorporate all comments submitted by the League to Save Lake Tahoe, including those to be submitted July 3, 2008, and all

---

1 This must be a comment period where, per environmental laws (e.g. NEPA, CEQA, etc.), TRPA will respond to all comments. The "soft" deadline concept discussed at the 6/26/08 GB meeting is inadequate as comments received after the 7/3/08 deadline are not guaranteed a response.
verbal comments made by both organizations, as well as the ‘scenarios’ we presented for consideration at the 5/22/08 Shorezone workshop (many of which were not discussed at the workshop and have not been responded to as promised at the workshop).

Our Chief comments on the Ordinances dated 6/18/08:

Note that our comments reflect requirements by the National Environmental Policy Act (NEPA), California Environmental Quality Act (CEQA) and TRPA’s Compact because TRPA states the FEIS was intended to comply with all of these laws:

“Acknowledging that state and federal agencies in both California and Nevada would likely wish to use the EIS to adopt those portions of the ordinances over which they have jurisdiction, TRPA also prepared the DEIS—as well as the SDEIS and this FEIS—to meet the requirements of the California Environmental Quality Act (CEQA) (Pub. Res. Code Section 21000 et seq.), the State CEQA Guidelines (Cal Adm. Code Section 15000 et seq.), and the National Environmental Policy Act (42 U.S.C. 4321 et seq., 40 C.F.R. 1500 et seq.).” [2006 FEIS, p 1-8].

We also agree with TRPA’s assessment that providing an environmental document that meets the requirements of other federal and state agencies is important and will save significant time, money and other resources when other agencies propose to adopt portions of the Ordinances, as applicable. In fact, the Ordinances will in some cases rely on adoption by other agencies - for example, where other agencies must adopt the Ordinances to be able to enforce them with criminal liabilities.

1. Inadequate environmental impact analysis and inadequate public circulation:
   - The current proposed Shorezone ordinances are based on revisions dated 5/2/08 and 6/18/08. Neither of these revisions were submitted as a supplemental EIS or revised EIS, yet changes are proposed that may have environmental impacts (specific examples are discussed later in section 4). NEPA regulations [1502.9 (c)] state:
     
     “(c) Agencies:
     1. Shall prepare supplements to either draft or final environmental impact statements if:
        (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or
        (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
     2. May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.
     3. Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.
     4. Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council [on Environmental Quality].”

Both (c)(1)(i) and (ii) and (c)(4) apply in terms of the revised proposed Ordinances (with more revisions expected sometime in the next two months). Therefore, TRPA must prepare a supplemental EIS for the final proposed Ordinances and circulate it appropriately (TRPA Compact requires a 60 day comment period; NEPA, a 45 day comment period and CEQA, a 30 day comment period).

To remedy these problems, we recommend TRPA perform an appropriate environmental impact analysis on the final proposed Shorezone Ordinances (incorporating all “significant new circumstances or information relevant to environmental concerns and
bearing on the proposed action or its impacts concerns” [see sections 6-8 for examples]) and circulate to the public as a Supplemental EIS, providing the associated public comment periods required by the Compact, NEPA and CEQA.

2. The proposed “deferred mitigation” is contrary to CEQA: 
   
   **Deferred mitigation:**

   - The mitigation for impacts from the proposed Shorezone Ordinances defers the development of mitigation measures (through the vaguely defined “Blue Boating Program”) to a future time. Thus, the full EIS package does not include specific discussion of actions to be taken under the mitigation measures, but inappropriately defers development of these programs and specific action to a later time. This appears contrary to CEQA requirements [15126.4(a)(1)(B)]:
     
     “(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. **Formulation of mitigation measures should not be deferred until some future time...**”

   Because of this deferral, the document fails to fulfill its purpose as an informational document.

   - TRPA does not know what mitigation will be necessary to mitigate the impacts, and therefore can not determine whether feasible, successful mitigation measures will even exist. For example, TRPA states:
     
     “...As described in the EIS, annual emissions of particulates...are projected to increase with future increases in boating activity...Particulate offsets will be achieved through one or more of the following methods, or an as-yet undetermined method...” (1/31/07 SEIS section A, p. 3).

   TRPA’s plan that the mitigation will be ‘figured out later’ is contrary is certainly no substitute for adequate environmental analyses of impacts and mitigation measures (see Table A-1 in Attachment A for a representation of what proposed mitigation should look like). Further, this clearly does not provide adequate information for the public to make informed decisions, but rather, indicates a “trust us” approach that is contrary to the laws behind disclosure documents such as those required by NEPA, CEQA and the TRPA Compact.

   Further, TRPA is also relying on the assumption that land use measures (e.g. residential wood heater retrofit incentives, improved street sweeping, etc.) can be used to mitigate future PM emissions from watercraft:²

   “...(7) A mitigation fee program which will utilize boat sticker funds to implement additional pollution control measures. The program may include measures to reduce pollutants from sources other than motorized watercraft, such as street sweeping programs and wood burning stove rebates...”

   [6/18/08 Proposed Ordinance 54.15.A(7)]

---

² We heard John Singlaub make a statement that TRPA is no longer seeking to use on-land measures to reduce on-lake emissions at the 6/26/08 GB meeting; however, the proposed Ordinance language still includes this suggestion and no alternative mitigation strategies have been suggested. If TRPA plans to modify this section to propose different mitigation (although it appears the replacement would be more deferred mitigation), then this illustrates another significant difference for which the public should be allowed the opportunity to comment on in the final proposed Ordinances.
Yet land use measures specific to reducing these sources have already been identified as important components for meeting the TMDL reductions in TRPA’s proposed Regional Plan Update (reductions based on existing emissions) [TRPA’s Draft “Alternative 2” April 2008]. To refer to on-land mitigation as mitigation for allowing increased watercraft emissions when the land-based mitigation is already needed to mitigate existing on-land emissions is essentially “double-dipping.” This is inappropriate, legally questionable and certainly not conducive to improving threshold attainment.

**Inadequate Performance Measures:**

- The proposed Ordinances include inadequate performance measures (included in the 1/31/07 SEIS, Section G).
  
  (1) This allows significant environmental impacts to occur; and
  
  (2) Prohibits the use of CEQA’s exception clause that might allow some types of deferred mitigation:

  “…However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” [15126.4(a)(1)(B)].

The current “Performance Measures” provided by TRPA are those included in the 1/31/07 SEIS. Most of these “performance measures” are equivalent to an existing federal, state and/or TRPA legal standard. This would therefore allow significant impacts to occur in cases where the current standards are now being met, and therefore will not “mitigate the significant effect of the project...” per CEQA. For example, the performance measure for carbon monoxide (CO) is “not to exceed 6 ppm in an 8 hour period.” (SEIS 1/31/07, section G, p. 5) This is the 8-hour air quality standard for CO. The Basin is currently well below this standard; therefore, with this as the “performance measure,” air quality could significantly deteriorate from existing levels and yet still meet TRPA’s performance measures. This clearly does not reflect a performance measure that will prevent significant impacts from the shorezone development.

**Mitigation relies on an uncompleted and uncertified EIS:**

- Because this idea of using land-based measures to mitigate watercraft emissions has been incorporated in the Shorezone Ordinance EIS/SEIS, this creates a direct relationship between the Shorezone Ordinances and the Regional Plan Update. In other words, the proposed mitigation for Shorezone development relies on measures that are supposed to be included in the new Regional Plan. Yet the EIS for the new Regional Plan is still under development, let alone not certified. TRPA can not claim impacts from Shorezone are mitigated through measures that will conform with the new Regional Plan when the environmental documentation and Ordinances for the new Regional Plan are not completed nor certified.

- Additionally, because the new Regional Plan EIS has not been completed, there is no way for TRPA to know whether referring to on-land measures is even a feasible option. In fact, TRPA does not even know yet what measures will be feasible for achieving the 55% pollutant reduction needed per the Total Maximum Daily Load (TMDL) – nor what shorezone measures (based on existing shorezone related
activities) are needed to help achieve the reductions. Certainly, TRPA can not know what future measures are feasible for mitigating shorezone impacts.

To remedy these problems, we recommend TRPA implements those recommendations above under number 1. Within those updated environmental impact analyses, TRPA must identify adequate mitigation measures (with the data to show how the mitigation measures will be effective) for mitigating impacts created by the proposed Shorezone Ordinances. TRPA can not defer mitigation until some future date without identifying what it is and providing evidence showing it to be feasible and adequate. Further, TRPA can not refer to on-land measures for mitigating shorezone-related pollution without analyzing the Basin as a whole (where such ‘trade-offs’ may, based on sound technical review, be deemed acceptable after a comprehensive environmental analysis of all Basin pollution sources is performed).

In fact, the best way to address all issues raised thus far is to incorporate the Shorezone alternatives into the Regional Plan EIS alternatives. Pollution does not know mapped boundaries of the shoreline. For example, air pollution moves from the land to the Lake and vice versa. Water pollution from the entire Basin enters the Lake, creating cumulative impacts with water pollution caused by shorezone sources. Noise from shorezone uses impacts those on the land. This list of interactions throughout the Basin is long; separating the Shorezone from the rest of the Basin makes no sense from either a planning perspective or from an environmental perspective.

3. The proposed development is contrary to meeting TMDL requirements;

   a. Watercraft-related contributions to nitrogen and fine particles:

      As mentioned above, the TMDL shows we must achieve a 55% reduction in lake- clarity reducing pollutants in order to meet our clarity standard. Although there is much debate regarding the proportional impact of watercraft emissions on the TMDL constituents of concern regarding lake clarity (nitrogen, phosphorous and fine particles), current information suggests that we must consider all types of nitrogen compounds when addressing atmospheric deposition. Therefore, until scientifically defensible data are presented that watercraft emissions do not affect clarity, we must assume they do. In fact, we know boats emit NOx, and TRPA has repeatedly documented that (1) NOx contributes to overall nitrogen levels in Lake Tahoe and reactions with NOx in the atmosphere yield both gaseous and particulate nitrogen compounds and (2) specifically, that atmospheric nitrogen deposits to the lake. TRPA’s references include:

      “Scientists are still studying the contribution of airborne nutrients to Lake Tahoe's water quality problems. They believe that atmospheric nitrogen is a large source of that particular algal nutrient. Gaseous emissions from local and out of basin sources appear to be the most important cause of atmospheric nitrogen in Lake Tahoe's nutrient budget — gaseous emissions of nitrogen compounds from automobiles and other sources react with other substances in the atmosphere and on the ground. These reactions yield both gaseous nitric acid and particulate ammonium nitrate…” (TRPA: 2001 Threshold Evaluation, Air Quality Chapter).

      “Water clarity links directly with air quality through atmospheric deposition of nitrogen, fine particulate, and phosphorus as described above. Desired conditions and standards for air quality will be established to protect Lake Tahoe clarity…” (TRPA: DRAFT Pathway 2007 Technical Supplement for Water Quality, March 2007, p 34)
Clearly, watercraft emissions will only compound the difficulty in meeting the TMDL reductions for nitrogen. However, also of concern are the fine particulate emissions from watercraft. Like nitrogen, we do not yet know the actual proportional contribution of watercraft PM emissions to the particulates that affect lake clarity; however, we do know that particles emitted into the air deposit to the lake. Further, boats in themselves create turbulence, especially in shallow areas. This disturbs even more sediment. Might this affect clarity, not only by the temporary disturbance in the water column, but by suspended particles and algae that were at rest on the bottom of the lake’s bed? In both cases, evidence indicates that watercraft emissions and use may affect lake clarity (and therefore the TMDL reductions we’ll need), and given the non-attainment status of the clarity standard, we can not afford to add more clarity-reducing pollutants to the lake.

b. Uncertainty regarding how to achieve the TMDL:

The clarity standard is a legal requirement, so even though the TMDL is not yet finalized, TRPA must still meet this standard which requires significant reductions in pollution. The new Regional Plan must help attain and maintain the clarity standard, which available science indicates requires a 55% reduction from existing levels. That in itself is going to be a very difficult task. Although the Lahontan Water Board has analyzed various regulatory “options” to meet those reductions, there has yet to be a full analysis of what is feasible. Is it feasible to rely on stormwater treatment facilities that haven’t been proven effective in preventing fine sediment from entering Lake Tahoe? Is it feasible to rely on 95% BMP compliance, especially when recent events (e.g. the CA-NV Tahoe Fire Commission process) have set in motion the suggestion for bare soil on individual properties? If measures on land do not provide the reductions we need, what reductions are available from shoreline activities? These questions must all be addressed in order to determine how the Regional Plan will achieve water quality thresholds. There is no way to separate Shorezone activities from this analysis.

The proposed Shorezone Ordinances will increase development and help facilitate an expected increased demand for motorized watercraft usage. This means more pollution, not less. This just adds to the already needed 55% reduction. TRPA does not know how to meet the 55% reduction yet, let alone something higher (e.g. 60 or 65%) when the added pollution from watercraft is taken into account. Instead, TRPA has deferred this mitigation to some future date, without any evidence that there are feasible and effective mitigations available. Further, TRPA has not analyzed an option that would limit watercraft usage, yet this is a reasonable control measure that should be within TRPA’s authority to implement (regardless, NEPA states that agencies shall “(c) Include reasonable alternatives not within the jurisdiction of the lead agency.” 1502.14(c). Therefore, even if questions exist regarding what TRPA can do, the EIS should still analyze an alternative that limits watercraft use.

The best solution for addressing the relationship to the TMDL reductions is to incorporate the shorezone into the Regional Plan EIS so there is one environmental document addressing the entire Basin.
Although we feel TRPA should select the above option, if TRPA chooses a lesser option, then TRPA must at a minimum identify the mitigation (showing it to be feasible and effective) that will mitigate the impacts caused by the Shorezone ordinances and how additional reductions from existing levels will help achieve the TMDL reductions (which involves a cumulative assessment of Basin-wide sources).

4. The Blue Boating Program (BBP), the purported mitigation for the shorezone development, is in itself inadequate. Further, the BBP was presented in an SEIS that never went through the public circulation required by law.

