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

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 the 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 Code). Upon execution, the MOU will become a part of Code Section 4.8.

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 application to the TRPA.

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 6.3 of the Code.

   6.3 Threshold-related Findings: The following specific findings shall be made, pursuant to Articles V(c), V(g), and VI(b) of the Tahoe Regional Planning Compact in addition to any other findings required by law.

      6.3.A Findings Necessary to Approve Any Project: To approve any project, TRPA must find, in accordance with Code 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.

         (3) Wherever Federal, State, or local air and water quality standards applicable to 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.

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 4.2 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 18.3); 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, and 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.

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 Stream Environment Zones (SEZ).

C. SIGNING

Informational (but not advertising) and/or regulatory sign installation, forest entry signs, and recreation 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, 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 changed to enlarge its capacity and provided that the facility is retrofitted with Best Management Practices. Relocation is included where the relocation is necessary to improve 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 land coverage from an area equal or more environmentally sensitive and in the same hydrologically related area.

3. Construction of new non-motorized trails, provided that construction in land capability districts 1, 2, 3, does not exceed 1,000 linear feet and provided that construction in SEZ is only for the purpose of crossing a stream.

E. FOREST SERVICE ADMINISTRATIVE FACILITIES

The following activities associated with FS administrative facilities are exempt, provided there is no increase in vehicle trips in excess of 100 additional trips per day; provided the use remains administrative, and provided that 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, and provided they are retrofitted with Best management Practices. Relocation 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 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 Best Management Practices 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 the 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 described in TRPA Code Subsection 71.3.B 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 reestablishment of sensitive plans 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 Districts 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 Districts 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 stabilizing structures.

4. Installation and maintenance of wildlife habitat improvement structures such as nesting or perch platforms and duck boxes.

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 a short duration (not in excess of one year), provided:

   a. The use is allowed by TRPA plan area statements and the requirements of Chapter 7 of the Code.

   b. The activity is entirely upon national forest land, or is upon a combination of national forest land and other land within the jurisdiction of an agency or local government having authority (through an agreement with the TRPA) to approve temporary activities.

   c. It is determined that there will be no significant impact to the land and water resources;

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, nor 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 or more environmentally sensitive and in the same hydrologically related area.

IV. PROJECTS TO BE REVIEWED BY THE GOVERNING BOARD

All those listed in TRPA Code Chapter 4, Appendix A, 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 waivers.

7. Additional height for ski lift towers and communication towers or antennas.

8. New public service buildings of less than 3,000 square feet or 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 backshore.

12. Structures to protect shoreline vegetation.

13. Additional land coverage or permanent disturbance in Land Capability Districts 1, 2, 3, or SEZ for public service or outdoor recreation facilities.

V. TREATMENT AND ACCOUNTING OF COVERAGE

It is understood, pursuant to the Lake Tahoe Basin Management Unit (LTBMU) Land and Resource Management Plan, that 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 in Chapter 20 of the Code. 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 Stream Environment Zone or to Land Capability Districts 1, 2, or 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; and

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.

3. The impacts of the coverage and disturbance are fully mitigated in the manner described in subsection 20.4.(A)(2)(e) 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 38 of the Code provides for the accounting, tracking, and banking of coverage in conjunction with Chapter 20 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. Off site restoration work as described in Code Section 82.2.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

This MOU becomes effective 60 days after adoption by the TRPA Governing Board and may be terminated by either party by giving sixty (60) days notice in writing to the other.

David A. Ziegler

David S. Ziegler
Executive Director
Tahoe Regional Planning Agency

November 1, 1989
Date

Forest Supervisor
USDA, Forest Service

November 10, 1989
Date