

Amended 5/02/2023.
Appendix E

APPENDIX E MEMORANDUM OF UNDERSTANDING
TAHOE REGIONAL PLANNING AGENCY
U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE LAKE TAHOE BASIN MANAGEMENT UNIT

I. PURPOSE OF THE MEMORANDUM OF UNDERSTANDING (MOU)

The following will direct the USDA Forest Service (FS) and the Tahoe Regional Planning Agency (TRPA) in the review of FS activities. FS activities that are exempt from TRPA review are listed. Activities not exempt are considered projects and are reviewed by TRPA. Certain of these projects, as listed herein, are required to be reviewed by the TRPA Governing Board.

This MOU is executed pursuant to the TRPA Code of Ordinances (hereinafter referred to as the Code). Upon execution, the MOU will become part of Code section 2.6.

II. GENERAL PROCEDURES

A. The FS agrees to:

1. Inform the TRPA of activities being considered for implementation on national forest land in the Lake Tahoe Basin. The Lake Tahoe Basin Management Unit (LTBMU) "PROJECT PLANNING REPORT," which is published and distributed quarterly, will be the principal means of disseminating information about activities being analyzed.
2. Conduct all exempt activities in accordance with federal laws and regulations, the applicable provisions of the FS manuals and handbooks, and the management direction of the LTBMU Land and Resource Management Plan when those directions are consistent with the TRPA Regional Plan and Code.
3. Conduct those exempt activities for which there is no applicable direction in the LTBMU Land and Resource Management Plan in accordance with the TRPA Regional Plan and Code.
4. Provide TRPA with complete applications for review of those activities that are not exempt from review by this MOU. Accompanying the application will be environmental documents, maps, drawings, and other information requested by TRPA.
5. Require that applicants seeking a permit to use or occupy the national forest, for an activity not otherwise exempt from TRPA review, also make an application to the TRPA.

B. TRPA agrees to:

1. Review projects not exempted by this MOU for conformance with the Regional Plan Package.
2. Affirm that water quality, air quality, and noise management proposals for the area are appropriate.
3. Advise where other goals for the Lake Tahoe Basin can be furthered by the project where appropriate.
4. Make the following findings, if appropriate per section 4.4 of the Code

4.4.1 Findings Necessary to Approve Any Project: To approve any project, TRPA must find, in accordance with Code sections 4.2 and 4.3, 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.
- (3) Wherever federal, state, or local air and water quality standards applicable to the region, whichever are strictest, must be at attained, maintained, or exceeded pursuant to Article V(d) of the Tahoe Regional Planning Compact.

5. Provide timely review of project applications and advise the FS if the review will exceed twenty (20) working days.

III. EXEMPT ACTIVITIES

The following activities on national forest land, in addition to those exempted by section 2.3 of the Code, are exempt from review by TRPA.

A. RECREATION (including privately operated public recreation sites and concessions).

The following recreation activities are exempt, provided that there is no increase in vehicle trips in excess of 100 additional trips per day; the use remains recreation (Code Section 21.4); there is no increase in capacity as measured in persons at one time (PAOT) for those categories of use for which PAOT are allocated; and there is no additional land coverage or other permanent disturbance in Land Capability Districts 1, 2, or 3, or Stream Environment Zone (SEZ) or the 100 year flood plain, or the backshore of the shorezone:

1. Operation and maintenance of public sites and facilities that support developed or dispersed recreation. Maintenance of improvements associated with these recreation sites, including, but not limited to, buildings, roads, utilities, fencing, signs, parking, and walkways.
2. Replacement of recreation improvements that have been damaged or destroyed by fire or other calamity, provided that the replacement is in substantial conformance with the original structure in the floor area, height, and land coverage and the improvement is retrofitted with Best Management Practices (BMPs).
3. Reconstruction of recreation improvements provided they remain in substantial conformance with the original structure(s) in the floor area, height, volume, and land coverage, and provided they are retrofitted with BMPs. Relocation of improvements is included in the exemption where the relocation is necessary for health and safety or to avoid SEZ or other environmentally sensitive situations, provided that relocated land coverage does not exceed 2,000 square feet in Land Capability Districts 1, 2, 3, and SEZ, nor exceeds a total of 10,000 square feet in all land capability districts and is offset by removing and restoring an equal amount of coverage from an area equally or more environmentally sensitive and in the same hydrologically related area.
4. Activities, such as the installation of signs, displays, and bulletin boards, and the conducting of tours, lectures, and movies, that inform visitors or interpret nature,