Attached are detailed comments and questions based on the 1/31/07 SEIS, which included the BBP as the claimed mitigation for shorezone development. There are multiple areas where the BBP falls far short of identifying and providing adequate mitigation. As a result, TRPA has not shown how impacts will be mitigated, as required by TRPA's Compact:

“(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall: ...(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following: ...(D) Mitigation measures which must be implemented to assure meeting standards of the region.”

[Article VII (A)(2)(d)]

Without the mitigation measures identified, there is no evidence that feasible and effective measures even exist that could “assure meeting standards of the region.”

TRPA must identify the mitigation measures that will mitigate all impacts associated with the proposed shorezone ordinances. Mitigation measures must be supported by adequate science and no additional development should be allowed until measures are proven effective (implementation of mitigation measures does not mean they are successful).

Further, since we must reduce our pollution by over half, simply mitigating impacts to “less than significant” (or even neutral) is not sufficient to meet our TMDL goals. As we have stated for all TRPA actions, including the new Regional Plan, all plans and projects approved must provide a net environmental benefit. We do not have the luxury of simply “mitigating impacts to less than significant” anymore.

In both cases, the attached comments and questions on the Blue Boating Program in the 1/31/07 SEIS must be addressed. Further, we have incorporated by reference the League to Save Lake Tahoe’s 7/3/08 comments, which include multiple suggestions of mitigation programs that would provide reductions (a quantifiable analysis of impacts, and the reductions from mitigations, must still be performed).

5. Decisions must support environmental thresholds, not political desires

The TRPA Compact [Article 1(b)] requires TRPA to adopt and implement a Regional Plan that will “...achieve and maintain [environmental threshold carrying] capacities while providing opportunities for orderly growth and development consistent with such capacities.” Achieving environmental thresholds relies on sound science. TRPA must also make findings (supported by sound evidence [science]) that any approved Plan or project helps achieve threshold attainment:
“6.3 A Findings Necessary To Approve Any Project: To approve any project, TRPA must find, in accordance with Sections 6.1 and 6.2, that:

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.

2. The project will not cause the environmental threshold carrying capacities thresholds to be exceeded; and

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(d) of the Tahoe Regional Planning Compact, the project meets or exceeds such standards.

6.4 Findings Necessary To Amend The Regional Plan, Including The Goals And Policies And Plan Area Statements And Maps: To approve any amendment to the Regional Plan, TRPA must find, in addition to the findings required pursuant to Subparagraphs 6.3.A(2) and 6.3.A(3) and Subsection 6.3.B, and in accordance with Sections 6.1 and 6.2, that the Regional Plan, as amended, achieves and maintains the thresholds.”

Does TRPA approve projects based on an applicant’s promise to achieve thresholds? No. TRPA requires appropriate evidence to support making these findings. Unfortunately, TRPA has not provided sound evidence to support making these findings for TRPA’s own Regional Plan amendments.

In addition to the lack of focus on achieving the thresholds, another concern was discussed recently. Specifically, at the 5/22/08 Shorezone workshop, the issue was raised that all actions related to the shorezone amendments, going back decades, have been based on the recognition that new piers are not an environmentally positive development, nor desired by the general public. During this discussion, TRPA staff admitted that allowing new piers is purely a political decision. The Compact does not task TRPA with approving development for political reasons; it requires TRPA to make land management decisions specifically for the purpose of attaining and maintaining environmental thresholds. So how can TRPA justify allowing more development that provides no environmental benefit? “Political will” is certainly not appropriate evidence for making the findings required by Chapter 6.

The same can be said for new buoys and development that supports increased usage by motorized watercraft – the impacts of more watercraft are more water and air pollution, more noise, and greater risk of invasive mussel spread, and other threshold impacts, so how is allowing more motorized watercraft providing a positive environmental impact?

TRPA must base decisions on whether the proposed amendments help attain and maintain the environmental thresholds. Period. Thus far, evidence available suggests more piers, buoys and boats will result in negative environmental impacts. No scientifically sound data have been presented that would suggest this increase in shorezone uses will somehow result in a net environmental gain.

6. The existing documents fail to address and/or analyze several other items, including, but not limited to revisions made to the proposed Ordinances, new environmental and scientific information, new laws, etc. The following items represent some of the changes that must be analyzed in a SEIS as discussed under comment number 2.
The items listed below do not reflect all Ordinance revisions or other items that warrant analysis in an SEIS. Rather, they provide some examples of items requiring environmental impact analysis:

a. **Greenhouse gas emissions are not considered:**
   How does the EIS and proposed alternative address California’s AB 32 law? There is no analysis of greenhouse gas emissions in any shorezone document, let alone any regulatory items aimed at reducing greenhouse gas emissions. Additionally, this law should certainly qualify as ‘significant new circumstances or information’ per the NEPA requirement for conducting a supplemental EIS:

   (i) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” [1502.9(c)(ii)]

   If TRPA is to comply with NEPA and CEQA, let alone follow suite with the Agency’s claimed interest in reducing greenhouse gas emissions from Basin activities, then greenhouse gas emissions must be evaluated for the Shorezone Ordinance alternatives. Besides meeting the “new information” test in NEPA, California has made it very clear that greenhouse gases must be evaluated in EIRs to meet CEQA requirements. In fact, last fall California’s attorney general Jerry Brown “...warned county leaders from across the state...that they must reduce greenhouse gases when planning new developments or run the risk of costly lawsuits...” He further states that regarding EIRs, "...If you don't talk about greenhouses gases, we are going to send you a letter. If you still don't talk about greenhouse gases, you might get sued.” TRPA is the ‘local government’ for the Tahoe Basin and has stated that this FEIS is intended to comply with CEQA. Because the FEIS does not address greenhouse gas emissions/AB 32, it fails to comply with CEQA.

b. **Pier-related Ordinances which have not adequately been evaluated:**
   i) What are the impacts of eliminating the limit on public pier length? How will TRPA ensure scenic thresholds are met without any limits?
   ii) Why are new piers allowed in visually sensitive areas and scenic non-attainment areas? TRPA has not provided ample evidence to support the idea that more development will improve the scenic quality of areas.
   iii) What are the impacts of the 6/18 revision allowing pile replacements to be performed as qualified-exempt?
   iv) What impacts on pier eligibility exist as a result of the 6/18/08 revision allowing piers to be constructed even if they do not meet the 6,219’ elevation requirement included in previous versions? (Additionally, the 5/2/08 maps of pier eligibility must be revised to reflect this change).
   v) What are the impacts of the changes to private pier design in Section 54.5.A(2)?
   vi) What are the impacts of the removal of the requirement for “contiguous segment” per section 54.5.A(f)(i)?
   vii) What are the impacts on scenic quality from the removal of section 54.5.A(2)(m)?

---

3 “Counties urged to reduce pollution: State Attorney General says lawsuits can ensue if state’s environmental law is not followed” Oakland, CA. 11/14/07. The Argus-McClatchy-Tribune Information Services via COMTEX.
viii) Section 54.5.A(2)(j) states lighting must point downward (into the Lake). What are the impacts of lighting on fish?

ix) Section 52.2 B. (3) is unclear; it appears that any new pier (that being any pier included in the 128 additional private piers and 10 additional public piers) will not be considered ‘public’ if it does not comply with the definition of public use facility in Chapter 2. However, we are concerned that the Code language might be used to convert existing piers that were permitted for public use to be essentially ‘grandfathered in’ as private piers (and would not count towards the 128 new private piers). We suggest TRPA consider this language and clearly state that this statement applies only to new piers permitted once the new ordinances are adopted and that this provision will not apply to any existing piers or shorezone structures.

x) 52.3. A (2): Please define what “other information” the TRPA may deem as appropriate.

7. The proposed Ordinances will further contribute to the non-attainment of TRPA and California ozone standards.

When the 2006 FEIS was performed, the Basin met the 8-hour air quality standard for ozone. However, California lowered that standard (to 0.07 ppm, 8-hour) based on scientific information regarding the impacts of ozone at lower levels. The new standard took effect in May 2006. The Basin does not meet this new 8-hour ozone standard nor TRPA’s 1-hour standard (0.08 ppm) (see Figures 1a and 1b below). Therefore, TRPA’s required findings [Code section 6.3A (2) and (3); included on previous page] prohibit TRPA from approving plans or projects that will increase ozone (by increasing the pollutants that form ozone: NOx and hydrocarbons [HCs]). Yet per the last analysis of the ‘preferred’ alternative we have (Alt. 6A), the Shorezone Ordinances will result in an increase in NOx and HCs (2006 FEIS, p 3-12). No new data have been presented to suggest lower emissions associated with the now revised proposed alternative, nor have mitigation measures been presented that show quantifiable reductions in NOx and HCs. Further, TRPA can not simply ‘wait’ for 20 years for expected reductions based on the assumption that new boat technology will over time reduce these emissions (as discussed in the SEIS air quality analysis, Section D). We are exceeding the ozone standards now, and therefore action must be taken to reduce ozone now.

- How can TRPA justify an increase in ozone-forming pollutant emissions from watercraft when TRPA is required to meet all federal, state and TRPA standards and yet the Basin is not attaining CA or TRPA’s ozone standards?
Figure 1a. 8-hour ozone data from California Air Resources Board (7/3/08). Yellow text denotes measurements above the state’s standard (0.07 ppm).

Figure 1b. 1-hour ozone data from California Air Resources Board (7/3/08). TRPA’s 1-hour standard is 0.08 ppm; note data show exceedances in 2006 and 2007.

8. The proposed ordinances do not adequately address one of the greatest threats posed to Lake Tahoe from water-related uses: Invasive quagga and zebra mussels.

In May, TRPA staff stated their Code amendments and programs related to preventing invasive mussel introduction are “not part of the Shorezone.” Yet how can they be separated? Mussels pose one of the most serious threats to our Lake, and are introduced by water-related activities. Since the shorezone ordinances will govern water-related activities, there is clearly a direct relationship between the ordinances and efforts to prevent introduction of invasive mussels. Further, as discussed on 5/22/08, staff expect that the inspections that will be required through the future BBP will incorporate invasive mussel inspections as well. If TRPA believes these issues are still unrelated, then is
TRPA planning to divide funding mechanisms so that the BBP dollars only fund that portion of the inspector’s time not spent on invasives? This seems like a ridiculous waste of time and money.

In fact, during the public comment period on 6/26/08, it was recognized that the boat sticker program is based on motorized watercraft emissions, however, because non-motorized watercraft are subject to mussel inspections, they should be required to pay their part as well (in other words, pay a fee that is used to support mussel inspections). Clearly such a fee would need to be included to cover invasive mussel inspections and related activities just as the boat sticker program fees must be included.

Finally, the FEIS was completed in November 2006. The SEIS, although never officially circulated as it should have been, was completed in January 2007. Both documents were completed before the threat from invasive mussels was recognized in 2007. This threat certainly qualifies as “significant new circumstances or information” that requires a supplemental EIS which analyzes the new information. [NEPA 1502.9(c)(ii)].

We recognize the invasive mussel inspections and other actions must continue now, regardless of the outcome of the shorezone ordinances. However, clearly the threat from invasive mussels is directly related to shorezone uses and therefore, shorezone uses and how they relate to the threat from invasive mussels warrants analysis in an SEIS. Further, if and when TRPA implements any type of boat sticker program, the most sensible and justifiable action is to tie invasive mussel prevention into that program such that all users subject to mussel inspections are helping to fund those inspections. However, this does not mean that we believe the random inspection program currently in place is sufficient to stop the introduction of invasive mussels – a more aggressive approach is needed immediately.

If you have any questions or comments, please contact Michael Donahoe at donahoe@charter.net or 775.588.5466 or Jennifer Quashnick at jqtahoe@sbcglobal.net or 530.577.4233.

Thank you for your consideration,

Michael Donahoe,
Conservation Co-Chair,
Tahoe Area Sierra Club

Attachment A: Specific Comments on Blue Boating Program (in 1/31/07 SEIS)
1. **The Program does not adequately analyze mitigation:**

The environmental analysis of the Shorezone Alternatives is inadequate. TRPA is proposing to defer mitigation to some future date. There is no evidence to support the assertion that feasible and effective mitigation measures even exist. The measures summarized in section 54.15.A include a list of general measures that are expected to provide some benefits to air and water quality and noise. Yet there is no quantifiable assessment of what reductions would result from these measures (nor have most measures been adequate defined in a way that would allow quantified estimates).

Further, TRPA lacks the carrying capacities required by the Compact. TRPA has never assessed what level(s) of any given pollutant can be emitted within the boundaries of all federal, state and TRPA environmental standards. The closest “capacity” analysis available, and only for water quality, is the Tahoe TMDL. As mentioned in our main comment letter, TRPA lacks the information needed to determine how to meet the required TMDL reductions based on existing emissions, let alone if we add to those emission sources. For air quality, TRPA has yet to create a Tahoe- Basin emissions inventory and the associated scientific tools needed to assess the amount of air pollution that can be emitted while meeting all air quality standards. Thus, for both air and water quality, the proposed ‘mitigation’ is merely hopeful speculation that mitigation measures exist which will mitigate the shorezone impacts as well as help achieve the TMDL requirements. **TRPA can not and should not make important land management decisions based on speculation.**

An appropriate analysis of mitigation measures might look like Table A-1 (see next page). Regarding this hypothetical representation:

- Mitigation Measures have been completely analyzed and expected benefits have been estimated; all parties needed to implement mitigation have agreed to do so in writing; all other impacts with mitigation measure have been addressed (e.g. if more TRPA staff time is needed then it’s been securely planned for, etc.). In summary, no mitigation relies on agencies or issues that have not yet been resolved or secured for the mitigation to work.

- In the example of water quality, it is assumed that emissions have been estimated using emission rates from tuned boats (which should be the case if the conflicts between the air and water emission estimates in the environmental documentation are resolved - for now, tuned boats, as are used in the air analyses, are assumed). Therefore, the impacts analyzed are based on already tuned boats, so it would not be appropriate to claim mitigation from requiring boats be tuned.

- For the example of noise, the “areas” could represent various needs, for example, Area A could represent an area popular for non-motorized recreation, so mitigation could include limiting or banning motorized boats during a time period to allow non-motorized users to enjoy a quiet experience during those times. Area B could represent an area near important wildlife habitat so limits or bans would be based on seasons and intended to protect wildlife from noise impacts during seasons where they would be negatively affected by noise.

The basic concept is that:

1. **There should be an adequate estimate of impacts from the proposed development.**
a. E.g. 20,000 tons per year of PM [particulate matter] will be emitted and therefore this amount must be mitigated (within the same time frame – TRPA can not wait for technology to ‘offset’ PM emissions in 20 years while permitting more development now).

2. Next, there should be a list of mitigation measures, which mitigate the pollutant impacts such that there is no net increase. However, appropriate environmental analyses which include the TMDL and Regional Plan EIS may reveal the need for a net reduction over existing levels.

3. Mitigation should be directly comparable as well with the impacts being mitigated (i.e. mitigation for PM must mitigate the same amount and chemical type and size of PM as what is emitted from boats).

Table A-1. Hypothetical representation of appropriate analysis of mitigation (for only a ‘sample’ of thresholds and for illustration purposes only)
["M.M. #" denotes an identified, feasible and proven mitigation measure]

<table>
<thead>
<tr>
<th>Category</th>
<th>Estimated Impact at Build-out</th>
<th>Proposed Mitigation Measures &amp; Mitigated Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality</td>
<td>20,000 tons/year PM emitted from boats</td>
<td>Mit. Msr 1: 10,000 tons/year reduced</td>
</tr>
<tr>
<td></td>
<td></td>
<td>M.M. 2: 4,000 tons/year reduced</td>
</tr>
<tr>
<td></td>
<td></td>
<td>M.M. 3: 6,000 tons/year reduced</td>
</tr>
<tr>
<td></td>
<td>TOTAL: 20,000 tons/year reduced</td>
<td></td>
</tr>
<tr>
<td>Water Quality</td>
<td>“10,000” tons/year HC emitted</td>
<td>M.M. 1: 5,000 tons/year reduced</td>
</tr>
<tr>
<td></td>
<td></td>
<td>M.M. 2: 5,000 tons/year reduced</td>
</tr>
<tr>
<td></td>
<td>TOTAL: 10,000 tons/year reduced</td>
<td></td>
</tr>
<tr>
<td>Noise</td>
<td>15% Increase in boat noise(^\text{a}) in Area A</td>
<td>M.M. 1a: Limit number of boats during &lt;TIME&gt;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>TOTAL: 15% reduction of overall noise impacts to group/area of concern</td>
</tr>
<tr>
<td></td>
<td>35% Increase in boat noise(^\text{a}) in Area B</td>
<td>M.M. 1b: Limit no. boats during &lt;season&gt; to...</td>
</tr>
<tr>
<td></td>
<td></td>
<td>TOTAL: 35% reduction of overall noise impacts to group/area of concern</td>
</tr>
<tr>
<td>Recreation</td>
<td>A 20% reduction in existing open and safe, on-lake near-shore areas (for kayaking/canoeing/swimming, etc.) -Equal to a loss of 4,500(^\text{a}) weekend quiet &amp; safe opportunities to recreation on Lake</td>
<td>M.M. 1: Designated areas where structures &amp; buoys will be removed by a predetermined date to increase open and safe areas by 15% = +3,000 oppor.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>M.M. 2: The implementation of a water-trail in all areas of the Lake = +500 opportunities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>M.M. 3: Emerald Bay closed to motorized boats one weekend day per month = +1,000 oppor.</td>
</tr>
<tr>
<td></td>
<td>TOTAL: Creation of 4,500 comparable weekend opportunities on Lake Tahoe</td>
<td></td>
</tr>
<tr>
<td>Lost of 5 miles(^\text{b}) of unimpeded shoreline for public walking over 20 year time frame</td>
<td>M.M. 1: Removal of structures on shoreline such that there is an additional 0.5 mile of unimpeded shoreline implemented per year (for 20 years) [or at a rate equivalent to the loss of unimpeded shoreline] in the same shoreline type and area</td>
<td>TOTAL: Creation of 5 miles of comparable unimpeded shoreline elsewhere on Lake Tahoe</td>
</tr>
</tbody>
</table>

\(^{a}\) Increase in noise assumes individual boats meet noise emission standards.

\(^{b}\) This is a purely hypothetical/made-up number and concept intended merely to represent the need (and use) for quantifiable recreational benefits/units.
Currently, there is no such analysis in the Blue Boating Program. The mitigation is basically conceptual. For example, there is no analysis of how the correct size and type of PM will be mitigated by the suggested mitigation (i.e. wood heater program rebates, better street sweepers, etc.). In order to call this mitigation, TRPA must show how the proposed measures will mitigate the estimated increases in PM emissions. Additionally, TRPA appears to justify increased watercraft emissions based on estimates that in 20 years, technology will reduce emissions to lower levels. TRPA can not defer mitigation for 20 years. If TRPA permits activities which cause more pollution now, TRPA must have effective mitigation measures to mitigate those emissions now.

Finally, after appropriate mitigation remedies are implemented, there needs to be a scientific evaluation to verify if mitigation measures are working as expected. The most appropriate scientific body to do this work is the Tahoe Science Consortium, which should certify the effectiveness of any mitigation program (BBP, fish habitat, placing structures next to water intakes, etc.) through a range of scenarios/cases.

2. No Identified Monitoring Program and Concerns with Supposed “Mitigation:”
   
a. Lack of Monitoring Program:
   There are many references in the SEIS to the “monitoring program” (e.g. Section A) – but where is it? Some sites and sample numbers for water quality are discussed in section C (which are also so minor as to be questionable), but that’s it – what about noise, air quality, recreation, wildlife, scenic, vegetation, soils/SEZ, etc.? A conceptual discussion of things that may or may not occur is NOT mitigation and does not meet the legal review requirements of TRPA’s own Compact as well as NEPA and CEQA, which require mitigation to be included in the EIS.

b. Lack of measures for non-motorized recreation:
   There are no plans that guarantee improved conditions specifically for non-motorized recreationalists, just vague mention of “emphasizing” facilities for these users (p 4, Section A). If it is not required, it is not likely to be done. Also, because TRPA’s thresholds include recreation, which includes non-motorized recreation as well, TRPA has a responsibility to facilitate increased non-motorized recreational opportunities as well. Because the Compact does not prioritize thresholds, simply “emphasizing” non-motorized use could be compared to “emphasizing” the need to meet ozone standards (without actually requiring measures be taken to meet the ozone standards).

c. Inappropriate use of enforcement as “mitigation”:
   In several areas throughout the SEIS, TRPA is claiming that increased enforcement of existing regulations is “mitigation.” This is NOT true. Existing regulations must be enforced now. Mitigation is what one does to mitigate for the added impacts of additional development.

For example, SEIS Section A, p 2, includes a tabular representation of the “mitigation” program. For noise, the “mitigation” is listed as:
"Noise Compliance: Boaters will be required to meet TRPA noise standards and observe the 600-foot no-wake zone. Aftermarket devices such as “Silent Choice” which increase boat noise will not be permitted on the lake. Boaters will be required to self-certify compliance prior to acquiring a Blue Boating Sticker.”

Boaters are already required to meet the noise standards (which therefore prohibits aftermarket devices) and observe the 600 foot No-Wake Zone. These are existing regulations, not new mitigation. Mitigation would include measures that would actually prevent any increases in noise associated with the increased shorezone development and use created by the new Ordinances. Further, the 2001 threshold report showed CNEL standards were out of compliance in 3 of the 7 shoreline areas measured. (It appears only one shorezone area was measured in the 2006 evaluation and it was in compliance). Given the Compact’s requirement to attain and maintain thresholds, TRPA should be adopting measures that create a net reduction in noise, including measures that will ensure all shoreline areas attain all noise standards.

Finally, while enforcing regulations is not in itself “mitigation,” enforcement is a necessary component of any successful mitigation program. TRPA needs to ensure there are adequate enforcement resources to cover the mitigation for the new Ordinances (whether done only by TRPA staff and/or agreements with other entities).

d. Inappropriately deferred mitigation:

The BBP is primarily comprised of deferred mitigation, yet NEPA, CEQA and TRPA’s Compact all require mitigation to be identified in the EIS document and for information to show how mitigation will mitigate impacts (as discussed in the body of our 7/3/08 comment letter and previous TASC comments). Also, as mentioned in previous comments, the EIS fails to fully analyze the environmental impacts of the alternatives. Further, there is no analysis of the currently proposed Ordinances that TRPA will vote on in August (nor is TRPA planning to do an analysis or provide the public an official comment period once the final Ordinances are available). Compounding this lack of analysis is the failure of the SEIS to analyze how mitigation measures will mitigate impacts.

For example, the proposed mitigation for particulate emissions (PM) is deferred to some future date. TRPA has also stated that it does not know how it will mitigate PM emissions, and has inappropriately referred to the idea of using on-land mitigation measures without any analysis. (Further, as noted in our letter, on-land measures are expected to be necessary to meet existing load reductions required by the TMDL). In addition to actually doing the technical analysis, TRPA must also mitigate the same size and “type” of PM that is emitted from watercraft (for example, PM emitted by watercraft has a different chemical composition than that emitted by residential wood heating). Using wood heater PM reductions as

---

4 Locations are only noted by the name. We assume “Sand Harbor” to be a shorezone location; however, we can not determine from the other PAS names whether measurement sites were located on or near the shorezone. The Report does not distinguish area types.
mitigation for PM from boat exhaust would be like reducing nitrogen entering the Lake as ‘mitigation’ for increasing the sediment loading. They are two different components with different environmental impacts.

e. Lack of adequate mitigation for impacts to public access:
TRPA recognizes that new shorezone development, especially private piers, negatively affects public access. Yet TRPA is proposing fees for new piers be paid into a vague program (the “Lake Tahoe Public Access Fund [LTPAF]”) that does not define how the fees will be spent. This program also suggests purchasing existing private piers for $100,000 (based on the physical cost of removing a pier) as mitigation for a new pier somewhere else. There are several problems with this concept:

i) Until TRPA investigates the willingness of lakefront property owners to sell their piers, for what price, and in which locations, there is no way to conclude that the LTPAF will mitigate as expected. Chances are most owners will not remove a pier that adds ~$1 million-dollars of value to their property for 1/10th that amount.

ii) There is no discussion of the different types of locations piers will be added or removed and the associated impacts to public access. For example, allowing a new pier in an area next to a large public beach, where people are more likely to stroll along the beach, creates more impact than adding a new pier on a shoreline that is difficult to access already. Thus, it would be inappropriate for TRPA to ‘mitigate’ this new pier that has greater public access impacts with the removal of a pier from an area the public generally does not use.

iii) TRPA also fails to define what these other LTPAF “mitigations” would entail:
   - Payments to construct or modify public access facilities, with emphasis on non-motorized recreational access, and
   - Restoration of backshore impacts on public lands...” (Section A, p 4).

What types of construction or modifications would qualify? For example, remodeling restrooms on a public beach, or constructing a decorative log fence (typically seen on USFS lands) is clearly not mitigation for impeding public access.

iv) There is no assurance that the LTPAF program will provide any real benefits for non-motorized recreationalists. As mentioned above, information is lacking regarding the impacts to and mitigation for non-motorized recreational use. What does “emphasize” mean (p 4) and what guarantee does this statement provide? (The word “emphasize” provides no legal requirements).

Not only does TRPA need to clearly define the expected impacts to public access from the proposed Ordinances (including where, location characteristics, distance to high and low public use areas, etc.), but TRPA needs to also clearly define the mitigation measures and how they will mitigate public access and recreation impacts.

f. Incomplete and undefined mitigation from “Boat Sticker Program”:
There are several questions surrounding the feasibility of the Sticker Program:
i) The proposed boat sticker program will rely on self-certification (SEIS, Section A, p 2). Can TRPA cite similar certification programs in other areas and how successful have they been? What will the certification program entail and what data show that most, if not all, boat owners will understand the process? How will this work? Does TRPA have the technical resources needed to support an online program? Will TRPA work with watercraft repair shops in CA and NV (outside of the Basin as well) to train them to do certifications?

ii) There is no analysis of what type of program, and fees, are needed to truly ‘mitigate’ the impacts. Further, there is no technical analysis regarding the mitigation for pollution from boats, such as water, air and noise pollution. There is also no analysis of mitigation for the inspections and other program activities related to preventing invasive mussel spread. Given TRPA has no idea what the impacts will be, what mitigations are needed (and what mitigations are feasible and effective), how can TRPA determine what fees are appropriate for mitigating watercraft use?

- How will TRPA staff enforce all requirements of the sticker program? For example, who will check boats for milfoil before they enter the water? Marina representatives have recently asked this question, stating that they do not have the resources to perform such inspections; TRPA has not identified who will do this and how it will be done. Nor has TRPA identified how the program itself will be implemented and enforced. At the 6/26/08 GB meeting, there was some discussion regarding requiring marina owners to take on more responsibility for invasive mussel inspections as well. Do they have the staff capacity for this? What about the training?

- Where is the final analysis showing the 7 mph speed limit in Emerald Bay will be sufficient to prevent any degradation (per Tahoe’s Outstanding National Resource Water requirements)?