resources, or management actions. Usually, these services are within existing recreation, administrative, community, or commercial facilities, or along roads and trails.

B. CULTURAL RESOURCES

Inventories, protection, maintenance, restoration, interpretation, and disposition of cultural resources in accordance with applicable State and Federal laws and procedures. The foregoing exemption applies whether or not there is temporary disturbance in Land Capability Districts 1, 2, 3, or SEZ.

C. SIGNING

Informational (but not advertising) and/or regulatory sign installation, forest entry signs, and recreation site entry site identity signs designed and installed in conformance with the FS Sign Handbook (7109.11, 7109.11a, and 7109.11b)

D. ROADS AND TRAILS

1. Maintenance of roads and trails, bridges, parking facilities, signs, and other related improvements.
2. Reconstruction of roads, trails, bridges, and parking facilities, provided that the design of the facility is not changes to enlarge its capacity and provided that the facility of retrofitted with BMPs. Relocation is included where the relocation is necessary to improve the alignment for safe travel, or to avoid SEZ or other environmentally sensitive situations provided that new land coverage does not exceed 2,000 square feet in land capability districts 1, 2, 3, or SEZ, nor exceed a total of 10,000 square feet in all land capability districts and is offset by removing and restoring an equal amount of coverage from an area equal or more environmentally sensitive and in the same hydrologically related area.
3. Construction of all non-motorized trails and trails that allow ebikes that have been analyzed under the appropriate NEPA documentation, follows the current LTBMU Land Management Plan and meets TRPA design criteria and regulations.

Specific planning and design criteria for exempt trails includes the following:

- a. The trail shall be available to the public.
- b. The trail shall be designed and built per the FS trail design guidelines to be environmentally sustainable.
- c. Temporary BMPs shall be in place where and when needed as identified in the corresponding NEPA document. Disturbance caused by construction outside the trail network shall be restored.
- d. The trail shall have permanent BMPs installed in flow paths and areas with the potential for runoff and erosion. This may include but not be limited to slope and channel stabilization, and infiltration facilities.
- e. The trail route and design shall minimize disturbance to sensitive lands including land capability districts 1-3 and jurisdictional wetlands. The trail shall try to avoid the removal of trees greater than 14 inches diameter breast height (dbh) and sensitive vegetation. Old growth trees (24" dbh eastside forests, 30" dbh

westside forests) shall not be removed prior to consulting with the TRPA Forester. This does not apply to hazard trees.

- f. Trail route and design should protect natural resources unless it adds significant detours, trail length, or makes the trail unsafe for the public.
- g. When designing and constructing a trail to cross and SEZ, allow for aquatic organism passage.

If the trail does not meet the TRPA regulations for non-motorized trails coverage exemption, LTBMU shall track the coverage created by trails in accordance with this MOU.

All new trails shall be proposed to TRPA as Environmental Improvement Program (EIP) Project for approval and entered into the EIP tracker. LTBMU shall provide a list of trails that are planned for trail construction or enhancement to TRPA on a quarterly basis that is included in the Project Planning Report. This report will be kept up to date and reviewed by TRPA and LTBMU staff in quarterly meetings to determine that the trail projects are covered under the MOU or if additional review or permitting is required.

E. FS ADMINISTRATIVE FACILITIES

The following activities associated with FS administrative facilities are exempt provided there is not increase in vehicle trips in excess of 100 additional trips per day; provided the use remains administrative, and provided there is no additional increase in land coverage or other permanent disturbance.