3. Relying on Inadequate “Adaptive Management”

The mitigation program relies heavily on TRPA adapting in the future. As the SEIS states (Section G, p 2): “...Adaptive management is ultimately dependent upon the ability of institutions to integrate new information into management decisions and approaches...” We question TRPA’s ability to adapt as needed and in a timely manner to prevent environmental damage.

a. Experiences of the last 20+ years show TRPA failing to adapt to changing environmental conditions and scientific information for years to decades, resulting in continued impacts to the environment in the meantime. For example, TRPA’s water and air quality thresholds for nitrogen loading to the lake (based on achieving lake clarity standards) were known to be inadequate in the early 1990’s, if not sooner, as new science at that time revealed the importance of phosphorous and sediment loading to clarity. Yet TRPA has still not updated its thresholds for phosphorous and sediment loading, nor does TRPA propose to do so in the ETCC and Regional Plan update document. Here is an example of the failure to adapt to new science regarding one of the most significantly recognized environmental
standards (water clarity) for over 15 years. So how can the public trust TRPA to adapt to new science and/or the need for tighter controls associated with the shorezone ordinances?

b. Even in emergency conditions, such as the current threat posed by invasive mussels, the TRPA did not amend their Code to require inspections until May 2008, yet invasives were a known threat in California and Nevada in 2007; in fact, 4 boats were found to be contaminated with mussels at the Truckee agricultural inspection station in 2007 – one was headed for West Shore. Adapting to this significant threat to our environment could have started with TRPA facilitating a meeting with all agencies with jurisdiction related to water-based uses to discuss this threat, determine what must be done to prevent it, and through an agreement (such as an MOU) grant the necessary authorities to TRPA and/or other entities as appropriate to implement those measures; instead, we are now facing major threat from hundreds to thousands of boats and other water vessels launching without inspections because resources to cover them all are lacking (as are the legal authorities for all inspectors to prevent a boat from launching). Although we realize TRPA’s resources (staff and funding) are limited for covering inspections for 2008, several GB members agree that more aggressive actions are needed and are within the authority of TRPA. One action discussed included limiting boat use in the Lake to boats only used in Lake Tahoe. Further, GB members recognized the need for more aggressive actions prior to the July 4th Holiday weekend, when boat usage is substantial, yet on 6/26/08, tabled discussion of more aggressive actions to the next meeting - well after the July 4th weekend. This is clearly a significant failure to adapt!

c. Until TRPA implements solutions that do not rely on multiple GB approvals at ever step (and basically, the existing TRPA process for change), TRPA will never be able to successfully adapt to any environmental change, scientific information, changing planning needs, and so on. TRPA needs to build in actions upfront that are adopted by the GB now (and would therefore go through the public process now), then later be implemented at the staff level or by TWG/expert approval where appropriate, when pre-determined and adopted criteria have been met.

For example, TRPA could build in the following mitigation: if water measurements in Emerald Bay show any increase in pollutants over the 2002 baseline levels, TRPA will immediately close Emerald Bay to motorized traffic. If scientific analysis shows that some level of boats can be allowed (i.e. half of typical peak usage), TRPA will then reopen but limit boat numbers.

d. The current process (and in this case, proposal to rely on it) adds a lot of work to TRPA staff’s workloads without accounting for how it will get done (this is only compounded by other recent demands related to the Tahoe Fire Commission report, the Community Enhancement Program, the Regional Plan Update, and staff hiring freezes). “Limited resources” (e.g. staff time) has often been the explanation from TRPA when things do not get done; although limited staff time is a real problem and needs to be considered, using this as an ongoing excuse for not adapting is unacceptable (nor is allowing more development that will require more staff time without ensuring that staff time will be available).

e. The information provided in the Adaptive Management section (SEIS, Section G) includes no details or substantive information regarding how adaptive
management will be used in the Shorezone Plan. It is a “nice concept” that has yet to successfully work in Lake Tahoe although agencies (esp. TRPA) have been trying to effectively use adaptive management for decades. Lake Tahoe is too important and precious to be used as a “demonstration project” for “testing out” conceptual and undefined adaptive management processes.

f. Information in the Adaptive Management section (G) only reiterates the need to evaluate the Basin as a whole (through the Regional Plan Update EIS process) rather than attempting to Plan for a portion of it now separately (this Shorezone ‘package’). The section discusses the need to test new ideas, monitor to see how they work, and also identify the “performance measures” for thresholds. Thresholds are affected by far more than shorezone activities so in order to follow these adaptive management concepts, shorezone impacts and activities will have to be analyzed in conjunction with all Basinwide conditions. For example, how would researchers know whether a mitigation measure related to watercraft was the reason for a decline or increase in NOx near a monitor on or near the shoreline as opposed to a change in vehicle traffic nearby?

g. Finally, as shown by the lack of analysis in the EIS and deferred mitigation, TRPA has no idea how to mitigate the known impacts from the Shorezone Ordinances, so how can we be confident that TRPA will figure out how to address *yet-unknown future* impacts?

4. Inadequate Response System/Performance Standards:
   It appears that TRPA is planning to wait until an environmental standard has been exceeded before taking any action to reduce impacts (see Performance Standard/Baseline/Threshold for Action in tables in section A and the Performance Measures table in the Adaptive Management Section, Page 5). This is because the Threshold for Action/Performance Measures ARE when the standards are exceeded, not before. This means that the environmental damage will already have been done before TRPA would “adapt.”

a. TRPA should instead identify “trigger” points or trends that are well below each environmental standard; if *appropriate* monitoring shows a trigger point has been reached (or a negative trend identified), then a pre-determined (and pre-adopted) course of action should immediately be taken. For example, this may include immediate multi-expert review of the situation within 30 days of learning of the violation of the trigger level to identify actions to take to prevent the standard from being exceeded; in this case, an expedited approval process and timeline for the recommendations of the group of experts should also be included.

For example, a more appropriate performance measure for NOx would be “no net increase in NOx levels associated with water related uses.” Language would be adopted with the Ordinances where if air quality monitors show an increase in NOx emissions in an area impacted by watercraft use, (i.e. a marina), some immediate action is taken to prevent further degradation (while air quality researchers, perhaps through the Tahoe Science Consortium, assess the data and recommend actions to prevent increases in NOx from boating). This performance measure would therefore not allow the increased air pollution that would be deemed acceptable under the existing Performance Measures (which would allow substantial increases in pollution).

b. In fact, this type of “trigger-response” process is already being done in the Air Quality and Transportation Conformity Community. If a trigger value that is set
slightly below the federal standard for Carbon Monoxide is exceeded, a designated “Conformity Group” is called together to address the situation and work to prevent the standard from being exceeded. This process is already in place so immediate action can be taken if the trigger value is exceeded.

c. To do this, the triggers and/or trends for all environmental impacts would be determined and included in the FEIS, as would be the immediate actions to be taken if a trigger were exceeded. The GB would then be approving these triggers and Actions when they approve the entire Plan, so the actions would already have public review and GB approval. This way, if a trigger is reached, time is saved because those involved can take immediate action. Also, TRPA staff time is not spent reviewing and preparing to take each individual action to the GB. This is one way to better adapt and to do so given limited staff resources.

d. We also recognize that new science and technology will become available over time, and not every contingency can be planned for. The Ordinances should therefore identify triggers and related actions that are possible with existing technology. We also recommend the list of immediate actions to be taken includes review by appropriate experts through the Tahoe Science Consortium (TSC). The annual reviews and reports proposed as part of the Ordinances would be appropriate times to assess new science and technology and make changes, where needed (and through TRPA’s public process), and incorporate recommendations by experts from the TSC peer review.
July 3, 2008

John Singlaub, Executive Director
Tahoe Regional Planning Agency
P.O. Box 5310
Stateline, NV 89449-5310

RE: Proposed Blue Boater Program - Lake Tahoe Shorezone Proposed Program

Dear Executive Director Singlaub:

As recreational boaters who enjoy Lake Tahoe, we support the continued efforts of the Tahoe Regional Planning Agency to protect and enhance the natural beauty of the Lake Tahoe environment. Boaters are quite concerned, however, with the proposed Blue Boater Program and must oppose its adoption in its current form. Despite many overtures from our community, the program still has not been developed through substantive discussions with the boating community.

RBOC is a nonprofit boater advocacy organization that works to protect and enhance the interests of the state's recreational boaters before the legislative and executive branches of state and local government. RBOC is celebrating its 40th anniversary as a statewide organization which since 1968 has continued its commitment to promoting the enjoyment, protection, and responsible use of our waterways.

This program would result in significant fees being paid by boaters to pay for environmental mitigations that are entirely unrelated to boat operation including street sweepers, stoves and wood-chippers.

The proposal fails to adequately incorporate or reflect successful programs in which boaters have actively engaged including the California Clean Boating Network and the Clean Marinas Program, as well as voluntary best management approaches and education efforts. These would be the preferred elements of environmental mitigation.

The necessity of boater mitigations is inappropriately based upon information contained in a University of Nevada-Reno study, since an audit has concluded that the data could not be scientifically supported or verified, since the university has stated that the study should not to be used as the basis for regulatory action.

The program is based upon unrealistic assumptions that there will be a 30% increase in boating activity, especially in light of recent reports demonstrating a decrease in boating.

The program would necessitate significant boater fees ranging from $20 to $200 to raise revenues for a new bureaucracy that is not necessary to accomplish the desired environmental protections. The program rushes to impose a fee on boaters while failing to incorporate funding that could be available from other governmental sources.

The proposal goes far beyond what is required to address the projected increases in boating activity that would occur due to the proposed shorezone program, yet these issues are also being addressed in this proposal.

The proposed decal would place a burden on boaters that is not necessary in order to accomplish the desired objectives of engine tuning, noise reduction, contaminant absorption in bilges, proper sewage management, protection from invasive and aquatic species, and water quality monitoring.

The "blue boating sticker" would require a new and costly bureaucracy.

These issues are of interest to all boaters who enjoy Lake Tahoe. The recreational boating community has a proven track-record of engagement and success in working with state and regional governmental entities to promote reasoned and balanced approaches to environmental protection. Lake Tahoe deserves a better proposal.

Sincerely,

Walt Kadyk
President

C: The Honorable Arnold Schwarzenegger, Governor, State of California
   The Honorable Jim Gibbons, Governor, State of Nevada
   Members, Governing Board, Tahoe Regional Planning Agency

Rboc2008/TRPA/TRPA Shorezone Comments 7-3-08
7-3-08

TO: TRPA

RE: SHOREZONE CODE

COMMENTS PER PROPOSED CODE.
(2) A maximum of ten piers for public use with no maximum rate. A public use shall meet in full the definition of a "public use facility" in Chapter 2.

(3) Under no circumstances shall additional public use piers be converted to private use. Conversion of a public use pier existing at the time of the adoption of this ordinance to a private use may only occur upon payment of the fee described in Section 55.2.B.

(4) If a permit for an additional pier is voluntarily relinquished as a result of a conservation-oriented acquisition pursuant to the Lake Tahoe Public Access Fund or other public or private fund, the additional pier issued by the permit shall count against the total maximum number of additional piers set forth in Section 52.2.B(1). The littoral parcel associated with the acquisition shall be deed restricted from future pier development. [source: new]

52.2.C Eligibility for Additional Piers: Littoral parcels meeting the following criteria shall be eligible for an additional pier.

(1) For the purposes of this chapter, "littoral parcels" refers only to those parcels that met the Chapter 2 definition of littoral parcel as of July 1, 1987, regardless of another jurisdiction's regulatory or judicial action concerning those parcels boundaries (e.g., boundary line adjustments, quit claim deeds or quiet title/partition actions). Those parcels that did not meet the Chapter 2 definition as of that date but subsequently become littoral as a result of a TRPA-approved boundary line change may be eligible as a location for the transfer of shorezone development as long as no increase in development potential results.

(2) Private littoral parcels shall be eligible for an additional pier that if they:

(a) meet the minimum parcel size for a private residence;

(b) could provide necessary upland facilities (e.g., parking, sanitation);

(c) do not have an existing pier;

(d) are not otherwise restricted from additional shorezone development (e.g., via a limiting Plan Area Statement policy, restrictive covenant, or a deed restriction);

(e) meet the location criteria set forth in Chapter 54.5.A.

(f) have received a Certificate of Completion indicating adequate implementation of all required water quality best management practices outlined in Chapter 25 for the project area; and,

(g) do not have access to a private multiple use facility as a result of a legally recorded instrument whose benefit
Language to be deleted is struck out in red. New proposed language is underlined in blue.  

6/16/08

runs with ownership of that parcel and (2) is equal to all others possessing such right of access.

(3) Littoral parcels owned by a homeowners’ association meeting the criteria set forth in Section 52.2.C(2)(b) through (f) inclusive.

(4) Littoral parcels owned by a governmental entity meeting the criteria set forth in Sections 52.2.C(2)(b) through (f) inclusive.

(5) For an additional public pier, littoral parcels owned by public entities meeting the criteria set forth in 52.2.C(2)(b) and (d) through (f). [source: new]

52.3 Application Process for Additional Private Use Piers: TRPA shall process applications for additional private use piers under the following procedures:

52.3.A TRPA shall accept preliminary applications for additional private use piers up to and including December 1 (or the following Monday if December 1 falls on a weekend day) of each year for consideration and action, if possible, in the following year. [source: new]

52.3.B TRPA shall only accept preliminary applications for additional private piers if they include:

(1) at least two eligible parcels for parcels within a scenic shoreline travel route units not in attainment with the applicable indicator for the Scenic Environmental Threshold Carrying Capacity, at least one eligible parcel if it is within a scenic shoreline travel route unit in attainment with the applicable indicator for the Scenic Environmental Threshold Carrying Capacity;

(2) a project site plan, including but not necessarily limited to, all applicants and parcels included in the project area, the proposed pier location, the linear lake frontage of each parcel, all existing piers within 200 feet of project boundaries, any water intake facilities, and other information as TRPA may deem appropriate;

(3) a preliminary assessment of the project’s potential to meet all applicable regulatory criteria, including other governmental and association requirements if any. The preliminary assessment shall address with specificity criteria regarding access, setbacks, scenic requirements, mitigation opportunities and shall provide financial assurances from the applicant of a readily available source of funds to pay all applicable fees, including the Lake Tahoe Public Access Fund fee; and,

(4) an application for a scenic assessment pursuant to Chapter 30.15.B. [source: new]

52.3.C Within 45 days of December 1, TRPA shall:

(1) Rank all applications that meet the criteria set forth in Section 52.3.B based upon the total number of eligible parcels included within the application. TRPA shall also calculate the amount of
52.4 Allocation of Mooring Buoys and Boat Lifts: TRPA shall regulate the number of moorings on Lake Tahoe under the following criteria. As used in this Chapter, a buoy shall refer to a mooring buoy that is either in use or capable of use to moor watercraft:

52.4.A Permit requirement: No mooring may be placed or maintained in the waters of the Lake Tahoe Region unless it is authorized by a permit from TRPA.

52.4.B Maximum number of buoys on Lake Tahoe: The number of mooring buoys, berths in boat houses and boat lifts on Lake Tahoe from all sources shall not exceed 6,316. Of the maximum number of mooring buoys, TRPA shall reserve 200 buoys for allocation to public use facilities. [source: new]

Restriction to littoral parcels: Except as provided in Section 52.4.E(3), only littoral parcels shall be eligible to place a mooring buoy and to receive a permit for buoys from TRPA. The term "littoral parcel" shall have the same meaning as described in Section 52.2.C(1).

52.4.D Maximum number of additional buoys per littoral parcel: Littoral parcels shall be eligible for the following number of buoys.

1. Private littoral parcels with less than 50 linear feet of lake frontage shall be eligible for one buoy.

2. Private littoral parcels with 50 linear feet or more of lake frontage shall be eligible for two buoys.

3. Public parcels or parcels associated with homeowner associations or functionally similar entities shall be eligible for a field of buoys defined by the lake frontage of the littoral parcel(s) as measured from a 50 foot lakeward setback from the high water line, 25 foot side setbacks (as projected according to Section 54.5.B), a maximum 350 foot extension lakeward, and set on a 50 foot grid spacing pattern. For homeowner associations, the number of buoys allocated shall not exceed the number of residential units served with the sole exception for an additional buoy serving littoral parcels under subsection (6).

4. Private littoral parcels with commercial or tourist accommodation uses (excluding marinas) for which buoys are an appropriate accessory structure shall be eligible for the minimum number of buoys necessary to reasonably service the use of the upland facilities if:

(a) the facilities are deed restricted to be open to the public;

(b) the maximum number of buoys shall not exceed the number that could be allocated under subsection (3); and

(c) the buoys shall remain available for use by the patrons of the upland facility rather than rented or leased.
TRPA shall assign buoys to marinas pursuant to Chapter 18.

A littoral parcel shall only be eligible for buoys under one of the subsections of this section. If a buoy field currently exists offshore of a littoral parcel, the littoral parcel shall not be eligible for additional buoys. [SOURCE: new]

Littoral parcels landward of homeowner association buoy fields may be eligible for buoys under subsections (1) and (2) if:

(a) the buoys are located within the homeowners association field and,

(b) in no case shall the total number of buoys in the field exceed the amount possible under the grid calculated in subsection (3).

Authorization of certain existing buoys:

(1) For owners of littoral parcels, TRPA may authorize a maximum of two existing buoys for littoral parcels with less than 50 linear feet of lake frontage or three existing buoys for littoral parcels with 50 linear feet or more of lake frontage notwithstanding the actual number of buoys existing offshore of littoral parcels, if:

(a) a littoral parcel owner provides a verified approval for placement of buoys from a federal or state agency with appropriate jurisdiction; or,

(b) a littoral owner establishes by clear evidence that the owner or predecessor in interest placed the buoy(s) in Lake Tahoe without appropriate authorization prior to 1972.

(2) For persons who are not littoral parcels owners, TRPA may authorize a maximum of one buoy, if:

(a) that person or predecessor in interest received an approval prior to 1972 for placement of buoys from either a state or federal agency with appropriate jurisdiction. In the event the pre-1972 buoy approval is from a federal agency, the person must obtain approval for the buoy from the appropriate state agency prior to consideration by TRPA for approval under this section; or,

(b) clear evidence establishes that that person or a predecessor in interest placed the buoy in Lake Tahoe without authorization prior to 1972 and has subsequently obtained approval from the appropriate state agency.

(3) Any buoy authorized by TRPA pursuant to 52.4.E(2) shall count towards the maximum number of buoys that may be located lakeward of the littoral parcel under Sections 52.4.D or 52.4.E.
Language to be deleted is struck-out in red. New proposed language is underlined in blue.

8/16/08

(4) Buoys authorized pursuant to this subsection shall be located at least 50 feet from any other shorezone structure and shall meet all other applicable location and design standards unless anchor relocation would create significant environmental impacts and does not otherwise interfere with legal placement of buoys by adjacent property owners.

(5) A littoral parcel shall not be eligible for additional buoys under Section 52.4.D if TRPA has approved buoys lakeward of that parcel under Section 52.4.E that meet or exceed the number of buoys set forth in Section 52.4.D(1) and (2). [source: new]

52.4.F Phasing of buoy permits:

(1) TRPA shall not issue permits for buoys that result in the total number of buoys on Lake Tahoe exceeding 4,454 until TRPA has adopted and implemented a Blue Boating Program in conformance with Sections 54.15.A and 54.15.B.

(2) Prior to the adoption and implementation of a Blue Boating Program and subject to the overall limitation of Section 52.4.F, TRPA may issue permits to:

   (a) applicants with an existing buoy(s) that placed the buoy pursuant to a valid written authorization from either a state or federal agency with appropriate jurisdiction;

   (b) applicants with existing buoys who meet the criteria of Section 52.4.E; or,

   (c) applicants without an existing buoy that meet all eligibility criteria.

(3) Any applicant under Section 52.4.F(2) who illegally placed a buoy for which they now seek authorization from TRPA shall pay an additional $5,000 fee.

52.5 Authorization Of Boat Ramps, Boat Slips and Floating Platforms: TRPA shall authorize additional boat ramps, boat slips and floating platforms on the following basis:

52.5.A Boat Ramps:

(1) TRPA shall authorize no additional private use boat ramps.

(2) TRPA may authorize no more than 6 additional public use boat ramps. [source: new]

52.5.B Floating Platforms:

(1) Subject to 52.5.B(2), TRPA shall authorize no additional floating platforms

(2) A littoral parcel owner may substitute eligibility for one buoy for a
floating platform. The littoral parcel owner shall pay the annual buoy fee set forth in Section 5413.B. No watercraft shall be moored to a floating platform or its anchor. [source: new]

52.5.C Boat Slips:

(1) TRPA shall authorize no additional private use slips.

(2) TRPA shall authorize no more than 235 additional public slips. [source: new]

[Boat Lift section missing]
Chapter 53
SHOREZONE PROJECT REVIEW AND EXEMPT ACTIVITIES

Chapter Contents

53.0 Purpose
53.1 Applicability
53.2 General Provisions
53.3 Exempt Activities in the Shorezone and Lakezone
53.4 Qualified Exempt Activities in the Shorezone and Lakezone
53.5 Loss of Exemption

53.0 Purpose: This Chapter implements the TRPA Goals and Policies by setting forth the activities in the shorezone and lakezone that are exempt from permitting requirements and those activities that may qualify for an exemption through the filing of a qualified exempt declaration.

53.1 Applicability: The standards in this Chapter shall apply to the lakezone, shorezone and lagoon areas of lakes within the Region.

53.2 General Provisions: All activities in the lakezones, shorezones and lagoons of lakes within the Region shall comply with the following:

53.2.A An activity which is not specifically exempt (pursuant to Section 53.3), or qualified exempt (pursuant to Section 53.4), or a continuation of an existing use (pursuant to Section 51.2.E), is subject to TRPA review and approval.

53.2.B All activities that are not a permissible use (pursuant to Section 51.2.A), an accessory structure (pursuant to Section 51.2.B), or an existing use (pursuant to Section 51.2.E) are prohibited.

53.2.C No project shall be approved unless the applicable findings can be made in accordance with Chapter 54, and no project shall be built unless the applicant pays all applicable fees. [source: new]

53.2.D Any maintenance, repair or replacement activity pursuant to this chapter shall comply with the shorezone design standards for color and roofs contained in Section 30.6.A and Table 1 of Chapter 54.

53.2.E An exempt or qualified exempt activity shall not create additional land coverage or relocate any existing land coverage. [source: 52.3.C]

53.3 Exempt Lakezone, Shorezone and Lagoon Activities: The following activities are exempt from TRPA review and approval:

53.3.A Repair, maintenance or in-kind replacement of an existing structure, or the demolition of an existing structure less than 50-years old. To obtain possible credit for land coverage or existing development, TRPA verification is required prior to any demolition. An qualified exempt activity must meet all the following standards:
Language to be deleted is struck out in red. New proposed language is underlined in blue.

6/16/08

(1) no discharge occurs to the waters of the Region and the structure is in accordance with the Shorezone Design Standards in Chapter 54.

(2) temporary construction best management practices are implemented and all below-water construction activities occur from October 16 through April 30, if the structure is within fish spawning habitat, per appropriate NEA Agency.

(3) no disturbance of the backshore, lake substrate or Tahoe Yellow Cress habitat occurs.

(4) the activity complies with Section 30.6.A; and.

(5) the structure is legally existing with respect to TRPA requirements and has not been unserviceable for the last three years. [source: 52.3.C(1) & staff cleanup]

53.3.B The consolidation of one or more parcels, provided that a deed restriction that permanently consolidates the parcels is recorded by the affected owners; no parcel is subdivided or has its boundaries changed (other than by the elimination of the boundary line(s) separating the consolidated parcels); and, no reduction in recreational access occurs through the consolidation. [source: portions from 52.3.B(3) & 4.11, staff cleanup]

53.3.C Water-oriented outdoor recreational (dispersed) uses that do not require the construction of permanent structures. [source: staff cleanup]

53.3.D Water-oriented public service uses that are law enforcement activities that do not require the construction of permanent structures. [source: staff cleanup]

53.3.E Temporary activities which do not create threshold impacts, and which comply with Subsection 4.2.C. [source: 4.2]

53.3.F Water-oriented scientific studies and research projects that do not require the discharge of substances or the placement of structures or the disturbance of land or lake bottom in the lakezone, lagoon or shorezone of the Region. [source: staff cleanup]

53.3.G Beach raking activities covered by an MOU entered into pursuant to Section 4.5. [source: new]

53.4 Qualified Exempt Activities: No TRPA review and approval is necessary for the following activities if the activity fully meets one or more of the categories in this section and the applicant files a properly completed TRPA Qualified Exempt declaration form pursuant to Section 4.3 with TRPA at least three working days before the activity begins. [source: 52.3.C, staff cleanup]

53.4.A Repair, maintenance or in-kind replacement of an existing structure, or the demolition of an existing structure more than 50-years old. To obtain possible credit for land coverage or existing development, TRPA verification is required prior to any demolition. A qualified exempt
activity must meet all the following standards:

(1) The activity shall not result in a change of use or an increase in the area or dimensions of the structure, including height, width, length or overall area. [source: staff cleanup]. Any associated excavation, filling or backfilling located above the highwater line (6229.1) elevation or the elevation or the equivalent highwater line at other lakes is completed within 48-hours, has a volume of no more than three cubic yards, is stabilized to prevent erosion, and does not involve grading activities, in a single event or series, that cumulatively exceeds seven cubic yards; [source 4.3.A(5)]

(2) No excavation, grading, or filling occurs below the highwater line (6229.1 elevation or the equivalent highwater line at other lakes). However, replacement of piles, or replacement of 3 cubic yards or less of rock within an existing rock crib pier or jetty or similar structure that have fallen out of the structure, can be accomplished pursuant to this section. Any such work shall not involve handling or distributing clay, silt, or sand embedded in the structure; [source: staff cleanup]

(3) This exemption shall not be used to phase a project that would otherwise require a permit, by breaking a project into a series of qualified exempt activities where the project would otherwise require a permit. [source: new staff]

(4) The structure is legally existing and has not been unserviceable for the last three years; [source: 52.3.C(1) & staff cleanup]

(5) The activity does not involve the replacement of vertical walls;

(6) The applicant shall submit to TRPA, together with the Qualified Exempt Declaration, a water quality BMP completion schedule for the project area; [source: 25.2.B(2)(C)]. In shorezone areas containing spawning gravels, construction can only occur between October 1 and May 1 unless TRPA conduct a site analysis in coordination with other appropriate agencies and finds that the proposed activity will not have a detrimental effect on the spawning habitat, spawning fish, incubating eggs, or fry; [source: Shorezone Partnership, staff cleanup]

(8) In kind replacements:

(a) Replacement of a rock crib pier, jetty or breakwater shall not be considered a qualified exempt activity, except as allowed in (2) above.

(b) A pier or similar structure may be replaced if, in addition to meeting the other provisions of section 53.4.A, the replacement structure's foundation meets the requirements of Section 54.5.A(2)(A).

(9) The applicant certifies that it has contacted all appropriate public agencies or private entities to ensure that any element of the
activity will not affect any underground utilities;  

(10) the activity complies with Section 30.6.A; and,  

(11) the applicant certifies that the activity will not adversely affect Tahoe Yellow Cress or other sensitive plant species.

53.4.B The demolition of structures 50 years or greater in age, provided that the demolition meets all the requirements in Subparagraph (1) above and that the structure, improvement or facility is not designated, pending or eligible for designation, on the Historic Resource Map, and the Qualified Exempt Declaration is accompanied by the results of a TRPA historic determination [source: 43.3.A(7)]

53.4.C The repair or replacement of an existing anchoring device or chain for a mooring buoy authorized by a TRPA permit. [source: 52.3.C(3)]

53.4.D The repair of an existing fence that complies with the applicable standards for fences in Chapter 54. [source: 52.3.C(2), Shorezone Partnership, staff cleanup]

53.4.E The repair or in-kind replacement of legally existing piers, floating swim platforms and shoreline protective structures in Tahoe Keys lagoons. [source: 52.3.C(3)]

53.4.F A change in operation that generates less than 100 additional vehicle trips and adds less than five additional motorized watercraft, provided there is no change from one use classification to another, the resulting use is allowed by this Chapter, there is no increase in threshold impacts (e.g., noise, water quality, etc.), and the applicant pays the applicable TRPA air quality mitigation fee. [source: 52.3.C(6)]

53.4.G Placement of one sign up to 12" x 18" above highwater in size in accordance with the sign standards in Table 1 of Chapter 26 [source: 26.3.(13)]

53.4.H Relocation of boulders for navigational purposes provided that the character and habitual function throughout the project area is maintained and the relocation is consistent with Chapter 28. [source: new]

53.5 Loss of Exemption: An exempt or a qualified exempt shorezone activity shall lose its exemption and be reclassified as a project, if TRPA finds that the activity meets the criteria set forth in Section 4.6. [source: 52 3.D]
Chapter 54
SHOREZONE PROJECT FINDINGS AND DEVELOPMENT STANDARDS

Chapter Contents

54.0 Purpose
54.1 Applicability
54.2 Definitions
54.3 Shorezone Findings
54.4 General Standards for Shorezone Development
54.5 Project Location and Design Standards
54.6 Scenic Protection Standards
54.7 Non-Exempt Repairs, In-Kind Replacements, Modifications or Expansions of Existing Piers
54.8 Non-Exempt Repairs, Modifications or Expansions of Other Shorezone Structures
54.9 Relocation, Transfer or Conversions of Existing Structures
54.10 Marinas
54.11 Dredging
54.12 Maintenance of Shorezone Structures
54.13 Mitigation Fees
54.14 Motorized Watercraft

54.0 Purpose: The Shorezone Subelement, Conservation Element of the Goals and Policies requires TRPA to regulate the placement of piers, buoys, and other structures in the lakes and lagoons of the Region to avoid degradation of fish habitats, creation of navigational hazards, interference with littoral drift, and interference with the attainment of thresholds and other relevant concerns. The Shorezone Subelement indicates that provisions should be made to allow multiple-use facilities when such uses are intended to reduce the number of single use piers on adjoining properties. Structures legally existing in the shorezone or lagoons in the Region prior to the effective date of the Regional Plan July 1, 1987 or structures legally constructed thereafter, are recognized as existing structures, provided that the structure has not been unserviceable beyond the time limits set forth in Subsection 54.8.A(1). Since some existing structures do not conform to the Code standards for structures, Goal 1, Policy 11 of the Subelement requires that for maintenance, repair and modification, TRPA set requirements appropriate for the situation.