1. Replacement or removal of administrative facilities damaged or destroyed by fire or other calamity, provided that the replacement is in substantial conformance with the original facility in floor area, height, and land coverage.
2. Reconstruction of existing facilities provided that they remain in substantial conformance with the original structure(s) in floor area, height, volume, and land coverage, provided they are retrofitting with BMPs. Relocation is included in the exemption where the relocation is necessary for health and safety or to avoid SEZ or to other environmentally sensitive situations, provided that relocated land coverage does not exceed 2,000 square feet in land capability districts 1, 2, 3 and SEZ, nor exceeds a total of 10,000 square feet in all land capability districts and is offset by removing and restoring an equal amount of land coverage from an area equally or more environmentally sensitive and in the same hydrologically related area.
3. Construction of new facilities on land capability districts 4, 5, 6, and 7, provided excavation or backfilling is not in excess of 200 cubic yards and BMPs are installed.
4. Operation and maintenance of existing dams or other water diversion structures with no change in holding capacity.
5. Installation, operation, and maintenance of research and monitoring instruments and/or stations.

F. VEGETATION MANAGEMENT

The following exemptions apply whether or not there is disturbance in land capability districts 1, 2, 3, or SEZ.

1. All tree removal activities, including substantial tree removal involving the use of heavy equipment to harvest trees, up to 100 acres for each project and not involving the construction of permanent roads.
2. All tree removal activities, including substantial tree removal, on any amount of acreage, which results in a residual stocking of trees that meets the minimum stocking standards of the appropriate state or federal forestry agency and does not involve the use of heavy equipment to harvest the trees or logs or the construction of permanent roads.
3. Reforestation or revegetation of land.
4. Protection, maintenance, or re-establishment of sensitive plants and uncommon plant communities.
5. Creation, maintenance, or replacement of landscaping.

G. FOREST PROTECTION

The following exemptions apply whether or not there is land coverage or disturbance in Land Capability Districts 1, 2, 3, or SEZ:

1. Activities necessary to suppress fires (this does not include buildings and other improvements to house personnel, equipment and supplies, access roads, and trails, etc.)
2. Fire prevention activities, including vegetation manipulation around structures, to prevent the spread of wildfire.
3. Fuel management through prescribed burning, chipping, lop and scatter, and other techniques.

H. EROSION CONTROL AND WATERSHED RESTORATION

The following exemptions apply whether or not there is land coverage or disturbance in Land Capability District 1, 2, 3, or SEZ:

1. Installation and maintenance of soil erosion control and surface water runoff control measures on fifty acres or less.
2. Restoration of disturbed areas of fifty acres or less, including the maintenance of revegetation until established.

I. FISH AND WILDLIFE HABITAT MANAGEMENT

The following exemptions apply provided that land coverage or permanent disturbance does not exceed 10,000 square feet in total or 2,000 square feet in Land Capability District 1, 2, 3, or SEZ:

1. All wildlife and fish protection activities.
2. Creation of snags and down wood where necessary to maintain habitat for dependent wildlife.
3. Installation of stream habitat improvement measures such as boulders, stumps, plantings, and bank stabilization structures.

J. MISCELLANEOUS

1. Activities (including construction of temporary structural improvements), such as outfitter guide services, production of movie or television programs, sporting events, club or group activities, or weddings, when they are temporary and of short duration (not in excess of one year), provided:
 - a. The use is allowed by TRPA plan area statements and the requirements of Chapter 11 of the Code.
 - b. The activity is entirely upon national forest land or is upon a combination of national forest land and other within the jurisdiction of an agency or local government having authority (through an agreement with the TRPA) to approve temporary activities.

2. Maintenance of range improvements and livestock confinement facilities. Construction of fences and other range improvements provided that land coverage or permanent disturbance does not exceed 2,000 square feet in Land Capability Districts 1, 2, 3, or SEZ, not exceed 10,000 square feet in all land capability districts and is offset by removing and restoring an equal amount of land coverage from an area equally of more environmentally sensitive and in the same hydrologically related area.
 - a. It is determined that there will be no significant impact to the land and water resources.