54.1 Applicability: The standards in this chapter apply to all projects and activities in the shorezone, which includes the nearshore, foreshore and backshore and lagoon areas of Lake Tahoe and other lakes in the Region. Repair, reconstruction, modification, expansion and relocation of existing structures located in the backshore shall be regulated in accordance with standards set forth in Chapter 18 and 4. When a structure in the foreshore extends into the backshore, that portion of the structure in the backshore shall be regulated pursuant to Chapters 53 and 54.

54.2 Definitions: As used in this Chapter, the terms listed below shall have the
following definitions notwithstanding any other provision in Chapter 2.

**Expansion:** A change in the dimension, footprint, configuration, exterior feature or substrate disturbance in a shorezone structure that expands its existing volume or visual mass. [source: new]

**Modification:** A change in the dimension, footprint, configuration, exterior feature or substrate disturbance in a shorezone structure without expanding its existing visual mass. or navigable water area occupied

**Private Use Facility:** All shorezone facilities that do not meet the definition of a public use facility. [source: new]

**Unservicable:** A structure that can no longer serve the function for which it was designed. [source: 52.2.D]

### 54.3 Findings Required for Lakezone, Shorezone, and Lagoon Projects

No project or activity within the lakezone, shorezone, or lagoon of lakes of the Region, shall be approved unless TRPA makes all the applicable findings listed below. [source: 50.3]

#### 54.3.A Findings for all Projects:

1. **General Environmental Findings:** TRPA must analyze and make the required environmental findings pursuant to Chapter 5. In addition, such environmental findings must demonstrate that the project will not adversely impact littoral processes, fish spawning, backshore stability or on-shore wildlife habitat, including waterfowl nesting areas. [source: 50.3.A(1)(2)(3)(4)]

2. **Chapter 6 Findings:** Prior to approving any project TRPA must analyze and make the findings pursuant to Chapter 6. [source: Chapter 6]

3. **Accessory Facilities Findings:** TRPA must find that there are sufficient accessory facilities to accommodate the project. [source: 50.3.B]

4. **Compatibility Findings:** TRPA must find that the project is compatible with existing shorezone and lakezone uses or structures in the immediate vicinity of the project area or that modifications of existing non-compatible structures will take place to assure compatibility. [source: 50.3.C]

5. **Water Dependant Use Findings:** TRPA must find that the proposed use any project in the lakezone, shorezone nearshore, foreshore or lagoon is water-depandant. [source: 50.3.D]

6. **Hazardous Material Findings:** TRPA must find that measures will be taken to prevent spill or discharges of hazardous materials. [source: 50.3.E]

7. **Navigation and Safety Findings:** TRPA must find that the project will not adversely impact navigation or create a threat to public
Language to be deleted is struck-out in red. New proposed language is underlined in blue.

6/16/08

safety pursuant to the determination of agencies with jurisdictions over the navigable waters in the Basin. [source: 50.3.G]

(8) Other Agency Comment Findings: TRPA must find that it has solicited comments from those public agencies having jurisdiction over the lakezone, shorezone and lagoon, and that all comments received from such agencies were considered prior to taking action on the project. [source: 50.3.H]

(9) Construction: Construction and access techniques will be used to minimize disturbance to the ground and vegetation. [source 50.3.F]

54.3.B Additional Findings for Special Use Projects:

(1) The project, and the related use, is of such a nature, scale, density, intensity and type to be appropriate for the project area, and the surrounding area. [source: 18.1.B(1)]

(2) The project, and the related use, will not injure or disturb the health, safety, environmental quality, enjoyment of property, or general welfare of the persons or property in the neighborhood, or in the Region. [source: 18.1.B(2)]

(3) The project, and the related use, will not change the character of the neighborhood, detrimentally affect or alter the purpose of any applicable plan area statement, community, redevelopment, specific, or master plan. [source: 18.1.B(3)]

54.3.C Additional Findings for Public Outdoor Recreation Facilities Creating Coverage or Permanent Disturbance in the Backshore:

(1) The project is a necessary part of a public agency's long range plans for public outdoor recreation. [source: 55.4.A(1)]

(2) The project is consistent with the recreational element of the goals and policies. [source: 55.4.A(2)]

(3) The project, by its very nature, must be sited in the backshore. [source: 55.4.A(3)]

(4) There is no feasible alternative that avoids or reduces the amount of land coverage or disturbance proposed in the backshore. [source: 55.4.A(4)]

54.3.D Additional Findings for Public Service Facilities Creating Coverage or Permanent Disturbance in the Backshore:

(1) The project is necessary for public health, safety or environmental protection. [source: 55.4.B(1)]

(2) There is no reasonable alternative that avoids or reduces the amount of land coverage or disturbance in the backshore. [source: 55.4.B(2)]
54.3.E Additional Finding for Coverage or Disturbance in the Backshore
Created to Allow Access to Structures Or Uses in the Nearshore or the
Foreshore: The amount of land coverage is the minimum that is
necessary when all Thresholds are taken into consideration to provide
access to an approved or an existing structure or use located in the
nearshore or foreshore. [source: 55.4.D]

54.4 General Standards for Shorezone Projects: In addition to applicable
requirements elsewhere in this Chapter, projects in the shorezone shall meet the
following standards:

54.4.A Vegetation: No naturally occurring vegetation shall be manipulated or
disturbed except in accordance with Subparagraph 20.4.B(5). No
planting of new vegetation, or manipulation of naturally occurring
vegetation, shall be permitted in the shorezone, unless such activities
comply with the standards in Subparagraph 20.4.B(5). [source:
52.3.G(1c), 52.3.G(2c) & 55.4]

54.4.B Public Access:

(1) A subdivision or boundary line adjustment (including lot
consolidation) must provide for specific full mitigation for any
resulting loss of public access to the shores of Lake Tahoe
or other lakes in the region. Mitigation may include
dedication of public access easements to the lake or laterally
along the lake where legal access along the shoreline is
adversely affected. [source: new]

(2) Structures Crossing Public Access Areas: Projects involving
additional, relocated or existing structures which cross public
easement or public trust areas along the shoreline of Lake
Tahoe shall be reviewed to ensure the structures will not
interfere with public access pursuant to the following criteria.

(a) Additional and Relocated Structures: No additional
or relocated structure shall unreasonably interfere
with legal public access. Limitations on public
access, that are necessary to protect sensitive
species, identified cultural or historic resources, or
safety of the general public shall not constitute
unreasonable interference under this section
provided that the interference with public access is
limited to the minimum extent and time necessary
to accomplish the public purpose.

(b) Existing Structures: The non-exempt replacement,
modification or expansion of any existing
shorezone structure that unreasonably interferes
with legal public access shall, to the extent feasible,
eliminate any structure causing the unreasonable
interference. If it is not feasible to remove the
unreasonable interference, then the applicant shall
provide some reasonable public access
accommodation.
54.4.C Water Quality and other BMPs: All shorezone projects shall install and utilize BMPs on the entire project area in accordance with the BMP standards, including but not limited to those applicable BMPs attached to this Chapter as Appendix A. [source: new]

54.4.D Special Project Conditions: Any special project conditions of approval shall be guided by the unique characteristics of the project area, and the nature of the backshore (utilizing Policies 1 and 2, Goal #1 of the Shorezone Subelement, Conservation Element of the Goals and Policies), as well as the following objectives:

(1) The protection of significant vistas.

(2) The preservation of the site and shorezone from environmental harm during and after construction.

(3) Protection of views of adjoining development.

(4) Providing sufficient space for proper infiltration of runoff and nutrient uptake through natural processes. [source: 55.7 & 55.8]

54.4.E Backshore Coverage and Land Disturbance:

(1) No additional coverage or permanent land disturbance shall occur in the backshore unless it is for an authorized shorezone permissible use or accessory structure.

(2) The impacts from authorized coverage and disturbance must be mitigated through the application of BMPs, and the restoration at the rate of 1.5 times the backshore area covered or permanently disturbed by the project. Said restoration shall be in-kind in the backshore and shall comply with the restoration standards in Subsection 20.4.C.

(3) The allowable base land coverage in the backshore is one percent (1%). However, it shall only be utilized outside of the backshore portion of the parcel unless it is for one of the uses listed above.

(4) No erosion control projects, which create coverage or permanent disturbance in the backshore, shall be permitted unless:

(a) The project, program or facility is necessary for environmental protection; and

(b) There is no reasonable alternative, which avoids or reduces the extent of encroachment in the backshore. [source: 55.4]
Projects in Fish Habitat: This section applies to projects undertaken in areas identified as “Spawning Habitat” or “Feeding and/or Escape Cover Habitat” on TRPA’s Prime Fish Habitat map, adopted on April 26, 1984, as amended or areas meeting applicable definition for “Spawning Habitat” or possessing similar characteristics for “feeding and/or escape cover” habitat. As used in this section, “fish habitat” means those areas mapped as either “spawning” or “feeding and/or escape cover” or areas having similar characteristics.

(1) All man-modified fish habitat within the project area shall be restored as part of the project where the modification occurred after 1976, unless permitted by agencies having jurisdiction.

(2) No new dredging or placement of new or expanded boat ramps shall be permitted in spawning habitat.

(3) All projects located in spawning habitat as verified by TRPA and which have the potential to detrimentally impact spawning fish, spawning gravels, the incubating eggs or the emerging fry shall be subject to a case-by-case review by TRPA and the appropriate Fish and Wildlife agency regarding the applicability of the October to May construction window and to determine whether the project impacts can be mitigated.

(4) In addition to the restoration obligation set forth in Section 54.4.F(1), any potential impacts to spawning habitat shall be mitigated by replacing the impacted habitat at a rate of 1.5 to 1 using one of the following methods, or, a combination thereof, as determined appropriate by TRPA:

(a) Replacement “in-kind” with similar spawning gravels of equal or greater function and value either on-site or off-site.

(b) Construction of complimentary habitat adjoining the remaining spawning gravels on-site, where it can be demonstrated that the complimentary habitat will restore or enhance the spawning habitat by substantially increasing the function and value.

(c) Purchase of restoration credits for similar habitat function and value from a fully functioning fish spawning habitat restoration bank established in accordance with Section 54.4.F(7).

Any mitigation using the methods set forth in subsections (a) and (b) shall include implementation and funding of an approved monitoring and remedial action program that will ensure the effectiveness of the mitigation. Any mitigation using the methods set forth in (a) and (b) must be completed and determined to be successful by TRPA or a third party scientific peer review prior to the pier or shorezone structure construction.

(5) In addition to the restoration obligation set forth in Section 54.4.F(1), any potential impacts to existing feeding and/or escape...
cover habitat shall be fully mitigated.

TRPA may collect any reasonably necessary fee to fund TRPA's review of a project application and replacement/restoration plan (including any necessary third party consulting services) and to monitor the compliance and effectiveness of mitigation approved under this section.

Fish Habitat Restoration Bank: TRPA may establish a fish spawning habitat restoration banking program for the purpose of implementing high quality spawning habitat restoration projects and creating opportunities for restoration that may not be available with project-by-project mitigation.

(a) The program shall establish criteria and priorities, methods for determining credits and debits, standards for determining bank success and credit availability, and any other requirements or guidelines necessary to implement the program.

(b) No credits in any restoration project shall be available for use as mitigation unless and until, at a minimum, the restoration project has been constructed and is fully functioning, and TRPA or a third party scientific peer review has determined that the restoration is successful.

(c) The cost of mitigation credits shall be calculated by TRPA such that the sum of all credits available from a mitigation project is equal to the total cost of that project, including the cost of planning, design, acquisition, construction, maintenance, and monitoring, as well as a reasonable contingency cost to provide for potentially necessary remedial actions.

(d) A restoration project authorized by this subsection may be undertaken by TRPA directly or in partnership with one or more other governmental agencies or qualified non-profit entities. TRPA is authorized to enter into cost-sharing and reimbursement agreements with any such partners under which those partners may be reimbursed for their share of project costs using mitigation credit proceeds.

(e) Mitigation credits shall not be given for existing habitat restoration projects, planned restoration projects that have already been programmed and funded, or restoration projects intended to provide mitigation for activities other than those for which credits are purchased.

[source: fish study & Shorezone Partnership/new]

(8) Peeling or Projects Located in Spawning Habitat: TRPA shall not approve any project located in spawning habitat until the Fish Habitat Restoration Bank of Section 54.4.F.(7) is fully functioning or individual on or off-site project mitigation is completed and
deemed fully functioning as determined by TRPA or an external scientific peer review.

(9) Agency Coordination: For the mitigation measures described above, TRPA shall coordinate the site selection and design with appropriate local and state fishery agencies.

Projects shall be reviewed to determine impacts.

54.4.G Topline Fishing: No projects shall be permitted if such project shall create significant adverse impacts to topline fishing access that cannot be mitigated. TRPA shall make this determination in consultation with California Fish and Game and Nevada Division of Wildlife. [source: Shorezone Partnership]

Projects that May Impact Historical/Cultural Resources: Projects that may impact historical/cultural resources shall comply with the mitigation, construction and survey measures in Chapter 29. Where appropriate, TRPA shall require signage to educate the public that explains the importance of the historical/cultural resources and the sensitivity to disturbances. However, in lieu of the above, at mapped historical Washoe Indian resource sites, TRPA shall, in coordination with the Washoe Tribe, provide educational materials to property owners aimed at encouraging protection of the resources associated with the sites. [source: Shorezone Partnership]

54.4.I Recreation Projects: All projects classified as recreation use shall be required to submit an operating plan or equivalent document demonstrating that spatial conflicts with other recreational uses will not be significant as a result of the project. TRPA shall ensure that shorezone recreational projects are designed to avoid overuse and to avoid conflicts between recreation users. [source: Shorezone Partnership]

54.4.J Projects That May Impact Sensitive or Uncommon Plants: Projects that have the potential to detrimentally impact sensitive or uncommon plants shall comply with the mitigation, construction and survey measures listed in Chapter 75 and the Tahoe Yellow Cress Conservation Strategy. Where appropriate, TRPA will require interpretive signs to educate the public, designated trails through high-use areas and/or fenced enclosures to protect vulnerable plant populations. [source: Shorezone Partnership]

54.4.K Structures And Uses In Lagoons and Lakes Other Than Lake Tahoe: All projects and activities permitted by this chapter in the nearshore and foreshore of Lake Tahoe may be permitted by TPRA in lagoons and other lakes in the region pursuant to the permissible use regulations set forth in the plan area in which the project or activity is located. The location, design and construction standards for such structures shall be determined using standards in this chapter as guidelines. These standards may be established in memorandums of understanding between TRPA and appropriate homeowner associations. [source: 54.10]

54.4.L Review of Support Facilities: Whenever review of a structure, use or activity is required by the terms of this chapter, such review shall
additional pier on the parcel as a result of a streammouth setback, or a deed restriction, restrictive covenant, plan area statement or similar legal preclusion.

N = The number of existing private or public piers including those approved but not yet built. [source: new]

(c) **Pier Separation and Specific Location:** No additional pier shall be located within 50 feet of any existing pier as measured at the pier head (including boat lifts). The pier shall be located on the parcel to minimize impacts to the environment and legal public access. [source: new]

(d) **Pier Functionality:** No additional private pier may be located on a parcel where the maximum pier length allowed by Section 54.5.A(2)(c) fails to reach a lake bottom elevation of 6219 feet, Lake Tahoe Datum or the pier head line.

(e) **Shorezone Preservation Areas and Streammouth Protection Zones:** No additional piers shall be located in Shorezone Preservation Areas under Chapter 50, except as may be provided by Section 50.4.B(2). No additional piers shall be located in Streammouth Protection Zones designated under Chapter 50.6 [source: new]

(f) **Prohibition on Additional Single-use Piers:** With the following exception, no additional private single use pier shall be located in any scenic shoreline travel route unit not in attainment with the applicable indicator for the Scenic Environmental Threshold Carrying Capacity. A single use pier may be approved in a non-attainment shoreline travel route unit if the applicant retires the development potential for a pier from another undeveloped littoral parcel that is:

(i) within the same contiguous segment of scenic unit and within the same or more sensitive shoreline character type,

(ii) has at least 50 feet of lake frontage, and

(iii) is otherwise eligible for all pier shorezone development. [source: new]

(g) **Water Intakes:** No additional piers or other shorezone structures shall be located within 1,320 feet of a public water intake unless:

(i) the applicant prepares an assessment of the risk to the public water supply from the pier's proposed location and submits the risk assessment to both
TRPA and the applicable public water purveyor, and,

(ii) the applicable public water purveyor recommends to TRPA that the proposed location of the pier is acceptable or would be acceptable if changes were to be made to the pier's design, use, location, construction method or other modification. [source: new]

(2) Private Use Pier Design: Private use piers shall conform to the following design standards.

(a) **Pier Width:** For a single use pier, the maximum pier deck width shall be 6 feet plus one 3-foot wide catwalk. For a multiple-use pier, the maximum pier deck width shall be 10 feet plus two 3-foot wide catwalks. [source: new/54.4.B(1)]

(b) **Pier Deck Surface:** Pier decks shall be surfaced with wood or other material which is non-reflective, matte finish and in a color to maximize blending with surroundings.

(c) **Pier and Catwalk Length:**

(i) Single-use pier length shall not exceed the lesser of 150 feet from highwater, to lake bottom elevation 6219 feet, Lake Tahoe Datum or to the pier head line.

(ii) Multiple-use pier length shall not exceed the lesser of 300 feet from high water or to lake bottom elevation 6219 feet subject to the limitation on maximum visible mass in subsection (f) below.

(iii) If application of the 6219 elevation standard in certain deep water shorelines precludes construction of a functional pier, additional minimal length may be approved.

(iv) The maximum length of the catwalk shall be 45 feet.

[source: new/54.4.A(4), 54.4.B(1) & Shorezone Policy Committee]

(d) **Pier Head and Directional Orientation:** The maximum size for pier head shall be 10 feet in width by 30 feet in length. Up to 45 feet of pier head length may be permitted for a multiple use pier for the sole purpose of feasibly placing boat lifts end-to-end. The pier shall extend perpendicularly from the highwater line. No doglegs, "L's" or other directional deviations shall be allowed. [source: new/54.4.B]
mass (excluding the amount allowed for boat lifts). [source: new]

(i) Foundations: Piers shall be built using single pilings placed on a minimum of 15-foot centers. Double pilings may only be used where safety or engineering concerns make single pilings infeasible. No pier foundation shall extend above deck or be less than 90% open. Pier heads may be supported by double pilings. TRPA may permit deviation from these standards for floating piers. [source: new/54.4.B]

(j) Lighting: Light standards on piers shall be directed downward and only onto the pier deck, and shall not exceed two feet in height above the deck. They shall be the minimum illumination necessary to ensure safety, and shall comply with all applicable standards in Chapter 30. Pier lights for navigational purposes must be approved by the United States Coast Guard and the Army Corps of Engineers. [source: Chapter 30 & new/staff]

(k) Flag Poles: A maximum of one flagpole is permitted on any private pier. Flag poles shall be medium or dark in color and shall have a value of 4 or less on the Munsell Color Chart. Flag poles shall have a non-reflective finish, shall be a maximum of 20 feet high above the pier deck and have a maximum diameter at the base of 6 inches. [source: scenic study]

(l) Multiple Use Requirements: Notwithstanding the definition in Chapter 2, a private pier shall be considered a private multiple-use pier if:

(i) the pier serves at least two littoral parcels that satisfy all of the eligibility requirements of Section 52.2.C(2) and all parcels served shall be located within the same scenic unit or be adjacent to each other and record a deed restriction permanently restricting additional pier development (including the transfer of an existing pier) on all parcels included within the application for the multiple use pier; or,

(ii) the pier serves a homeowners association or functionally similar entity. The designation of a pier as multiple-use pier under this subsection shall excuse the applicant from meeting all other applicable criteria for an additional pier including Section 52.3.B(1).

(m) Non-Conforming Shorezone Structures: As a condition of approval for any additional private pier, the applicant shall remove or bring into conformance all nonconforming accessory structures in the shorezone of the project area. [source: new]
Public Use Pier Design: Public use piers shall conform to the design and location standards for private use piers except for pier length, width, pier head, pier deck, and maximum visible mass and functionality. The extent of the deviation from the standards for these criteria shall be decided on a case-by-case basis depending upon the public needs to be served by the pier consistent with attaining and maintaining thresholds. [source: new] AND ALL IMPACTS ARE MITIGATED

54.5-B Buoy

(1) Location: Mooring buoys in the shorezone shall meet the following location standards.

(a) Subject to subsection (d), for littoral parcels with less than 50 linear feet of lake frontage, the single buoy permitted by Section 52.4.D(1) shall be located within the projected parcel boundary lines, at least 50 feet from any other existing structure and within 350 feet lakeward of highwater.

(b) Subject to subsection (d), for littoral parcels with at least 50 linear feet of lake frontage, the two buoys permitted by Section 52.4.D(2) shall be located at least 25 feet from the projected parcel boundary lines, at least 50 feet from any other existing structure and within 350 feet lakeward of highwater.

(c) Buoy fields shall be located within the grid described in 52.4.D(3), with the exception that buoys may be located beyond 350 feet from highwater if necessary to reach a water depth to support watercraft navigation. The extension lakeward beyond the 350-foot limitation shall not result in any additional number of buoys allocated to the buoy field under 52.4.D(4)"

(d) For the purposes of this section, parcel boundary lines shall generally be, projected perpendicularly to the tangent of the shoreline from highwater. For unique circumstances, such as small coves with a radius insufficient to meet the setback standards of subsections 54.5.B.2(a) and (b), TRPA shall, in consultation with other public agencies having regulatory jurisdiction in the shorezone, draw projection lines to distribute equitably the area among the parcels.

(e) For projects covering multiple parcels, in unique circumstances such as coves, or as needed to address scenic or substrate disturbance impacts, TRPA in its sole discretion may aggregate buoy locations to permit an existing nonconforming buoy location to be maintained.

(f) No additional buoy fields shall be located within a Shorezone Preservation Area, except as may be
Language to be deleted is struck out in red. New proposed language is underlined in blue.

6/16/08

below the highwater line.

(1) to protect the health or safety of the general public or to prevent trespass on private property from adjacent areas of public access in the shorezone, but only if a TRPA-approved signage plan has proven ineffective to prevent trespass to protect public health and safety and provided such fence is approved by agencies having jurisdiction; or,

(2) to protect sensitive species or identified cultural resources.

(c) Nothing in this section shall be construed as exempting fences from the requirement that structures avoid unreasonable interference with public access in accordance with Section 54.4.B(2).

(d) Any fences approved below the highwater line shall be designed so that they can be retracted or telescoped landward. Such fences must be telescoped landward whenever lake levels rise in order to prevent them from extending into the Lake.

(e) Fences extending below highwater line that were legally existing prior to 1987 and are consistent with the requirements for existing structures set forth in Section 54.4.B(2) may be repaired or replaced as long as the fence telescopes landward, or is modified to so telescope, and is telescoped landward whenever necessary in order to prevent the fence from extending into the Lake. [source: 54.11.A and 54.11.B(4), new/Shorezone Partnership and new/staff]

(6) Breakwaters, Jetties, Rock Cribs and Sheet Piles: No new public or private breakwaters, jetties or and rock cribs shall be permitted unless part of a habitat restoration project. Existing private breakwaters, jetties, rock cribs or sheet piles shall not be permitted to expand but may be repaired or modified pursuant to Section 54.8.

(a) Design And Construction Standards: The design, construction and maintenance of jetties, breakwaters, rock cribs and sheet pile shall comply with the following standards:

(1) Except as provided below, all breakwaters, jetties, rock cribs or sheet piles shall have openings which allow adequate free circulation of water and sediment.

   FLOATING BREAKWATER

(2) No such structure shall be a solid or nearly solid unless TRPA finds that it will not interfere with littoral processes, cause shoreline erosion, or harm water quality or clarity and;

667
highwater line, if TRPA determines that low lake levels create a navigational hazard, that temporary lakeward relocation is necessary in order to obtain a safe mooring depth, is the minimum extension necessary to reach navigable water, and the relocated structure will not create a navigational hazard. No mooring buoys or floating platforms may be located further lakeward than elevation 6210' and TRPA may not authorize replacement of those structures in order to accommodate lake elevations lower than 6223'. [source: new/Shorezone Partnership]

5 Prohibited Structures, Facilities and Permanent Accessory Structures: No superstructures are allowed on piers or floating platforms. Permanent umbrellas, plant containers, flower pots, and furniture other than benches are not permitted on piers. [source: 54.4 B(4) and (5), 54.14 and new/Shorezone Partnership]

6 Access: Structures or projects in the backshore that provide access to the nearshore or foreshore, shall be sized no larger than necessary to provide safe and functional access and shall meet all applicable mitigation requirements. When feasible, access structures shall be built at grade level. [source: 55.4 D]

7 Color: The color of structures, including fences, shall be compatible with its surroundings. Subdued colors in earthtones and woodtone ranges shall be used for the primary color of the structure. Hues shall be within a range of natural colors that blend, rather than contract, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish-brown, brown, tan, ochre, umber, sand and dark green. Colors shall be medium to dark and shall meet the Munsell® Color value as set forth in Appendix G (TRPA Approved Earthtone Colors) to the Design Review Guidelines or other color systems that are equivalent to the adopted hues, values and chromas of Appendix G. Structures in the shorezone that were constructed prior to January 1, 1950 may maintain their historic colors when undertaking exempt repair and maintenance. [source: 53.10.A]

8 Roofs: Roofs shall be composed of nonglare earthtone or woodtone materials that minimize reflectivity. Metal roofs shall be compatible with their surroundings and composed of nonglare earthtone colors. Metal roof colors shall meet the Munsell® Color value as set forth in Appendix G (TRPA Approved Earthtone Colors) to the Design Review Guidelines that have a value and chroma of 0-4 or other color systems that are equivalent to that range of adopted hues, values and chromas of Appendix G. [source: 53.10.B]

54.6 Scenic Protection: All projects in the shorezone unless specifically excepted, shall meet the following standards to protect scenic resources.

54.6.A Excepted Projects: The permitting of up to three buoys per littoral parcel shall not require a scenic assessment, shoreland improvements, or visible mass offsets. [source: new]
54.6.B Scenic Assessments: Shorezone project applicants shall submit a complete application for a scenic assessment pursuant to Section 30.15.B with each application. [source: 30.15.B/new]

54.6.C Shoreland Improvements:

1. The shoreland of the project area, including all parcels involved in the application, shall meet a contrast rating of 25 or comply with the Visual Magnitude/Contrast Rating Table in Appendix H of the Design Review Guidelines as modified for additional linear lake frontage and including visual breaks.