IV. PROJECTS TO BE REVIEWED BY THE GOVERNING BOARD

All those listed in TRPA Code Chapter 2 except those listed below which will be reviewed by TRPA Staff.

1. New temporary logging roads when part of a substantial timber removal plan.
2. Substantial timber removal plans on less than 500 acres of land not involving the construction of permanent logging roads.
3. Tree removal on national forest land for scenic views from established vista points along state highways and local roads.
4. New or expanded livestock grazing pursuant to section 73.1 of the TRPA Code.
5. Off-site water quality mitigation in lieu of mitigation fees.
6. Paved road wavers.
7. Additional height for ski lift towers and communication towers or antennas.
8. New public service buildings less than 3,000 square feet of linear utilities under one mile in length.
9. Transfer of commercial floor area within an existing resort permit site.
10. New facilities within an existing recreation site.
11. Creation of land coverage in the backshore.
12. Structures to protect shoreline vegetation.
13. Additional land coverage or permanent disturbance in Land Capability District 1, 2, 3, or SEZ for public service or outdoor recreation facilities.

V. TREATMENT AND ACCOUNT OF COVERAGE

It is understood, pursuant to the LTBMU Land and Resource Management Plan, that the land coverage will not exceed the allowances of the Bailey Land Capability System for Lake Tahoe (Bailey), for the Region as a whole, for any activities including those that are exempt. IN instances where land coverage, either existing or proposed, may result in exceeding Bailey on an individual project area, the FS will follow the provisions of Chapter 20 of the Code. The relocation of existing land coverage shall be in conformance with Section 20.5.C of the Code.

Before land coverage or permanent land disturbance is added to a SEZ or to Land Capability Districts 1, 2, 3, as exempted in Section III B, G, H, I, and J, of this MOU, the FS will make the following findings:

1. The project, program, or facility is necessary for environmental protection;
2. There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in Land Capability Districts 1, 2, 3, or SEZ; and
3. The impacts of the coverage and disturbance are fully mitigated in the manner described in subsection 30.5 of the Code.

It is recognized by the FS and TRPA that the aforementioned exempt activities may result in the use of land coverage. It is also recognized that activities may result in removal of land coverage and restoration of disturbance. Consequently, there is a need to account for the coverage or restored disturbed land. Chapter 6 of the Code provides for the accounting, tracking, and banking of coverage in conjunction with Chapter 30 of the Code. The FS will report to the Executive Director of TRPA annually at the end of each calendar year on all activities resulting in a change in coverage or land coverage transactions consistent with the guidelines and requirements of Chapters 20 and 38 of the Code. TRPA and the FS shall develop the specific worksheet(s) and procedures for accounting for coverage and restoration. In no event shall there be a coverage deficit.

Coverage or restored land credits which are "banked" shall be available for use by the FS consistent with all applicable provisions of the TRPA Code.

VI. WATER QUALITY MITIGATION

Where mitigation is required on a project because of additional land coverage, that mitigation will be accomplished through the FS watershed restoration program rather than through payment of mitigation fees. The FS will indicate in the project application when a deviation from this policy is appropriate, such as for private improvements planned on national forest land by permit. Offsite restoration work as described in Code section 60.2.3.A will be equal to 150% of expected project impacts. Preferably, mitigation work will be within the same watershed or hydrologic related areas as the project requiring the mitigation. The FS will report annually to the TRPA the expenditures and descriptions of projects completed, in a manner similar to that in Section V.

VII. TERMINATION OF AGREEMENT

The MOU may be terminated by either party by giving sixty (60) days' notice in writing to the other.

DocuSigned by:

Julie W Regan

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Julie W. Regan

TRPA Executive Director

June 30, 2023

Date

Erick Walker

USDA Forest Service Lake Tahoe Basin Management Unit

Forest Supervisor

Date