2. The applicant may demonstrate compliance with Subsection (1) of this Section either as a composite of the project area or individually for each parcel.

3. For projects that do not create additional visible mass or those projects whose only additional mass is created pursuant to 54.4.B, the shoreland need not meet the requirements of Subsection (1) of this Section if it is physically impossible to do so, provided as much improvement as possible shall be made.

4. The shoreland improvements required by subsection (1) shall not be used to meet any environmental benefit obligation required by other provisions of this Code. [source: new]

54.6.D Visible Mass Offset:

1. Each square foot of additional visible mass shall be mitigated on a 1:1 basis in shoreline travel units in attainment with scenic thresholds and on a 1:1.5 basis in shoreline travel units not in attainment with scenic thresholds. Notwithstanding the foregoing, each square foot of visible mass from an additional boat lift shall be mitigated on a 1:1.5 basis.

2. Mitigation pursuant to this Section shall meet the following location requirements:

a. Mitigation of visible mass from additional structure other than boatlifts shall for occur first in the shorezone of the project area until all feasible mitigation opportunities are exhausted. Mitigation shall then occur in the shoreland portion of the project area as necessary to satisfy all required mitigation.

b. Mitigation of additional boatlifts on conforming piers shall occur only in the shorezone but may be located anywhere in the same scenic unit. Mitigation for additional boatlifts on nonconforming piers shall occur on that structure.

c. For public projects, once shorezone and shoreland mitigation opportunities have been reasonably exhausted, if further mitigation is necessary, mitigation may then occur
Language to be deleted is struck out in red. New proposed language is underlined in blue.

in the scenic unit of the project.

(d) Mitigation may either be removal or screening of visible structure or use of the Visual Assessment Tool described in Appendix H of the Design Review Guidelines. (source: new)

54.6.E Scenic Banking: Existing visible mass on littoral parcels may be removed and banked onsite using the Visual Assessment Tool described in Appendix H of the Design Review Guidelines upon completion of a scenic assessment pursuant to Section 30.15.B. Banked visible mass may be used to offset additional visible mass only for projects in the same scenic unit. (source: new)

54.7 Non-Exempt Repairs, In-Kind Replacements, Modifications or Expansions of Existing Piers: The following standards shall apply to the non-exempt repairs, in-kind replacements, modification or expansion of any existing pier, including any superstructure on the pier.

54.7.A Non-Exempt Repairs and In-Kind Replacements to Existing Piers: Existing conforming and non-conforming piers may be repaired and replaced in-kind, if the repair or replacement results in a material net environmental benefit. Repairs and in-kind replacements pursuant to this section may include alterations in pier design in order to achieve a material net environmental benefit and to meet current pier design standards (e.g., moving from double to single piling) without becoming a modification for purposes of Section 54.7.B.

54.7.B Modifications of Existing Piers:

1. Piers that conform to location and design standards: Existing piers that conform to location and design standards may be modified if the modification results in a material net environmental benefit and is consistent with development standards.

2. Piers that do not conform to location and design standards: Existing piers that do not conform to location and design standards may be modified if the modification:

(a) results in a material net environmental benefit;

(b) brings the structure into greater compliance with location and design standards;

(c) does not increase the degree of nonconformance with any location and design standard; and

(d) in the case of a rock crib pier or other structure interfering with littoral processes, materially reduces such adverse effects. (source: new)

54.7.C Expansions of Existing Piers:

1. Piers that conform to location and design standards: Existing

---

6/16/08
structures that conform to location and design standards may be expanded to the extent allowed.

(2) Structures that do not conform to location and design standards: No expansions of non-conforming structures shall be permitted.

(3) Under no circumstances shall TRPA approve the lakeward expansion of a structure extending over highwater that fails to meet the definition of a pier. [source: new]

54.8.C No maintenance, repair or modification project shall cause an existing structure to become more non-conforming with any of the development standards in this Chapter. [source: new]

54.9 Relocation, Transfer or Conversion of Existing Structures: Under the following standards, certain existing structures may be relocated within a parcel (including on a boundary line for a multi-use structure), transferred to another parcel or converted from one type of structure to another.

54.9.A Relocations:

(1) Only existing piers or buoys may be relocated.

(2) Relocated piers or buoys shall meet all development standards for additional structures in this Chapter except that relocated piers need not meet the location standards set forth in Sections 54.5.A(1)(b) (density) and (e) (single use prohibition). [source: new]

54.9.B Transfers:

(1) Only existing piers, buoys and private slips may be transferred.

(2) Piers, buoys or slips constructed as a result of a transfer shall meet all development standards for additional structures in this Chapter, including but not limited to density standards and multiple and single use requirements.

(3) Both the sending and receiving parcels in transfers shall meet all scenic protection requirements.

(4) A transfer of an existing pier may occur only if the newly constructed pier is a multiple use structure or qualifies as a single use pier pursuant to 54.5.A(1) regardless of the location of the receiving parcel.

(5) The sending parcel shall be permanently restricted from additional development of the type shorezone structure transferred (e.g., additional piers, buoys or slips).

(6) Private slips may only be transferred if they are converted to public use. [source: new] NOT WARRANTED

54.9.C Conversions: DR- TO HOA'S OK.
structures which extend beyond lake bottom level 8218' or beyond the pierhead line. Such extension may be permitted wherever low lake levels prevent or reduce access to open water recreation, and dredging cannot be permitted pursuant to this Chapter. Permits for these temporary structures, shall comply with the procedures in Chapter 7. All temporary structures approved under this provision must be removed once the lake levels remain above 8225' for a period of six months. The elevation in this subsection shall operate as a guideline for lagoons and other lakes in the Region. [source: 54.14.D, staff & Shorezone Partnership]

54.11.G Grading and Excavation in the Backshore: Grading and excavation in the backshore area are regulated by Chapters 20, 54, and 61 through 65 of the Code. The regulations for stream zones shall apply to the backshore unless stated otherwise.

54.12 Maintenance of Shorezone Structures: Existing structures in the shorezone shall be maintained in a serviceable condition. Derelict structures or structures unserviceable for more than three years shall be removed. Owners of buoys shall inspect and maintain floats and chains at least every two years to prevent loss or damage to boats. Buoy owners must present proof of inspection and maintenance when paying any fee relating to buoy permitting or mitigation.

54.13 Mitigation Fee Requirements: To provide funds to attain and maintain thresholds and to mitigate any possible degradation, projects in the shorezone shall contribute to mitigation funds as follows:

54.13.A Lake Tahoe Public Access Fund: TRPA shall assess a fee for each additional private-use pier or expansion of an existing pier approved on Lake Tahoe. The fee for an additional pier shall be $100,000 and the fee for expansion shall be $20 per square foot of additional area. These fees shall be increased annually, if appropriate, based upon the consumer price index for the region. After receiving input from an advisory board, TRPA shall use the fees collected for acquisition or improvement of public access to Lake Tahoe (with priority to non-motorized recreational access). No more than 10% of fees collected may be used for fund administration or staff costs. All funds shall be allocated to non-profit or public agencies. [source: new]

54.13.B Mooring Fees: All permittees of mooring buoys, berths in boat houses, boatlifts and slips shall be subject to the following fees where applicable.

1. A $500.00 one-time buoy fee for the second and all subsequent private buoys permitted per littoral parcel. Homeowner associations, similar entities and marina buoy fields are exempt from this fee.

2. An annual fee of $175.00 for each mooring, except moorings open to the public in marinas shall pay an annual fee of $100.00. The annual mooring fee shall be paid to TRPA for every permitted mooring regardless of whether it is in use or not, previously permitted by TRPA or some other agency or converted to another form of boat mooring (e.g., a boatlift) or a swim platform. When
Language to be deleted is struck out in red. New proposed language is underlined in blue.

6/16/08

availability of Blue Boating services and resources, and any other information that will help ensure boater compliance with applicable requirements and practices.

(9) An enforcement program.

54.15.B Program Implementation:

(1) No later than March 1, 2009, the Executive Director shall submit to the Governing Board for its review and approval a plan for implementing the Blue Boating Program consistent with the requirements of this section. The implementation plan shall provide that the Executive Director may modify the plan from time to time where the Executive Director determines that, based on data gathered as part of the Program and any other pertinent information, modifications are necessary to ensure that the environmental impacts of motorized watercraft are fully mitigated.

(2) Beginning May 1, 2010, no motorized watercraft shall be permitted to operate on Lake Tahoe unless it has been registered and obtained a sticker pursuant to the Blue Boating certification program. If the Executive Director determines that additional time is required to implement the certification program, the Executive Director may extend the deadline by posting written notice of the extension.

(3) After March 1, 2010, TRPA shall not accept for processing any new application for an additional pier, boat lift, bucy, boat slip, or boat ramp, or for the expansion of an existing pier, unless and until (a) the Governing Board has approved an implementation plan for the Blue Boating Program and (b) any extensions of the deadline for obtaining a Blue Boating sticker approved by the Executive Director pursuant to subsection (2) of this section have expired.

54.16 Shorezone Adaptive Management Program: TRPA shall implement an adaptive management program to periodically evaluate the success of the standards and mitigation programs applicable to the shorezone and to determine whether adjustments to those standards or programs are necessary to fully mitigate the environmental impacts of new shorezone development.

54.16.A Monitoring: The adaptive management program shall collect and utilize data obtained pursuant to the mitigation monitoring program for the 2007 Shorezone Ordinance Amendments, including but not limited to water quality data collected pursuant to Section 54.15.A(6), together with any other monitoring data relevant to the shorezone.

54.16.B Annual Shorezone Report. At a public meeting of the Governing Board no later than January 31 of each year, the Executive Director shall present to the Governing Board an Annual Shorezone Report that includes, without limitation, all of the following:
Language to be deleted is struck-out in red. New proposed language is underlined in blue.

5/16/08

(1) The number and type of approvals issued for shorezone structures in the prior year, and an estimate of the total number of each type of structure presently in the Lake.

(2) An accounting of all fees collected pursuant to this Chapter and expenditures thereof.

(3) A description of all monitoring results relating to shorezone ordinance programs, including but not limited to the water quality monitoring conducted pursuant to Section 54.15.A(8), and any conclusions drawn therefrom.

(4) The number and types of motorized watercraft registered under the Blue Boating Program provided for in Section 54.15.A and an analysis of whether the data is consistent with fleet mix assumptions in the 2007 Environmental Impact Statement for the Shorezone Ordinance Amendments.

(5) A description of progress made in implementing the mitigation programs called for in the Mitigation Implementation and Monitoring Program for the 2007 Shorezone Ordinance Amendments, including but not limited to the mitigation program provided for in Section 54.15.A(7) and an evaluation of the effectiveness of those programs.

(6) Recommendations, if any, for modifications to the standards or mitigation programs required by the Code to ensure that the adverse environmental impacts of new shorezone projects are fully mitigated.

54.16 C Supplemental Measures: If the Executive Director determines in any Annual Shorezone Report that the standards and mitigation programs required by the Code have not fully mitigated the adverse environmental impacts of new shorezone projects and any attendant increases in motorized watercraft traffic, the Report shall recommend one or more supplemental measures to ensure that those impacts are fully mitigated. These measures may include, without limitation, any of the following:

(1) A moratorium on further approval of shorezone projects.

(2) Modification of the criteria for approval of shorezone projects.

(3) A limitation on boat launches at peak times or other restrictions on motorized watercraft traffic.

(4) A prohibition of lower-rated watercraft engines.

(5) Any other measures identified by the Executive Director as necessary to ensure the effective mitigation of impacts arising from new shorezone projects.

54.16 D Suspension of Shorezone Development Approvals: Beginning in 2012, on January 31 of each year, the processing of all applications for an additional pier, boat lift, buoy, boat slip, or boat ramp, or for the expansion of an existing pier, shall be automatically suspended unless the Annual Shorezone Report submitted that year contains either of the following findings:
WAH-SHI-SHU (WASHO) ELDERS
GATHERING

Sierra Nevada College
Patterson Hall Lake Tahoe
Incline Village, California

Sixty-Two or Older, July 26th, 2008

RE: Lake Tahoe Shore zone Ordinance Amendment Program

A general membership meeting along with the Washoe Tribal Council was held at Dresslerville, Nevada in November, 2007. The Council recognized and approved the Traditional Washo Elders. Anciently, the Traditional Washo Elders were the governing body of the Washo People. The purpose of this gathering and conference was to formulate a voice for the Elders that has long been forgotten. Also, to create standard values and to inject these values into the system to restore the quality of life based on Washo Customs and Traditions throughout Washo country. Let the Elders speak the ancient laws, to wit.

During this meeting, the Elders discussed the future well being of Lake Tahoe, in the following context; Realizing, that the many property owners living on the shoreline around Lake Tahoe have the right to develop their respective properties; never the less, Lake Tahoe has become in today’s world an International Jewel, that people come to visit, from all around the world, For this reason, Lake Tahoe needs to be Protected as a national treasure, the same as Yosemite or Yellowstone, et cetera.

The Washo Elders Strongly Object to any plan that will detract from the lake’s natural beauty, or cause any additional pollution. The Washo Elders Object to any proposed ordinance that favors Private or Corporate development that would diminish or take from the public’s access and rights to enjoy this natural beauty. Once piers, buoys are in-place, they will be grandfather in for ever, with no recourse.

The Washo Elder’s are open to review any plan or study, that would benefit the Washoe and the public access to the Lake.

Madeline (Beetle) Henry
(530) 694-2123
Grandmother Washo Elder
Elected

Benny Mills
(775) 885-9971
Grandfather Washo Elder
Elected
To: TRPA Concerning Board

I wish to comment on your "Shorezone Plan" to be enacted upon shortly.

As a long-time homeowner at Tahoe, and a lover of the Lake's beauty and peace, I find your plan unacceptable! Issues with illegal changes, excessive bayou placement, and "Blue Boating" program, must be addressed before proceeding.

Please, take responsibility for the future of the Lake and all land, and do not cater to those who think only of money. The result will not be the place of the many things that drew people to this place.

Sincerely, Sindy Mastrangeli